

Tab 1	CS/SB 24 by GO, Rouson (CO-INTRODUCERS) Davis, Osgood, Burgess, Pizzo ; (Identical to CS/H 00021) Dozier School for Boys and Okeechobee School Victim Compensation Program						
Tab 2	CS/SB 26 by GO, Rouson (CO-INTRODUCERS) Davis, Pizzo ; (Similar to CS/CS/H 00023) Public Records/Dozier School for Boys and Okeechobee School Victim Compensation Program						
421638	A	S	RCS	ACJ, Rouson	Delete L.19 - 42:	02/20 12:21 PM	
Tab 3	CS/SB 116 by CJ, Burgess ; (Similar to H 00079) Child Maintenance Restitution						
Tab 4	CS/SB 118 by CJ, Burgess ; (Compare to H 00079) Fees/Child Maintenance Restitution						
Tab 5	SB 1448 by Gruters ; (Similar to CS/H 01541) Transparency in Social Media						
Tab 6	CS/SB 1470 by JU, Hutson (CO-INTRODUCERS) Rouson, Martin, Hooper ; (Compare to H 00763) Clerks of the Court						
928990	A	S	L RCS	ACJ, Pizzo	btw L.439 - 440:	02/20 12:28 PM	
Tab 7	SPB 7068 by ACJ ; Pretrial Detention Hearings						
765932	A	S	L FAV	ACJ, Bradley	Delete L.20 - 21:	02/20 12:29 PM	

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
APPROPRIATIONS COMMITTEE ON CRIMINAL AND CIVIL JUSTICE
Senator Bradley, Chair
Senator Powell, Vice Chair

MEETING DATE: Tuesday, February 20, 2024
TIME: 8:30 a.m.—12:30 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Building

MEMBERS: Senator Bradley, Chair; Senator Powell, Vice Chair; Senators Baxley, Burgess, Hooper, Martin, Pizzo, Rouson, Torres, and Yarborough

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 24 Governmental Oversight and Accountability / Rouson (Identical CS/H 21, Compare CS/H 23, Linked CS/S 26)	Dozier School for Boys and Okeechobee School Victim Compensation Program; Establishing the Dozier School for Boys and Okeechobee School Victim Compensation Program within the Department of Legal Affairs; requiring the department to accept and process applications for the payment of compensation claims under the program; requiring the department to provide specified notice of the program; requiring the department, subject to the appropriation of funds for that purpose, to pay a specified compensation amount to approved applicants, etc. GO 02/06/2024 Fav/CS ACJ 02/20/2024 Favorable FP	Favorable Yeas 7 Nays 0
2	CS/SB 26 Governmental Oversight and Accountability / Rouson (Similar CS/H 23, Compare CS/H 21, Linked CS/S 24)	Public Records/Dozier School for Boys and Okeechobee School Victim Compensation Program; Providing an exemption from public records requirements for the personal identifying information in an application submitted to the Department of Legal Affairs by, or on behalf of, a person seeking compensation through the Dozier School for Boys and Okeechobee School Victim Compensation Program; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. GO 02/06/2024 Fav/CS ACJ 02/20/2024 Fav/CS FP	Fav/CS Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Committee on Criminal and Civil Justice
 Tuesday, February 20, 2024, 8:30 a.m.—12:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	CS/SB 116 Criminal Justice / Burgess (Similar H 79, Linked CS/S 118)	Child Maintenance Restitution; Defining the term "child maintenance restitution"; authorizing a court to order a defendant to pay child maintenance restitution to the surviving parent or guardian of a minor if the defendant is convicted of violating specified provisions of law and the deceased victim of the offense was the parent or guardian of the child; providing for enforcement of income deduction orders; specifying circumstances under which child maintenance restitution may not be ordered or under which child maintenance restitution must be an offset by a judgment award, etc. CJ 02/06/2024 Fav/CS ACJ 02/20/2024 Favorable RC	Favorable Yeas 7 Nays 0
4	CS/SB 118 Criminal Justice / Burgess (Compare H 79, Linked CS/S 116)	Fees/Child Maintenance Restitution; Authorizing payors to collect certain administrative costs from the defendant's income, as a part of the notice that is required to accompany income deduction orders, etc. CJ 02/06/2024 Fav/CS ACJ 02/20/2024 Temporarily Postponed RC	Temporarily Postponed
5	SB 1448 Gruters (Similar CS/H 1541)	Transparency in Social Media; Designating the "Transparency in Social Media Act"; requiring foreign-adversary-owned entities operating social media platforms in the state to publicly disclose specified information in a certain manner; requiring foreign-adversary-owned entities operating social media platforms to implement a user verification system for certain entities, etc. CM 01/30/2024 Favorable ACJ 02/20/2024 Favorable FP	Favorable Yeas 7 Nays 0
6	CS/SB 1470 Judiciary / Hutson (Compare H 763, CS/H 1077, S 950)	Clerks of the Court; Revising the fund into which moneys recovered by certain state attorneys must be deposited; revising the entity that funds the capital collateral regional counsel; requiring the Florida Clerks of Court Operations Corporation to calculate certain excesses collected from fines, fees, service charges, and costs annually by a date certain; creating the Clerk of the Court Driver License Reinstatement Pilot Program in Miami-Dade County, etc. JU 01/29/2024 Fav/CS ACJ 02/20/2024 Fav/CS AP	Fav/CS Yeas 7 Nays 0

Consideration of proposed bill:

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Committee on Criminal and Civil Justice
Tuesday, February 20, 2024, 8:30 a.m.—12:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	SPB 7068	Pretrial Detention Hearings; Authorizing a court to base an order of pretrial detention solely on hearsay; etc.	Submitted and Reported Favorably as Committee Bill Yeas 6 Nays 1

Other Related Meeting Documents

February 20, 2024

Meeting Date

C&CJ Approps

Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

24

Bill Number or Topic

Name **Barney Bishop III**

Phone **850.510.9922**

Amendment Barcode (if applicable)

Address **1454 Vieux Carre Drive**

Email **Barney@BarneyBishop.com**

Street

Tallahassee

FL

32308

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

Florida Smart Justice Alliance

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf](#) ([flsenate.gov](#))

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/20/24

Meeting Date

SB 0024

Bill Number or Topic

S Approps CJ

Committee

Amendment Barcode (if applicable)

Name

Katie Bohnett ("Bohnett Net")

Phone

850.339.9599

Address

173 Seminole Dr

Email

kbohnett@safeandjust.org

Street

JLH, FL 32307

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Alliance for Safety & Justice

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flsenate.gov](#)

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S-001 (08/10/2021)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-20-24

Meeting Date

SB 24

Bill Number (if applicable)

Topic White House Boy's Dozier School

Amendment Barcode (if applicable)

Name Charles Kennedy

Job Title Jack of All Trades

Address 250 Cherry Ridge Dr #414

Phone 904-258-2027

Street

Jax

City

FL

State

32222

Zip

Email Max Kennedy 14357@gmail.com

Speaking: For Against Information

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

Representing Janitor

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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2/20/2024
Meeting Date

SB24
Bill Number (if applicable)

Topic DOZIER SCHOOL for Boys

Amendment Barcode (if applicable)

Name Paul A Elgin

Job Title _____

Address 7032 Cocos dr
Street

Phone 407-341-5900

Orlando FL 32807
City State Zip

Email earthbeatlive@bellSouth.com

Speaking: For Against Information

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

Representing Paul Elgin - Survivor

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

2/20/24

Meeting Date

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

SB 24

Bill Number (if applicable)

Topic DozieB

Amendment Barcode (if applicable)

Name Rachel McCoy

Job Title _____

Address 1505 AVE C, N.E.

Phone 8635956408

Winte Haven FL 33881
City State Zip

Email rmccoy9572@ycafla

Speaking: For Against Information

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

Representing Daught and wife of survivor

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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2/20/24
Meeting Date

SB-24
Bill Number (if applicable)

Topic DAZIER School For Boys

Amendment Barcode (if applicable)

Name GENE LUKER

Job Title _____

Address 5606 GATEWAY DR
Street

Phone 813.205.7663

TAMPA FL 33615
City State Zip

Email g.luker@verizon.net

Speaking: For Against Information

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

Representing Self - SURVIVOR

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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2/20/24

Meeting Date

SB-24

Bill Number (if applicable)

Topic DOZER SCHOOL

Amendment Barcode (if applicable)

Name Cecil Gardner (Victim)

Job Title _____

Address 2286 LLOYD CREEK RD.

Phone 850-997-4992

Street

Monticello FL.

Email N/A

City

State

Zip

Speaking: For Against Information

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

Representing MY SELF (SURVIVOR)

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Feb 20, 2024
Meeting Date

SR 24
Bill Number (if applicable)

Topic DOZIER

Amendment Barcode (if applicable)

Name ELIZABETH COOPER

Job Title _____

Address 1621 S REEDY LAKE BLVD
Street

Phone 407-365-5558

FROSTPROOF FL 33873
City State Zip

Email _____

Speaking: For Against Information

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

Representing WIFE OF SURVIVOR

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

Feb 20, 24

Meeting Date

SB 24

Bill Number (if applicable)

Topic Dozier School

Amendment Barcode (if applicable)

Name Roy Conerly

Job Title _____

Address 13950 SE 51st Ct

Phone 352-342-5508

Street

SummeField Fla. 34491

City

State

Zip

Email 75342000@yahoo.com

Speaking: For Against Information

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

Representing SURVIVOR

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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2-20-24

Meeting Date

SB 24

Bill Number (if applicable)

Topic Dozier School

Amendment Barcode (if applicable)

Name Virginia Kennedy

Job Title _____

Address 250 Cherry Ridge Dr. Unit 414

Phone 258-2027

Street

Jax.

City

FL

State

32222

Zip

Email VKennedyartist@gmail.com

Speaking: For Against Information

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

Representing wife of survivor

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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2-20-24

Meeting Date

SB-24

Bill Number (if applicable)

Topic Dozier School

Amendment Barcode (if applicable)

Name Ralph Coley

Job Title _____

Address 1620 Quarters, Road

Phone 252-216-8400

Swon Quarters N.C. 27885

City State Zip

Email _____

Speaking: For Against Information

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

Representing Survivor (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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THE FLORIDA SENATE
APPEARANCE RECORD

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

2-20-29

Meeting Date

SB 29

Bill Number (if applicable)

Topic Dover School

Amendment Barcode (if applicable)

Name Harley James DeNyke

Job Title _____

Address Frostproof 1621 S. Lake Road Lot 13

Phone 863-773-7526

Street

Frostproof FL 33843

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

2.20.2024

Meeting Date

SB 24

Bill Number (if applicable)

Topic Dozier School

Amendment Barcode (if applicable)

Name Charles Fudge

Job Title _____

Address 16 Limington Ct

Phone 727-385-6109

Street

Homosassa, FL

City

State

34446

Zip

Email _____

Speaking: For Against Information

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

Representing self - survivor

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

20 FEB 2024
Meeting Date

SB 24
Bill Number (if applicable)

Topic DOZIER SCHOOL FOR BOYS

Amendment Barcode (if applicable)

Name BRYANT E. MIDDLETON

Job Title U.S. ARMY CAPTAIN RET.

Address 5017 NW 69TH PLACE
Street

Phone 352 554 4808

GAINESVILLE FLA 32653
City State Zip

Email RANGER5988@HOTMAIL.COM

Speaking: For Against Information

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

Representing SELF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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2/20/24
Meeting Date

SB24
Bill Number (if applicable)

Topic DOZIER SCHOOL

Amendment Barcode (if applicable)

Name RICHARD HUNTLY

Job Title _____

Address 523 W. JACKSON ST. # 120

Phone 407 227-0732

ORLANDO FL 32805

Email R.Huntly@yahoo.com

Speaking: For Against Information

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

Representing RICHARD SURVIVOR

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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2.20.24

Meeting Date

24

Bill Number (if applicable)

Topic Dozier School

Amendment Barcode (if applicable)

Name Troy Rafferty

Job Title _____

Address 316 S. Baylen St

Phone 850-69

Street

Pensacola

FL

32502

Email trafferty@levnlaw.co

City

State

Zip

Speaking: For Against Information

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

Representing survivors of Dozier School

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations, *Vice Chair*
Ethics and Elections, *Vice Chair*
Agriculture
Appropriations Committee on Criminal
and Civil Justice
Appropriations Committee on Health and
Human Services
Children, Families, and Elder Affairs
Rules

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR DARRYL ERVIN ROUSON

16th District

February 8, 2024

Senator Jennifer Bradley
Chair, Appropriations Committee on Criminal and Civil Justice
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Bradley,

I write today respectfully requesting that SB 24, Dozier School for Boys and Okeechobee School Victim Compensation Program, and SB 26, a linked public records bill, be added to the agenda of a forthcoming meeting of the Appropriations Committee on Criminal and Civil Justice for consideration. I look forward to the opportunity to present SB 24 and 26 to the committee. I am available for any questions you may have about this legislation. Thank you in advance for the committee's time and consideration.

Sincerely –

A handwritten signature in green ink that reads "Darryl E. Rouson".

Senator Darryl E. Rouson
Florida Senate District 16

REPLY TO:

- ☐ 535 Central Avenue, Suite 302, St. Petersburg, Florida 33701 (727) 822-6828
- ☐ 212 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

By the Committee on Governmental Oversight and Accountability;
and Senators Rouson, Davis, and Osgood

585-03005-24

202424c1

1 A bill to be entitled
2 An act relating to the Dozier School for Boys and
3 Okeechobee School Victim Compensation Program;
4 creating s. 16.63, F.S.; establishing the Dozier
5 School for Boys and Okeechobee School Victim
6 Compensation Program within the Department of Legal
7 Affairs; specifying the purpose of the program;
8 requiring the department to accept and process
9 applications for the payment of compensation claims
10 under the program; requiring the department to provide
11 specified notice of the program; specifying
12 application procedures and requirements; requiring the
13 department to issue application approvals or denials
14 under specified conditions; requiring the department,
15 subject to the appropriation of funds for that
16 purpose, to pay a specified compensation amount to
17 approved applicants; requiring notice of application
18 approval or denial; authorizing an applicant whose
19 application is rejected to submit a new application;
20 providing that a person compensated under the program
21 is ineligible for further compensation related to his
22 confinement; requiring the department to adopt by rule
23 specified procedures and forms; authorizing the
24 Commissioner of Education to award a standard high
25 school diploma to specified persons under certain
26 circumstances; providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
29

Page 1 of 4

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

585-03005-24

202424c1

30 Section 1. Section 16.63, Florida Statutes, is created to
31 read:

32 16.63 Dozier School for Boys and Okeechobee School Victim
33 Compensation Program.—

34 (1) The Dozier School for Boys and Okeechobee School Victim
35 Compensation Program is established within the Department of
36 Legal Affairs. The purpose of the program is to compensate
37 living persons who were confined to the Dozier School for Boys
38 or the Okeechobee School at any time between 1940 and 1975 and
39 who were subjected to mental, physical, or sexual abuse
40 perpetrated by school personnel while they were so confined.

41 (2) The Department of Legal Affairs shall accept, review,
42 and approve or deny applications for the payment of compensation
43 claims under this section. Notice of the availability of such
44 compensation must be given and any relevant forms made available
45 for download on a page of the department's official website
46 accessible through a direct link on the website's homepage,
47 which link and page must be titled "The Dozier School for Boys
48 and Okeechobee School Victim Compensation Program."

49 (3) An application for compensation under this section must
50 be made by a living person who was confined to the Dozier School
51 for Boys or the Okeechobee School between 1940 and 1975; the
52 personal representative or estate of a decedent may not file an
53 application for or receive compensation under this section. Such
54 application must be made on a form approved by the department
55 and include:

56 (a) The applicant's name, date of birth, mailing address,
57 telephone number, and, if available, electronic mail address.

58 (b) The name of the school in which the applicant was

Page 2 of 4

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59 confined and the approximate dates of the applicant's
60 confinement.

61 (c) Reasonable proof submitted as attachments establishing
62 that the applicant was both:

63 1. Confined to the Dozier School for Boys or the Okeechobee
64 School between 1940 and 1975, which proof may include school
65 records submitted with a notarized certificate of authenticity
66 signed by the records custodian or certified court records.

67 2. A victim of mental, physical, or sexual abuse
68 perpetrated by school personnel during the applicant's
69 confinement, which proof may include a notarized statement
70 signed by the applicant attesting to the abuse the applicant
71 suffered.

72 (d) A signed statement from the applicant acknowledging
73 that, by accepting compensation under this section, the
74 applicant waives any right to further compensation related to
75 the applicant's confinement at the Dozier School for Boys or the
76 Okeechobee School or any abuse suffered during such confinement.

77
78 An application for compensation under this section must be
79 signed by the applicant under oath. A false statement in such
80 application, including in any attachment or exhibit submitted
81 therewith, is subject to the penalty of perjury under s.
82 837.012.

83 (4) Applications for compensation under this section must
84 be submitted no later than December 31, 2024.

85 (5) Upon completed review of an application submitted under
86 this section, the department shall either:

87 (a) Subject to appropriation, approve a one-time payment to

585-03005-24

202424c1

88 an applicant whose application meets the criteria specified in
89 this section. Each approved applicant shall receive an equal
90 share of the funds appropriated for this purpose.

91 (b) Deny the payment of compensation under this section to
92 an applicant whose application does not meet the criteria
93 specified in this section.

94
95 Written notice of such approval or denial must be sent by
96 certified mail, return receipt requested, to the mailing address
97 provided by the applicant on the application form. An applicant
98 whose application is rejected for providing insufficient
99 information may submit a new application as provided in
100 subsection (4).

101 (6) A person compensated under this section is ineligible
102 for any further compensation related to the person's confinement
103 at the Dozier School for Boys or the Okeechobee School or any
104 abuse suffered during such confinement.

105 (7) The department shall adopt by rule procedures and forms
106 necessary to administer this section.

107 Section 2. Pursuant to rules adopted by the State Board of
108 Education, the Commissioner of Education may award a standard
109 high school diploma to a person compensated pursuant to s.
110 16.63, Florida Statutes, who has not completed high school
111 graduation requirements.

112 Section 3. This act shall take effect July 1, 2024.

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 Appropriations Committee on Criminal and Civil Justice

BILL: CS/SB 24

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Rouson and others

SUBJECT: Dozier School for Boys and Okeechobee School Victim Compensation Program

DATE: February 19, 2024 **REVISED:** 2/21/24 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Limones-Borja</u>	<u>McVaney</u>	<u>GO</u>	Fav/CS
2.	<u>Henderson</u>	<u>Harkness</u>	<u>ACJ</u>	Favorable
3.	_____	_____	<u>FP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 24 creates the “Arthur G. Dozier School for Boys and Okeechobee School Victim Compensation Program,” to compensate living persons who were confined to those schools.

The bill requires the Department of Legal Affairs (DLA) to accept, review, and approve or deny applications for the payment of compensation claims under the bill. Applications for compensation under this section must be submitted by December 31, 2024. An application must be made by a living person who was confined to the Dozier School for Boys or the Okeechobee School. The bill sets forth the requirements for the application. Once a person is compensated under this bill, they are ineligible for any further compensation related to the person’s confinement at the Dozier School for Boys or the Okeechobee School.

The bill authorizes the Commissioner of Education to award a standard high school diploma to a person compensated under this program, if they have not completed high school graduation requirements.

This bill may have an indeterminate workload impact on the DLA associated with processing applications for compensation under this bill. See Section V., Fiscal Impact Statement.

This act takes effect July 1, 2024.

II. Present Situation:

Victims of Florida Reform School Abuse

This bill defines a “victim of Florida reform school abuse” to mean a living person who was confined at the Arthur G. Dozier School for Boys or the Okeechobee School at any time between 1940 and 1975 and who was subjected to mental, physical, or sexual abuse perpetrated by school personnel during the period of confinement.

The Arthur G. Dozier School for Boys

From 1900 to 2011, the state operated the Florida State Reform School in Marianna. In 1967, the name was changed to the Arthur G. Dozier School for Boys (Dozier School).¹ Children were committed to the Dozier school for criminal offenses such as theft and murder, but the law was later amended to allow for children with minor offenses such as truancy to be committed. Additionally, many children who had not been charged with a crime were committed to the school as wards of the state and orphans.²

Beginning as early as 1901, there were reports of children being chained to walls in irons, brutal whippings, and peonage.³ In the first 13 years of operation, six state-led investigations took place. Those investigations found that children as young as five years old were being hired out for labor, unjustly beaten, and were without education or proper food and clothing.⁴ In 2005, former students of the Dozier School began to publish accounts of the abuse they experienced at the school.⁵ These stories prompted Governor Charlie Crist to direct the Florida Department of Law Enforcement (FDLE) to investigate the Dozier School and the deaths that were alleged and occurred at the school. In 2008, Governor Charlie Crist directed the FDLE to investigate 32 unmarked graves located on the property surrounding the school in response to complaints lodged by former students at the Dozier School.⁶ The former students of Dozier alleged that students who died as a result of abuse were buried at the school cemetery.⁷

The Okeechobee School

Due to overcrowding at the Dozier School, the state opened a new reform school in Okeechobee. The first 50 boys were transferred to the Okeechobee campus from the Marianna campus along with 20 staff members.⁸ Interviews with former students in the school found that the former superintendent and deputy superintendent of the Florida School for Boys in Okeechobee

¹ David Built, *Arthur G. Dozier School for Boys* (Sep. 29, 2015), available at <https://www.abandonedfl.com/arthur-g-dozier-school-for-boys/> (last visited Feb. 1, 2024).

² Erin H. Kimmerle, Ph.D. et al., *Report on the Investigation into the Deaths and Burials at the Former Arthur G. Dozier School for Boys in Marianna, Florida*, The University of South Florida, pg. 22, January 18, 2016, available at <http://mediad.publicbroadcasting.net/p/wusf/files/201601/usf-final-dozier-summary-2016.pdf> (last visited Feb. 1, 2024).

³ See *supra* note 2, at 12.

⁴ See *supra* note 2, at 27.

⁵ Office of Executive Investigations, Florida Department of Law Enforcement, *FDLE Investigative Report* (May 14, 2009), available at <http://thewhitehouseboys.com/fdlereport.html> (last visited Feb. 1, 2024).

⁶ *Id.*

⁷ *Id.*

⁸ Richard Marion, *OYDC closure brings an end to troubled history*, South Central Florida Life (Jul. 15, 2020), available at <https://www.southcentralfloridalife.com/stories/oydc-closure-brings-an-end-to-troubled-history,9159> (last visited Feb. 1, 2024).

(Okeechobee School), would administer corporal punishment himself.⁹ Several students at the Okeechobee School died in the 1960s, some of those under questionable circumstances. Two of them being a 13-year-old boy found floating face down in the school's sewage tank, and a teen shot dead during an alleged escape attempt.¹⁰

The Florida Crimes Compensation Act

The Florida Crimes Compensation Act¹¹ authorizes the Florida Attorney General's Division of Victim Services to administer a compensation program to ensure financial assistance for victims of crime. Injured victims of crime may file for compensation for financial assistance such as treatment costs, economic loss, disability, or loss of support.¹²

Section 960.065, F.S., provides that the following persons are eligible for compensation under ch. 960, F.S.:

- A victim;
- An intervenor, defined as any person who goes to the aid of another and suffers bodily injury or death as a result of acting, not recklessly, to prevent the commission of a crime, to apprehend a person suspected of having committed a crime, or to aid a crime victim;¹³
- A surviving spouse, parent or guardian, sibling, or child of a deceased victim or intervenor;
- Any other person who is dependent for his or her principal support upon a deceased victim or intervenor.¹⁴

The Department of Legal Affairs cannot award compensation pursuant to ch. 960, F.S., unless it finds that a crime was committed and that it resulted in personal injury, psychiatric or psychological injury, or death to the victim or intervenor. Any award granted must be granted on an "actual need" basis and may be based on myriad other factors—including, but not limited to, the claimant's risk of serious financial hardship as a result of the injury and other claimants' rights to compensation based on the same claim.¹⁵ An award is provided only after all benefits provided by primary insurance carriers, including, but not limited to, health and accident insurers, workers' compensation, and automobile accident coverage.¹⁶ Payments under ch. 960, F.S., are considered payments "of last resort," that follow all other payments.¹⁷

⁹ *Id.*

¹⁰ WPBF News, *Investigation uncovers deaths of boys at Okeechobee Florida School for Boys* (April 10, 2015), available at <https://www.wpbf.com/article/investigation-uncovers-deaths-of-boys-at-okeechobee-florida-school-for-boys/1325188#> (Last visited Feb. 1, 2024).

¹¹ Sections 960.01-960.28, F.S.

¹² Attorney General, *Victim Compensation Brochure*, available at: <https://www.myfloridalegal.com/files/pdf/page/8DE75D8DEA1F3B2285256CFD00744575/BVCVictimCompensationBrochure.pdf> (last visited Feb. 1, 2024).

¹³ Section 963.03(9), F.S.

¹⁴ Section 960.065(1), F.S.

¹⁵ Section 960.13, F.S.

¹⁶ Section 960.13(2), F.S.

¹⁷ Section 960.13(3), F.S.

Claims will generally be denied if filed for, or on behalf of, a person who:

- Committed or aided in the commission of the crime upon which the claim for compensation was based;
- Was engaged in an unlawful activity at the time of the crime upon which the claim for compensation is based, unless the victim was engaged in prostitution as a result of being a victim of human trafficking;
- Was in custody or confined, regardless of conviction, in a county or municipal detention facility, a state or federal correctional facility, or a juvenile detention or commitment facility at the time of the crime upon which the compensation is based;
- Has been adjudicated as a habitual felony offender, habitual violent offender, or violent career criminal; or
- Has been adjudicated guilty of a forcible felony offense.¹⁸

Claims filed by or on behalf of a person who was in custody or confined, who are adjudicated as a habitual felony offender, or found guilty of a forcible felony may be eligible upon a finding by the Crime Victim's Service Office of mitigating or special circumstances that would render a disqualification unjust.¹⁹

III. Effect of Proposed Changes:

Section 1 creates the Dozier School for Boys and Okeechobee School Victim Compensation Program (Program) within the Department of Legal Affairs (DLA). The purpose of the Program is to compensate living persons who were confined to the Arthur G. Dozier School for Boys or the Okeechobee School at any time between 1940 and 1975 and were subjected to mental, physical, or sexual abuse perpetrated by school personnel during the period of confinement.

Section 1 requires the DLA to accept, review, and approve or deny applications for the payment of compensation claims under this section. An application for compensation must be signed by the applicant under oath and be submitted by December 31, 2024. An application must be made by a living person who was confined at the schools between 1940 and 1975, thus preventing a personal representative or estate from receiving compensation. The application must include:

- The applicant's name, date of birth, mailing address, telephone number, and, if available, electronic mail address;
- The name of the school in which the applicant was confined and the approximate dates of the applicant's confinement;
- Reasonable proof submitted as attachments establishing that the applicant was both:
 - Confined to the Dozier School for Boys or the Okeechobee School between 1940 and 1975, which proof may include school records submitted with a notarized certificate of authenticity signed by the records custodian or certified court records;
 - A victim of mental, physical, or sexual abuse perpetrated by school personnel during the applicant's confinement, which proof may include a notarized statement signed by the applicant attesting to the abuse the applicant suffered;
- A signed statement from the applicant acknowledging that, by accepting compensation under this section, the applicant waives any right to further compensation related to the applicant's

¹⁸ Section 960.065(2), F.S.

¹⁹ Section 960.065(3), F.S.

confinement at the Dozier School for Boys or the Okeechobee School or any abuse suffered during such confinement.

An application for compensation under this section must be signed by the applicant under oath. A false statement in such application, including in any attachment or exhibit submitted is subject to the penalty of perjury under s. 837.012, F.S. Section 837. 12, F.S., provides that whoever makes a false statement, which he or she does not believe to be true, under oath, not in an official proceeding, in regard to any material matter shall be guilty of a misdemeanor of the first degree.

The bill requires the DLA to maintain a page on its official website titled “The Dozier School for Boys and Okeechobee School Victim Compensation Program.” The website must maintain any relevant forms for the Program available for download. Once the DLA has completed review of an application the DLA must:

- Approve a one-time payment, subject to appropriation, to those whose applications meet the criteria specified in this section;
- Deny the payment of compensation under this section to an applicant whose application does not meet the criteria specified in this section.

The bill specifies that each approved applicant shall receive an equal share of the funds appropriated for this purpose.

The DLA is required to provide written notice of such approval or denial by certified mail with return receipt requested to the mailing address provided by the applicant on the application form. An applicant whose application is rejected for providing insufficient information may submit a new application by December 31, 2024.

Section 1 prevents a person who receives compensation under this section to receive further compensation related to the person’s confinement at the Dozier School for Boys or the Okeechobee School or any abuse suffered during such confinement.

The bill provides the DLA with rule making authority to administer this Program.

Section 2 authorizes the Commissioner of Education to award a standard high school diploma to a person compensated under this program, if they have not completed high school graduation requirements.

Section 3 provides that the act takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties’ or municipalities’ ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

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. The bill directs the DLA to administer compensation to applicants if they meet the criteria if funds are appropriated for that purpose.

C. Government Sector Impact:

There will be an indeterminate negative workload impact to the DLA. The bill provides that the DLA is responsible for processing applications for persons seeking to be certified as a victim of Florida reform school abuse. As such, there may be a negative workload impact on the DLA due to the processing of applications.

Financial compensation for applicants under the bill's provisions is subject to appropriation. As there are no funds appropriated for this bill, it does not have a fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 16.63 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 Governmental Oversight and Accountability on February 6, 2024:

The committee substitute retains the programmatic pieces of the bill, but makes the following changes:

- The Department of Legal Affairs will accept, review, and approve or deny applications instead of the Department of State.
- An application for compensation must be made by a living person who was confined at the Dozier School for Boys and the Okeechobee School.
- Prevents the estate, personal representative, next of kin, or lineal descendants of a decedent from submitting an application for compensation.
- Extends the submission deadline for the applications for compensation to December 31, 2024.
- Authorizes the Commissioner of Education to award a standard high school diploma to a person compensated under this program, if they have not completed high school graduation requirements.

- B. **Amendments:**

None.

The Florida Senate
APPEARANCE RECORD

SB 26 & 24

Meeting Date

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name Ralph Freeman

Phone 229-834-6654

Address 3527 Spence Dr
Street

Email

Valdosta GA
City State

31605
Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules](https://www.flsenate.gov/legistics/2020/2022-joint-rules). [df.flsenate.gov](https://www.flsenate.gov)

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

5-001 (08/10/2021)

February 20, 2024

Meeting Date

C&CJ Approps

Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

26

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Barney Bishop III**

Phone **850.510.9922**

Address **1454 Vieux Carre Drive**

Email **Barney@BarneyBishop.com**

Street

Tallahassee

FL

32308

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Smart Justice Alliance

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations, *Vice Chair*
Ethics and Elections, *Vice Chair*
Agriculture
Appropriations Committee on Criminal
and Civil Justice
Appropriations Committee on Health and
Human Services
Children, Families, and Elder Affairs
Rules

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR DARRYL ERVIN ROUSON

16th District

February 8, 2024

Senator Jennifer Bradley
Chair, Appropriations Committee on Criminal and Civil Justice
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Bradley,

I write today respectfully requesting that SB 24, Dozier School for Boys and Okeechobee School Victim Compensation Program, and SB 26, a linked public records bill, be added to the agenda of a forthcoming meeting of the Appropriations Committee on Criminal and Civil Justice for consideration. I look forward to the opportunity to present SB 24 and 26 to the committee. I am available for any questions you may have about this legislation. Thank you in advance for the committee's time and consideration.

Sincerely –

A handwritten signature in green ink that reads "Darryl E. Rouson".

Senator Darryl E. Rouson
Florida Senate District 16

REPLY TO:

- ☐ 535 Central Avenue, Suite 302, St. Petersburg, Florida 33701 (727) 822-6828
- ☐ 212 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore



421638

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Criminal and Civil Justice
(Rouson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 19 - 42

and insert:

Program; public records exemption.-

(1) Any name, date of birth, driver license number, social security number, home address, mailing address, telephone number, or electronic mail address in an application submitted to the Department of Legal Affairs by a person seeking compensation through the Dozier School for Boys and Okeechobee



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11 School Victim Compensation Program is confidential and exempt
12 from s. 119.07(1) and s. 24(a), Art. I of the State
13 Constitution, and may not be disclosed except as provided in
14 subsection (2).

15 (2) The information made confidential and exempt under
16 subsection (1) may be released to the Department of Education
17 for the purpose of facilitating the award of standard high
18 school diplomas to persons compensated through the Dozier School
19 for Boys and Okeechobee School Victim Compensation Program in
20 accordance with law, or upon court order.

21 (3) This paragraph is subject to the Open Government Sunset
22 Review Act in accordance with s. 119.15 and shall stand repealed
23 on October 2, 2029, unless reviewed and saved from repeal
24 through reenactment by the Legislature.

25 Section 2. The Legislature finds that it is a public
26 necessity that any name, date of birth, driver license number,
27 social security number, home address, mailing address, telephone
28 number, or electronic mail address in an application submitted
29 to the Department of Legal Affairs by a person seeking
30 compensation through the Dozier School for Boys and Okeechobee
31 School Victim Compensation Program be made confidential and
32 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
33 Article I of the State Constitution, except as provided in s.
34 16.64(2), Florida Statutes, or upon court order. The Legislature
35 finds that the release of such personal identifying information,
36 except as provided in s. 16.64(2), Florida Statutes, or upon
37 court order, could subject

38
39 ===== T I T L E A M E N D M E N T =====



421638

40 And the title is amended as follows:
41 Between lines 8 and 9
42 insert:
43 providing exceptions;

By the Committee on Governmental Oversight and Accountability;
and Senators Rouson and Davis

585-03006-24

202426c1

A bill to be entitled

An act relating to public records; creating s. 16.64, F.S.; providing an exemption from public records requirements for the personal identifying information in an application submitted to the Department of Legal Affairs by, or on behalf of, a person seeking compensation through the Dozier School for Boys and Okeechobee School Victim Compensation Program; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Section 16.64, Florida Statutes, is created to read:

16.64 Applications for compensation through the Dozier School for Boys and Okeechobee School Victim Compensation Program; public records exemption.—Any name, date of birth, driver license number, social security number, home address, mailing address, telephone number, or electronic mail address in an application submitted to the Department of Legal Affairs by, or on behalf of, a person seeking compensation through the Dozier School for Boys and Okeechobee School Victim Compensation Program is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and may not be disclosed except upon court order. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2029, unless

Page 1 of 3

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

585-03006-24

202426c1

reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that any name, date of birth, driver license number, social security number, home address, mailing address, telephone number, or electronic mail address in an application submitted to the Department of Legal Affairs by, or on behalf of, a person seeking compensation through the Dozier School for Boys and Okeechobee School Victim Compensation Program be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution, except upon court order. The Legislature finds that the release of such personal identifying information, except upon court order, could subject the persons applying for compensation through the Dozier School for Boys and Okeechobee School Victim Compensation Program to further trauma should their status as a victim of the Dozier School for Boys or the Okeechobee School, or the nature of the abuse each victim suffered there, be made public, and to the possibility of harassment. The Legislature further finds that a victim of the Dozier School for Boys or the Okeechobee School may be more likely to come forward and apply for compensation through the Dozier School for Boys and Okeechobee School Victim Compensation Program if the personal identifying information in the application is protected from public disclosure. The Legislature finds that the harm that may result from the release of such information outweighs the public benefit that may be derived from the disclosure of such information.

Section 3. This act shall take effect on the same date that SB 24 or similar legislation takes effect, if such legislation

Page 2 of 3

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585-03006-24

202426c1

59 is adopted in the same legislative session or an extension
60 thereof and becomes a law.

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 Appropriations Committee on Criminal and Civil Justice

BILL: CS/CS/SB 26

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Rouson and others

SUBJECT: Public Records/Dozier School for Boys and Okeechobee School Victim Compensation Program

DATE: February 22, 2024 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Limonas-Borja</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	<u>Henderson</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Fav/CS</u>
3.	_____	_____	<u>FP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 26 makes confidential and exempt from public records copying and inspection requirements the personal identifying information in an application of individuals applying to seek compensation through the Dozier School for Boys and Okeechobee School Victim Compensation Program.

The bill provides a statement of public necessity as required by the State Constitution.

Because the bill creates a new public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

This bill is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2029, unless reviewed and saved from the repeal through reenactment by the Legislature.

The bill has an insignificant, negative fiscal impact on state or local government revenues and expenditures. See Section V., Fiscal Impact Statement.

The bill takes effect on the same day as SB 24, or any similar legislation, takes effect. As filed, SB 24 takes effect July 1, 2024.

II. Present Situation:

Access to Public Records - Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, section 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, chapter 119, F.S., known as the Public Records Act, provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

The Public Records Act provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.⁵

Section 119.011(12), F.S., defines “public records” to include:

[a] All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connections with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business that are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2018-2020) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2018-2020)

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person's right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.⁹ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹⁰

General exemptions from the public records requirements are contained in the Public Records Act.¹¹ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹²

When creating a public records exemption, the Legislature may provide that a record is "exempt" or "confidential and exempt." There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹³ Records designated as "confidential and exempt" are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁴ Records designated as "exempt" may be released at the discretion of the records custodian under certain circumstances.¹⁵

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁶ with specified exceptions.¹⁷ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to

⁷ Section 119.07(1)(a), F.S.

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

¹¹ *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹² *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

¹³ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁴ *Id.*

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.

¹⁷ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.¹⁸ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary. An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;¹⁹
- The release of sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²⁰ or
- It protects trade or business secrets.²¹

The Act also requires specified questions to be considered during the review process.²² In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.²³ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁴

Victims of Florida Reform School Abuse

SB 24 defines a “victim of Florida reform school abuse” to mean a living person who was confined at the Arthur G. Dozier School for Boys or the Okeechobee School at any time between 1940 and 1975 and who was subjected to mental, physical, or sexual abuse perpetrated by school personnel during the period of confinement.

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b)1., F.S.

²⁰ Section 119.15(6)(b)2., F.S.

²¹ Section 119.15(6)(b)3., F.S.

²² Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²³ See generally s. 119.15, F.S.

²⁴ Section 119.15(7), F.S.

The Arthur G. Dozier School for Boys

From 1900 to 2011, the state operated the Florida State Reform School in Marianna. In 1967, the name was changed to the Arthur G. Dozier School for Boys (Dozier School).²⁵ Children were committed to the Dozier school for criminal offenses such as theft and murder, but the law was later amended to allow for children with minor offenses such as truancy to be committed. Additionally, many children who had not been charged with a crime were committed to the school as wards of the state and orphans.²⁶

Beginning as early as 1901, there were reports of children being chained to walls in irons, brutal whippings, and peonage.²⁷ In the first 13 years of operation, six state-led investigations took place. Those investigations found that children as young as five years old were being hired out for labor, unjustly beaten, and were without education or proper food and clothing.²⁸ In 2005, former students of the Dozier School began to publish accounts of the abuse they experienced at the school.²⁹ These stories prompted Governor Charlie Crist to direct the Florida Department of Law Enforcement (FDLE) to investigate the Dozier School and the deaths that were alleged and occurred at the school. In 2008, Governor Charlie Crist directed the FDLE to investigate 32 unmarked graves located on the property surrounding the school in response to complaints lodged by former students at the Dozier School.³⁰ The former students of Dozier alleged that students who died as a result of abuse were buried at the school cemetery.³¹

The Okeechobee School

Due to overcrowding at the Dozier School, the state opened a new reform school in Okeechobee. The first 50 boys were transferred to the Okeechobee campus from the Marianna campus along with 20 staff members.³² Interviews with former students in the school found that the former superintendent and deputy superintendent of the Florida School for Boys in Okeechobee (Okeechobee School), would administer corporal punishment himself.³³ Several students at the Okeechobee School died in the 1960s, some of those under questionable circumstances. Two of them being a 13-year-old boy found floating face down in the school's sewage tank, and a teen shot dead during an alleged escape attempt.³⁴

²⁵ David Built, *Arthur G. Dozier School for Boys* (Sep. 29, 2015), available at <https://www.abandonedfl.com/arthur-g-dozier-school-for-boys/> (last visited Feb. 2, 2024).

²⁶ Erin H. Kimmerle, Ph.D. et al., *Report on the Investigation into the Deaths and Burials at the Former Arthur G. Dozier School for Boys in Marianna, Florida*, The University of South Florida, pg. 22 (January 18, 2016), available at <http://mediad.publicbroadcasting.net/p/wusf/files/201601/usf-final-dozier-summary-2016.pdf> (last visited Feb. 1, 2024).

²⁷ See *supra* note 26, at 12.

²⁸ See *supra* note 26, at 27.

²⁹ Office of Executive Investigations, Florida Department of Law Enforcement, *FDLE Investigative Report* (May 14, 2009), available at <http://thewhitehouseboys.com/fdlereport.html> (last visited Feb. 2, 2024).

³⁰ *Id.*

³¹ *Id.*

³² Richard Marion, *OYDC closure brings an end to troubled history*, South Central Florida Life (Jul. 15, 2020), available at <https://www.southcentralfloralife.com/stories/oydc-closure-brings-an-end-to-troubled-history.9159> (last visited Feb. 2, 2024).

³³ *Id.*

³⁴ WPBF News, *Investigation uncovers deaths of boys at Okeechobee Florida School for Boys* (April 10, 2015), available at <https://www.wpbf.com/article/investigation-uncovers-deaths-of-boys-at-okeechobee-florida-school-for-boys/1325188#> (last visited Feb. 2, 2024).

III. Effect of Proposed Changes:

Section 1 creates s. 16.64, F.S., to exempt from public records inspection and copying requirements any personal identifying information in an application submitted to the Department of Legal Affairs by, or on behalf of, a person seeking compensation through the Dozier School for Boys and Okeechobee School Victim Compensation Program.

Specifically, the bill makes confidential and exempt the following information in an application:

- Any name;
- Date of birth;
- Driver license number;
- Social security number;
- Home or mailing address;
- Telephone number; and
- Electronic mail address.

Section 2 provides a public necessity statement as required by Article I, s. 24(c) of the State Constitution. The public necessity statement provides that the release of personal identifying information from the application could subject the victims to further trauma. The public necessity statement also provides that victims would be more likely to come forward if their personal identifying information is protected from public disclosure.

Section 3 provides that the bill takes effect the same day SB 24, or any similar legislation, takes effect, if it is adopted in the same legislative session or an extension thereof. As filed, SB 24 takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill enacts a new exemption for records pertaining to personal identifying information in an application; therefore, the bill requires a two-thirds vote of each chamber for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Section 2 of the bill contains a statement of public necessity for the exemption.

Breadth of Exemption

Article I, s. 24(c), of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to the victims of reform school abuse. This bill exempts only personal identifying information in an application to the DLA. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

The private sector will be subject to the cost, to the extent imposed, associated with making the redactions in response to a public record request.

C. Government Sector Impact:

The bill may have a minimal workload impact on the DLA related to the redaction of personal identifying information in responding to public records requests.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 16.64 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Appropriations Committee on Criminal and Civil Justice on February 20, 2024:

The committee substitute creates an exception for the release of confidential and exempt information to the Department of Education for the purpose of facilitating the award of high school diplomas referenced in SB 24.

CS by Governmental Oversight and Accountability on February 6, 2024:

The committee substitute makes the personal identifying information in an application confidential and exempt. It also extends the sunset date of the exemption to October 2, 2029.

- B. **Amendments:**

None.

APPEARANCE RECORD

2/20/24
Meeting Date

SB 116
Bill Number or Topic

CJ Appropriations
Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Jackie Dunn/Data4Change Phone 404 723 4778

Address PO Box 17096 Email DATA4CHANGE@

Street
Fernandina Beach FL 32035
City State Zip

OUTLOOK.COM

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules of the Florida Senate](https://www.flsenate.gov)

The Florida Senate

APPEARANCE RECORD

SB 116

2/20/24

Meeting Date

Bill Number or Topic

Approp. on Civil & Crimi. Jus.

Committee

Deliver both copies of this form to Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Aaron DiPietro

Phone 904-608-4471

Address PO Box

Street

Email aaron.d@flfamily.org

Orlando

City

FL

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Family Policy Council

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flsenate.gov](#)

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S-001 (08/10/2021)

February 20, 2024

The Florida Senate
APPEARANCE RECORD

116

Meeting Date

C&CJ Approps

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name **Barney Bishop III**

Phone **850.510.9922**

Address **1454 Vieux Carre Drive**

Email **Barney@BarneyBishop.com**

Street

Tallahassee

FL

32308

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Smart Justice Alliance

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. § 11.045 and Joint Rule 1. [2020-2022JointRules.pdf](#) ([flsenate.gov](#))

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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116

Bill Number or Topic

Amendment Barcode (if applicable)

2/20/24 Meeting Date
Approp. on Criminal + Civi Justice Committee

Name Kristen Allen Phone 850-681-0061

Address 1018 Thomasville Rd Street Email kristen.allen@madd.org

Tallahassee, FL 32303 City State Zip

Speaking: [x] For [] Against [] Information OR Waive Speaking: [] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing: Mothers Against Drunk Driving

[] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules. df.flsenate.gov

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The Florida Senate

Committee Agenda Request

To: Senator Jennifer Bradley, Chair
Appropriations Committee on Criminal and Civil Justice

Subject: Committee Agenda Request

Date: February 9, 2024

I respectfully request that **Senate Bills #116 & 118**, relating to Child Maintenance Restitution/Fees, be placed on the:

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

A handwritten signature in blue ink that reads "Danny".

Senator Danny Burgess
Florida Senate, District 23

By the Committee on Criminal Justice; and Senator Burgess

591-02985-24

2024116c1

1 A bill to be entitled
 2 An act relating to child maintenance restitution;
 3 creating s. 775.088, F.S.; defining the term "child
 4 maintenance restitution"; authorizing a court to order
 5 a defendant to pay child maintenance restitution to
 6 the surviving parent or guardian of a minor if the
 7 defendant is convicted of violating specified
 8 provisions of law and the deceased victim of the
 9 offense was the parent or guardian of the child;
 10 requiring monthly payments; providing an exception;
 11 requiring the court to determine an amount that is
 12 reasonable and necessary based on specified relevant
 13 factors if it sentences the defendant to pay child
 14 maintenance restitution; providing for the resolution
 15 of disputes as to the proper amount of child
 16 maintenance restitution; providing for the collection,
 17 disbursement, and enforcement of child maintenance
 18 restitution; providing requirements for the issuance
 19 of income deduction orders with an order for
 20 restitution; specifying requirements for a notice that
 21 is required to accompany income deduction orders;
 22 providing for enforcement of income deduction orders;
 23 prohibiting a person from discharging, refusing to
 24 employ, or taking disciplinary action against an
 25 employee subject to child maintenance restitution;
 26 providing requirements for payors; providing civil
 27 penalties; providing for payments after a defendant's
 28 incarceration; specifying circumstances under which
 29 child maintenance restitution may not be ordered or

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

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30 under which child maintenance restitution must be an
 31 offset by a judgment award; providing that a court may
 32 modify an order of child maintenance restitution;
 33 providing for jurisdiction of the defendant; providing
 34 an effective date.
 35

36 Be It Enacted by the Legislature of the State of Florida:
 37

38 Section 1. Section 775.088, Florida Statutes, is created to
 39 read:

40 775.088 Child maintenance restitution.-

41 (1) As used in this section, the term "child maintenance
 42 restitution" means a court-ordered obligation for monetary
 43 support for the care, maintenance, training, and education of a
 44 child younger than 18 years of age whose parent or guardian is a
 45 deceased victim of an offense specified in subsection (2).

46 (2) In addition to any punishment, the court may order a
 47 defendant convicted of a violation of s. 316.193(3)(c)3., s.
 48 782.04, s. 782.07(1), or s. 782.071(1), or any offense resulting
 49 in the death of a parent or guardian, to make child maintenance
 50 restitution to the surviving parent or guardian of a minor child
 51 if the deceased victim of the offense was the parent or guardian
 52 of such child. Such obligation must be paid monthly, unless
 53 otherwise ordered by the court, until such child reaches 18
 54 years of age.

55 (3) If a sentencing court orders the defendant to pay child
 56 maintenance restitution, the court must determine an amount that
 57 is reasonable and necessary for the support of each child of the
 58 deceased victim after considering all relevant factors,

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59 including, but not limited to, all of the following:

60 (a) The financial needs and resources of the child.

61 (b) The financial needs and resources of the surviving
 62 parent or guardian of the child, including the state if the
 63 child is in the custody of the Department of Children and
 64 Families.

65 (c) The standard of living to which the child is
 66 accustomed.

67 (d) The physical and emotional condition of the child and
 68 the child's educational needs.

69 (e) The child's physical and legal custody arrangements.

70 (f) The reasonable work-related child care expenses of the
 71 surviving parent or guardian.

72 (4) Any dispute as to the proper amount of child
 73 maintenance restitution must be resolved by the court by the
 74 preponderance of the evidence. The court may consider hearsay
 75 evidence for this purpose, provided that it finds that the
 76 hearsay evidence has a minimal indicia of reliability. The
 77 burden of demonstrating an amount that is reasonable and
 78 necessary for the support of the victim's child or children is
 79 on the state attorney.

80 (5) The court may order the clerk of the court to collect,
 81 enforce, and dispense child maintenance restitution payments.

82 (6) (a) Issuance of income deduction order with an order for
 83 child maintenance restitution.—

84 1. Upon the entry of an order for restitution, the court
 85 must enter a separate order for income deduction if one has not
 86 been entered.

87 2. The income deduction order must direct a payor to deduct

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88 from all income due and payable to the defendant the amount
 89 required by the court to meet the defendant's obligation.

90 3. The income deduction order must be effective as long as
 91 the order for restitution upon which it is based is effective or
 92 until further order of the court.

93 4. When the court orders the income deduction, the court
 94 shall furnish to the defendant a statement of his or her rights,
 95 remedies, and duties in regard to the income deduction order.
 96 The statement must include all of the following:

97 a. All fees or interest imposed.

98 b. The total amount of income to be deducted for each pay
 99 period.

100 c. A statement that the income deduction order applies to
 101 current and subsequent payors and periods of employment.

102 d. A statement that a copy of the income deduction order
 103 will be served on the defendant's payor or payors.

104 e. A statement that the defendant is required to notify the
 105 clerk of the court within 7 days after changes in the
 106 defendant's address or payors, or the addresses of his or her
 107 payors.

108 (b) Enforcement of income deduction orders.—

109 1. The clerk of the court or the defendant's probation
 110 officer shall serve an income deduction order and the notice
 111 described in subparagraph 4. to each of the defendant's payors,
 112 unless the defendant has applied for a hearing to contest the
 113 enforcement of the income deduction order.

114 2.a. Service by or upon any person who is a party to a
 115 proceeding under this paragraph must be made in the manner
 116 prescribed in the Florida Rules of Civil Procedure for service

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117 upon parties.

118 b. Service upon the defendant's payor or successor payor
 119 under this paragraph must be made by prepaid certified mail,
 120 return receipt requested, or in the manner prescribed in chapter
 121 48.

122 3. Within 15 days after having an income deduction order
 123 entered against him or her, the defendant may apply for a
 124 hearing to contest the enforcement of the income deduction order
 125 on the ground of mistake of fact regarding the amount of
 126 restitution owed. The timely request for a hearing stays the
 127 service of an income deduction order on all payors of the
 128 defendant until a hearing is held and a determination is made as
 129 to whether the enforcement of the income deduction order is
 130 proper.

131 4. The notice to each payor may contain only that
 132 information necessary for the payor to comply with the income
 133 deduction order. The notice must:

134 a. Require the payor to deduct from the defendant's income
 135 the amount specified in the income deduction order and to pay
 136 that amount to the clerk of the court;

137 b. Instruct the payor to implement the income deduction
 138 order no later than the first payment date that occurs more than
 139 14 days after the date the income deduction order was served on
 140 the payor;

141 c. Instruct the payor to forward within 2 days after each
 142 payment date to the clerk of the court the amount deducted from
 143 the defendant's income and a statement as to whether the amount
 144 totally or partially satisfies the periodic amount specified in
 145 the income deduction order;

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146 d. Specify that, if a payor fails to deduct the proper
 147 amount from the defendant's income, the payor is liable for the
 148 amount the payor should have deducted plus costs, interest, and
 149 reasonable attorney fees;

150 e. State that the income deduction order and the notice to
 151 payor are binding on the payor until further notice by the court
 152 or until the payor no longer provides income to the defendant;

153 f. Instruct the payor that, when he or she no longer
 154 provides income to the defendant, the payor must notify the
 155 clerk of the court and must also provide the defendant's last
 156 known address and the name and address of the defendant's new
 157 payor, if known, and that, if the payor violates this sub-
 158 paragraph, the payor is subject to a civil penalty not to
 159 exceed \$250 for the first violation or \$500 for any subsequent
 160 violation;

161 g. State that the payor may not discharge, refuse to
 162 employ, or take disciplinary action against the defendant
 163 because of an income deduction order and that a violation of
 164 this sub-subparagraph subjects the payor to a civil penalty not
 165 to exceed \$250 for the first violation or \$500 for any
 166 subsequent violation;

167 h. Inform the payor that, when he or she receives income
 168 deduction orders requiring that the income of two or more
 169 defendants be deducted and sent to the same clerk of the court,
 170 the payor may combine the amounts that are to be paid to the
 171 depository in a single payment as long as he or she identifies
 172 the portion of the payment attributable to each defendant; and

173 i. Inform the payor that if the payor receives more than
 174 one income deduction order against the same defendant, he or she

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175 must contact the court for further instructions.

176 5. The clerk of the court shall enforce income deduction
 177 orders against the defendant's successor payor who is located in
 178 this state in the same manner prescribed in this subsection for
 179 the enforcement of an income deduction order against an original
 180 payor.

181 6. A person may not discharge, refuse to employ, or take
 182 disciplinary action against an employee because of the
 183 enforcement of an income deduction order. An employer who
 184 violates this subparagraph is subject to a civil penalty not to
 185 exceed \$250 for the first violation or \$500 for any subsequent
 186 violation.

187 7. When a payor no longer provides income to a defendant,
 188 the payor must notify the clerk of the court and must provide
 189 the defendant's last known address and the name and address of
 190 the defendant's new payor, if known. A payor who violates this
 191 subparagraph is subject to a civil penalty not to exceed \$250
 192 for the first violation or \$500 for a subsequent violation.

193 (7) A defendant who is ordered to pay child maintenance
 194 restitution and is incarcerated and unable to pay such
 195 restitution may have up to 1 year after release from
 196 incarceration to begin payment. Such defendant must enter into a
 197 payment plan with the clerk of the court to address any
 198 arrearage. If a defendant's child maintenance restitution
 199 payments are set to terminate but the defendant's obligation is
 200 not paid in full, such payments must continue until the entire
 201 arrearage is paid.

202 (8) (a) If the surviving parent or guardian of the child
 203 brings a civil action against the defendant before the

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204 sentencing court orders child maintenance restitution and the
 205 surviving parent or guardian obtains a judgment in a civil suit,
 206 child maintenance restitution may not be ordered under this
 207 section.

208 (b) If the court orders the defendant to make child
 209 maintenance restitution under this section and the surviving
 210 parent or guardian subsequently brings a civil action and
 211 obtains a judgment, the child maintenance restitution order must
 212 be offset by the amount of the judgment awarded in the civil
 213 action.

214 (9) The court may modify an order of child maintenance
 215 restitution upon finding that such modification is reasonable
 216 and necessary, based on a substantial change in circumstance.

217 (10) The court may retain jurisdiction over a defendant
 218 whom the court has ordered to pay child maintenance restitution
 219 until such restitution order is satisfied or until the court
 220 orders otherwise.

221 Section 2. This act shall take effect July 1, 2024.

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 Appropriations Committee on Criminal and Civil Justice

BILL: CS/SB 116

INTRODUCER: Criminal Justice Committee and Senator Burgess

SUBJECT: Child Maintenance Restitution

DATE: February 19, 2024 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Parker</u>	<u>Stokes</u>	<u>CJ</u>	Fav/CS
2.	<u>Kolich</u>	<u>Harkness</u>	<u>ACJ</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 116 creates s. 775.088, F.S., authorizing a court to order a defendant to pay child maintenance restitution to the surviving parent or guardian of a minor if the defendant is convicted of violating any offense where the deceased victim of the offense was the parent or guardian of a child.

The bill requires the court to determine an amount that is reasonable and necessary based on specified relevant factors if the defendant is ordered to pay child maintenance restitution. Relevant factors include, but are not limited to, all of the following:

- The financial needs and resources of the child.
- The financial needs and resources of the surviving parent or guardian of the child including the state if the child is in the custody of the Department of Children and Families.
- The standard of living to which the child is accustomed.
- The physical and emotional condition of the child and the child’s educational needs.
- The child’s physical and legal custody arrangements.
- The reasonable work-related child care expenses of the surviving parent or guardian.

The bill permits the court to order the clerk of the court to collect, enforce, and dispense child maintenance restitution payments. The bill provides the requirements for the issuance of an income deduction order with an order for restitution and specifies the requirements for notice that is required to accompany income deduction orders. Additionally, the bill provides for the enforcement of income deduction orders.

The bill provides for payments to begin after a defendant's period of incarceration. A defendant who is ordered to pay child maintenance restitution and is incarcerated and unable to pay such restitution may have up to 1 year after release from incarceration to begin payment. If a defendant's child maintenance restitution payments are set to terminate but the defendant's obligation is not paid in full, such payments must continue until the entire arrearage is paid.

The court may modify an order of child maintenance restitution upon finding that such modification is reasonable and necessary, based on a substantial change in circumstance. Additionally, the court may retain jurisdiction over a defendant whom the court has ordered to pay child maintenance restitution until such restitution order is satisfied or until the court orders otherwise.

The bill becomes effective July 1, 2024.

II. Present Situation:

Restitution is a form of redress for a crime victim that may be ordered as part of the sentence issued by a criminal or juvenile court. Restitution's primary purpose is to compensate a victim for lost or destroyed property, and may be monetary or non-monetary in form.¹ In determining monetary restitution, a court must consider: the amount of the loss sustained by the victim;² the defendant's financial resources; the defendant's present and potential future financial needs and earning ability and those of his or her dependents; and any other factors the court deems appropriate.³

Restitution – In General

Restitution is “full or partial compensation paid by a criminal to a victim, not awarded in a civil trial for tort, but ordered as part of a criminal sentence or as a condition of probation.”⁴ “Unlike civil damages, restitution is a criminal sanction. The purpose of restitution is not only to compensate the victim, but also to serve the rehabilitative, deterrent, and retributive goals of the criminal justice system.”⁵

A crime victim has a state constitutional right to restitution. The State Constitution provides that a victim has the “right to full and timely restitution in every case and from each convicted offender for all losses suffered, both directly and indirectly, by the victim as a result of the criminal conduct.”⁶

A sentencing court must order the defendant to make restitution to the victim for damage or loss caused directly or indirectly by the defendant's offense and damage or loss related to the

¹ Section 775.089(7)(a), F.S.

² Section 775.089(6)(a), F.S.

³ Section 775.089(6)(b), F.S.

⁴ BLACK'S L. DICTIONARY (11th ed. 2019).

⁵ *Tolbert v. State*, 268 So.3d 947 (1st DCA 2019).

⁶ Art. I, s. 16(b)(9), FLA. CONST.

defendant's criminal episode, unless the court finds clear and compelling reasons not to order restitution. If ordered, restitution is a mandatory condition of probation.⁷

How Restitution is Proved and Calculated

In general, the fair market value at the time of the offense is the appropriate value for purposes of restitution. However, the Florida Supreme Court in *Hawthorne*⁸ ruled that "a court is not tied to fair market value as the sole standard for determining restitution amounts, but rather may exercise such discretion as required to further the purposes of restitution."⁹ The court found that fair market value can be established either through direct testimony of the victim or through evidence of the following four factors:

- Original market cost;
- Manner in which the item was used;
- The general condition and quality of the item; and
- The percentage of depreciation.¹⁰

A criminal trial and conviction must (unless waived) be heard before a jury and guilt must be proved beyond a reasonable doubt. Restitution, however, is a part of the sentencing process. A sentencing hearing is tried before the judge alone, and the essential facts need only be proved by a preponderance of the evidence.¹¹

Bentley's Law

Bentley's Law requires that drivers under the influence, who cause the death of parents with children below the age of 18, provide financial restitution in the form of child support. This obligation extends not just to the surviving spouse, but also to any relative who assumes the responsibility of raising the affected children.¹² The law was named after the young son of two Missourian parents who were victims of an intoxicated driver.¹³

To date, Tennessee, Missouri, Kentucky, Maine, and Texas have passed legislation modeled after Bentley's Law:

- Tennessee is the first state to pass "Bentley's Law." It passed the Tennessee House and Senate on [April 20, 2022](#), and was renamed "[Ethan, Hailey's and Bentley's Law](#)" to add the names of Tennessee Officer Nicholas Galinger's children. It was signed into law on May 25, 2022.¹⁴

⁷ Section 775.089(1)(a), F.S.

⁸ *State v. Hawthorne*, 573 So. 2d 330 (Fla. 1991).

⁹ *Id.* at 333.

¹⁰ *Id.* at 332-33.

¹¹ Section 775.089(7), F.S.

¹² Enjuris, "Bentley's Law: Protecting Children after Dui Tragedies," September 8, 2023, available at, www.enjuris.com/car-accident/bentleys-law-explained/ (last visited on February 3, 2024).

¹³ *Id.*

¹⁴ Tennessee State General Assembly, *HB 1834 (2022)*, available at, <https://wapp.capitol.tn.gov/apps/BillInfo/default.aspx?BillNumber=HB1834&GA=112>, (last visited on February 3, 2024).

- “[Melanie’s Law](#)” was signed in Kentucky on April 4, 2023. This is similar to Bentley’s Law but expands the restitution requirement to include children whose parents or guardians were severely and permanently injured in an impaired driving crash.¹⁵
- [Texas bill HB 393](#) was signed into law on June 2, 2023.¹⁶
- [Maine bill LD 1512](#) was signed into law on June 23, 2023.¹⁷

III. Effect of Proposed Changes:

The bill creates s. 775.088, F.S., authorizing a court to order a defendant to pay child maintenance restitution to the surviving parent or guardian of a minor if the defendant is convicted of violating the following provisions of law and the deceased victim of the offense was the parent or guardian of a child:

- DUI Manslaughter.¹⁸
- Murder.¹⁹
- Manslaughter; aggravated manslaughter of an elderly person or disabled adult; aggravated manslaughter of a child; aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic.²⁰
- Vehicular Homicide.²¹
- Any offense resulting in the death of a parent or guardian.

The bill requires the court to determine an amount that is reasonable and necessary based on specified relevant factors if the defendant is ordered to pay child maintenance restitution. Relevant factors include, but are not limited to, all of the following:

- The financial needs and resources of the child.
- The financial needs and resources of the surviving parent or guardian of the child including the state if the child is in the custody of the Department of Children and Families.
- The standard of living to which the child is accustomed.
- The physical and emotional condition of the child and the child’s educational needs.
- The child’s physical and legal custody arrangements.
- The reasonable work-related child care expenses of the surviving parent or guardian.

¹⁵ Kentucky General Assembly, *Senate Bill 268 (2023)*, available at, <https://apps.legislature.ky.gov/record/23rs/sb268.html>, (last visited on February 3, 2024).

¹⁶ Texas State Legislature, *H.B. 393 (2023)*, available at, <https://wapp.capitol.tn.gov/apps/BillInfo/default.aspx?BillNumber=HB1834&GA=112> (last visited on February 3, 2024).

¹⁷ Maine State Legislature, *L.D. 1512 (2023)*, available at, <https://legiscan.com/ME/bill/LD1512/2023> (last visited February 3, 2024).

¹⁸ Section 316.193(3)(c)3., F.S., Any person who is in violation of this section who operates a vehicle; and who by reason of such operation, causes or contributes to causing the death of any human being or unborn child commits DUI manslaughter.

¹⁹ Section 782.04, F.S.

²⁰ Section 782.07(1), F.S., the killing of a human being by the act, procurement, or culpable negligence of another, without lawful justification according to the provisions of ch. 776, F.S., and in cases in which such killing shall not be excusable homicide or murder, according to the provisions of this chapter, is manslaughter, a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

²¹ Section 782.071(1), F.S., Vehicular homicide is the killing of a human being, or the killing of an unborn child by any injury to the mother, caused by the operation of a motor vehicle by another in a reckless manner likely to cause the death of, or great bodily harm to, another. Vehicular homicide is a felony of the second degree.

The bill permits the court to order the clerk of the court to collect, enforce, and dispense child maintenance restitution payments. The bill provides the requirements for the issuance of an income deduction order with an order for restitution and specifies the requirements for notice that is required to accompany income deduction orders. Additionally, the bill provides for the enforcement of income deduction orders.

The bill provides for payments to begin after a defendant's period of incarceration. A defendant who is ordered to pay child maintenance restitution and is incarcerated and unable to pay such restitution may have up to 1 year after release from incarceration to begin payment. If a defendant's child maintenance restitution payments are set to terminate but the defendant's obligation is not paid in full, such payments must continue until the entire arrearage is paid.

The court may modify an order of child maintenance restitution upon finding that such modification is reasonable and necessary, based on a substantial change in circumstance. Additionally, the court may retain jurisdiction over a defendant whom the court has ordered to pay child maintenance restitution until such restitution order is satisfied or until the court orders otherwise.

The bill becomes effective 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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 775.088 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Criminal Justice on February 6, 2024:**

The committee substitute:

- Provides that the court may order a defendant convicted of any offense that resulted in the death of a parent or guardian of a minor child to pay child maintenance restitution to the surviving parent or guardian until such child reaches 18 years of age.

B. Amendments:

None.

The Florida Senate

APPEARANCE RECORD

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2/20/24

Meeting Date

118

Bill Number or Topic

Appropriations on Criminal and Civil Justice Committee

Amendment Barcode (if applicable)

Name Kristen Allen

Phone 850-681-0061

Address 1018 Thomasville Rd Street

Email kristen.allen@mad.org

Tallahassee, FL 32303 City State Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [x] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

[] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Mothers Against Drunk Driving

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules. df.flsenate.gov

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

S-001 (08/10/2021)

February 20, 2024

Meeting Date

C&CJ Approps

Committee

The Florida Senate
APPEARANCE RECORD

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118

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Barney Bishop III**

Phone **850.510.9922**

Address **1454 Vieux Carre Drive**

Email **Barney@BarneyBishop.com**

Street

Tallahassee

FL

32308

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Smart Justice Alliance

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)



The Florida Senate

Committee Agenda Request

To: Senator Jennifer Bradley, Chair
Appropriations Committee on Criminal and Civil Justice

Subject: Committee Agenda Request

Date: February 9, 2024

I respectfully request that **Senate Bills #116 & 118**, relating to Child Maintenance Restitution/Fees, be placed on the:

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

A handwritten signature in blue ink that reads "Danny".

Senator Danny Burgess
Florida Senate, District 23

By the Committee on Criminal Justice; and Senator Burgess

591-02986-24

2024118c1

A bill to be entitled

An act relating to fees; amending s. 775.088, F.S.; authorizing payors to collect certain administrative costs from the defendant's income, as a part of the notice that is required to accompany income deduction orders; providing a contingent effective date.

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

Section 1. Paragraph (b) of subsection (6) of section 775.088, Florida Statutes, as created by SB 116, 2024 Regular Session, is amended to read:

775.088 Child maintenance restitution.—

(6)

(b) *Enforcement of income deduction orders.*—

1. The clerk of the court or the defendant's probation officer shall serve an income deduction order and the notice described in subparagraph 4. to each of the defendant's payors, unless the defendant has applied for a hearing to contest the enforcement of the income deduction order.

2.a. Service by or upon any person who is a party to a proceeding under this paragraph must be made in the manner prescribed in the Florida Rules of Civil Procedure for service upon parties.

b. Service upon the defendant's payor or successor payor under this paragraph must be made by prepaid certified mail, return receipt requested, or in the manner prescribed in chapter 48.

3. Within 15 days after having an income deduction order

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

591-02986-24

2024118c1

entered against him or her, the defendant may apply for a hearing to contest the enforcement of the income deduction order on the ground of mistake of fact regarding the amount of restitution owed. The timely request for a hearing stays the service of an income deduction order on all payors of the defendant until a hearing is held and a determination is made as to whether the enforcement of the income deduction order is proper.

4. The notice to each payor may contain only that information necessary for the payor to comply with the income deduction order. The notice must:

a. Require the payor to deduct from the defendant's income the amount specified in the income deduction order and to pay that amount to the clerk of the court;

b. Instruct the payor to implement the income deduction order no later than the first payment date that occurs more than 14 days after the date the income deduction order was served on the payor;

c. Instruct the payor to forward within 2 days after each payment date to the clerk of the court the amount deducted from the defendant's income and a statement as to whether the amount totally or partially satisfies the periodic amount specified in the income deduction order;

d. Specify that, if a payor fails to deduct the proper amount from the defendant's income, the payor is liable for the amount the payor should have deducted plus costs, interest, and reasonable attorney fees;

e. Provide that the payor may collect up to \$5 from the defendant's income to reimburse the payor for administrative

Page 2 of 4

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

591-02986-24

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59 costs for the first income deduction and up to \$2 for each
 60 deduction thereafter;

61 f. State that the income deduction order and the notice to
 62 payor are binding on the payor until further notice by the court
 63 or until the payor no longer provides income to the defendant;

64 g.~~f.~~ Instruct the payor that, when he or she no longer
 65 provides income to the defendant, the payor must notify the
 66 clerk of the court and must also provide the defendant's last
 67 known address and the name and address of the defendant's new
 68 payor, if known, and that, if the payor violates this sub-
 69 subparagraph, the payor is subject to a civil penalty not to
 70 exceed \$250 for the first violation or \$500 for any subsequent
 71 violation;

72 h.~~g.~~ State that the payor may not discharge, refuse to
 73 employ, or take disciplinary action against the defendant
 74 because of an income deduction order and that a violation of
 75 this sub-subparagraph subjects the payor to a civil penalty not
 76 to exceed \$250 for the first violation or \$500 for any
 77 subsequent violation;

78 i.~~h.~~ Inform the payor that, when he or she receives income
 79 deduction orders requiring that the income of two or more
 80 defendants be deducted and sent to the same clerk of the court,
 81 the payor may combine the amounts that are to be paid to the
 82 depository in a single payment as long as he or she identifies
 83 the portion of the payment attributable to each defendant; and
 84 j.~~i.~~ Inform the payor that if the payor receives more than
 85 one income deduction order against the same defendant, he or she
 86 must contact the court for further instructions.

87 5. The clerk of the court shall enforce income deduction

591-02986-24

2024118c1

88 orders against the defendant's successor payor who is located in
 89 this state in the same manner prescribed in this subsection for
 90 the enforcement of an income deduction order against an original
 91 payor.

92 6. A person may not discharge, refuse to employ, or take
 93 disciplinary action against an employee because of the
 94 enforcement of an income deduction order. An employer who
 95 violates this subparagraph is subject to a civil penalty not to
 96 exceed \$250 for the first violation or \$500 for any subsequent
 97 violation.

98 7. When a payor no longer provides income to a defendant,
 99 the payor must notify the clerk of the court and must provide
 100 the defendant's last known address and the name and address of
 101 the defendant's new payor, if known. A payor who violates this
 102 subparagraph is subject to a civil penalty not to exceed \$250
 103 for the first violation or \$500 for a subsequent violation.

104 Section 2. This act shall take effect on the same date that
 105 SB 116 or similar legislation takes effect, if such legislation
 106 is adopted in the same legislative session or an extension
 107 thereof and becomes a law.

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 Appropriations Committee on Criminal and Civil Justice

BILL: CS/SB 118

INTRODUCER: Criminal Justice Committee and Senator Burgess

SUBJECT: Fees/Child Maintenance Restitution

DATE: February 19, 2024 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Parker</u>	<u>Stokes</u>	<u>CJ</u>	Fav/CS
2.	<u>Kolich</u>	<u>Harkness</u>	<u>ACJ</u>	Pre-meeting
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 118 amends s. 775.088, F.S., to require that notice to a payor must provide that the payor may collect up to \$5 from the defendant's income to reimburse the payor for administrative costs for the first income deduction and up to \$2 for each deduction thereafter.

Section 775.088, F.S., provides for the enforcement of income deduction orders when child maintenance is ordered. The clerk of the court or the defendant's probation officer must serve an income deduction order and the notice to each payor. Such notice must contain only that information necessary for the payor to comply with the income deduction order.

CS/SB 116 is a linked bill that creates s. 775.088, F.S., authorizing a court to order a defendant to pay child maintenance restitution to the surviving parent or guardian of a minor if the defendant is convicted of violating any offense where the deceased victim of the offense was the parent or guardian of a child.

The bill is effective on the same date that CS/SB 116 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

II. Present Situation:

Restitution is a form of redress for a crime victim that may be ordered as part of the sentence issued by a criminal or juvenile court. Restitution's primary purpose is to compensate a victim

for lost or destroyed property, and may be monetary or non-monetary in form.¹ In determining monetary restitution, a court must consider: the amount of the loss sustained by the victim;² the defendant's financial resources; the defendant's present and potential future financial needs and earning ability and those of his or her dependents; and any other factors the court deems appropriate.³

Restitution – In General

Restitution is “full or partial compensation paid by a criminal to a victim, not awarded in a civil trial for tort, but ordered as part of a criminal sentence or as a condition of probation.”⁴ “Unlike civil damages, restitution is a criminal sanction. The purpose of restitution is not only to compensate the victim, but also to serve the rehabilitative, deterrent, and retributive goals of the criminal justice system.”⁵

A crime victim has a state constitutional right to restitution. The State Constitution provides that a victim has the “right to full and timely restitution in every case and from each convicted offender for all losses suffered, both directly and indirectly, by the victim as a result of the criminal conduct.”⁶

A sentencing court must order the defendant to make restitution to the victim for damage or loss caused directly or indirectly by the defendant's offense and damage or loss related to the defendant's criminal episode, unless the court finds clear and compelling reasons not to order restitution. If ordered, restitution is a mandatory condition of probation.⁷

How Restitution is Proved and Calculated

In general, the fair market value at the time of the offense is the appropriate value for purposes of restitution. However, the Florida Supreme Court in *Hawthorne*⁸ ruled that “a court is not tied to fair market value as the sole standard for determining restitution amounts, but rather may exercise such discretion as required to further the purposes of restitution.”⁹ The court found that fair market value can be established either through direct testimony of the victim or through evidence of the following four factors:

- Original market cost;
- Manner in which the item was used;
- The general condition and quality of the item; and
- The percentage of depreciation.¹⁰

¹ Section 775.089(7)(a), F.S.

² Section 775.089(6)(a), F.S.

³ Section 775.089(6)(b), F.S.

⁴ BLACK'S L. DICTIONARY (11th ed. 2019).

⁵ *Tolbert v. State*, 268 So.3d 947 (1st DCA 2019).

⁶ Art. I, s. 16(b)(9), FLA. CONST.

⁷ Section 775.089(1)(a), F.S.

⁸ *State v. Hawthorne*, 573 So. 2d 330 (Fla. 1991).

⁹ *Id.* at 333.

¹⁰ *Id.* at 332-33.

A criminal trial and conviction must (unless waived) be heard before a jury and guilt must be proved beyond a reasonable doubt. Restitution, however, is a part of the sentencing process. A sentencing hearing is tried before the judge alone, and the essential facts need only be proved by a preponderance of the evidence.¹¹

Bentley's Law

Bentley's Law requires that drivers under the influence, who cause the death of parents with children below the age of 18, provide financial restitution in the form of child support. This obligation extends not just to the surviving spouse, but also to any relative who assumes the responsibility of raising the affected children.¹² The law was named after the young son of two Missourian parents who were victims of an intoxicated driver.¹³

To date, Tennessee, Missouri, Kentucky, Maine, and Texas have passed legislation modeled after Bentley's Law:

- Tennessee is the first state to pass "Bentley's Law." It passed the Tennessee House and Senate on April 20, 2022, and was renamed "Ethan, Hailey's and Bentley's Law" to add the names of Tennessee Officer Nicholas Galinger's children. It was signed into law on May 25, 2022.¹⁴
- "Melanie's Law" was signed in Kentucky on April 4, 2023. This is similar to Bentley's Law but expands the restitution requirement to include children whose parents or guardians were severely and permanently injured in an impaired driving crash.¹⁵
- Texas bill HB 393 was signed into law on June 2, 2023.¹⁶
- Maine bill LD 1512 was signed into law on June 23, 2023.¹⁷

III. Effect of Proposed Changes:

The bill amends s. 775.088, F.S., to require that notice to a payor must provide that the payor may collect up to \$5 from the defendant's income to reimburse the payor for administrative costs for the first income deduction and up to \$2 for each deduction thereafter.

Section 775.088, F.S., provides for the enforcement of income deduction orders when child maintenance is ordered. The clerk of the court or the defendant's probation officer must serve an income deduction order and the notice to each payor. Such notice must contain only that information necessary for the payor to comply with the income deduction order.

¹¹ Section 775.089(7), F.S.

¹² Enjuris, "Bentley's Law: Protecting Children after Dui Tragedies," September 8, 2023, available at, www.enjuris.com/car-accident/bentleys-law-explained/ (last visited on February 3, 2024).

¹³ *Id.*

¹⁴ Tennessee State General Assembly, *HB 1834 (2022)*, available at, <https://wapp.capitol.tn.gov/apps/BillInfo/default.aspx?BillNumber=HB1834&GA=112>, (last visited on February 3, 2024).

¹⁵ Kentucky General Assembly, *Senate Bill 268 (2023)*, available at, <https://apps.legislature.ky.gov/record/23rs/sb268.html>, (last visited on February 3, 2024).

¹⁶ Texas State Legislature, *H.B. 393 (2023)*, available at, <https://wapp.capitol.tn.gov/apps/BillInfo/default.aspx?BillNumber=HB1834&GA=112> (last visited on February 3, 2024).

¹⁷ Maine State Legislature, *L.D. 1512 (2023)*, available at, <https://legiscan.com/ME/bill/LD1512/2023> (last visited February 3, 2024).

CS/SB 116 is a linked bill that creates s. 775.088, F.S., authorizing a court to order a defendant to pay child maintenance restitution to the surviving parent or guardian of a minor if the defendant is convicted of violating any offense where the deceased victim of the offense was the parent or guardian of a child.

The bill is effective on the same date that CS/SB 116 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Section 19, Art. VII of the State Constitution limits the authority of the Legislature to enact legislation that imposes or raises a state tax or fee by requiring such legislation to be approved by a 2/3 vote of each chamber of the Legislature. Such state tax or fee imposed, authorized, or raised must be contained in a separate bill that contains no other subject. For purposes of this limitation, the term “fee” is defined, in pertinent part, to mean any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill authorizes that a payor may collect up to \$5 from the defendant’s income to reimburse the payor for administrative costs for the first income deduction and up to \$2 for each deduction thereafter.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 775.088 of the Florida Statutes.

IX. Additional Information:

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

CS by Criminal Justice on February 6, 2024:

The committee substitute:

- Adds the substantive bill number to the fee bill.

- B. Amendments:

None.

The Florida Senate

APPEARANCE RECORD

~~148~~ 1448

February 20, 2024

Meeting Date

C&CJ Approps

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Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name **Barney Bishop III**

Phone **850.510.9922**

Address **1454 Vieux Carre Drive**

Email **Barney@BarneyBishop.com**

Street

Tallahassee

FL

32308

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Smart Justice Alliance

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

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2/20/24

Meeting Date

1448

Bill Number or Topic

ACCS

Committee

Amendment Barcode (if applicable)

Name

Jared Willis

Phone

Address

Street

Email

jared@catalyststrategyicsf.com

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Common Sense Leadership Fund

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules. df \(flsenate.gov\)](https://www.flsenate.gov)

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S-001 (08/10/2021)

By Senator Gruters

22-01114A-24

20241448__

1 A bill to be entitled
 2 An act relating to transparency in social media;
 3 creating s. 501.20411, F.S.; providing a short title;
 4 providing legislative findings; providing definitions;
 5 requiring foreign-adversary-owned entities operating
 6 social media platforms in the state to publicly
 7 disclose specified information in a certain manner;
 8 requiring foreign-adversary-owned entities operating
 9 social media platforms to implement a user
 10 verification system for certain entities; providing
 11 penalties; requiring enforcement by the Department of
 12 Legal Affairs; providing an effective date.

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

15
 16 Section 1. Section 501.20411, Florida Statutes, is created
 17 to read:

18 501.20411 Transparency in Social Media Act.—
 19 (1) This section may be cited as the “Transparency in
 20 Social Media Act.”
 21 (2) The Legislature finds that:
 22 (a) Social media platforms play a significant role in
 23 shaping public discourse and opinion.
 24 (b) Algorithms used by social media platforms can influence
 25 user behavior and content visibility.
 26 (c) Transparency in the functioning of such algorithms and
 27 in political and social advertising is vital for safeguarding
 28 democratic values and user privacy.
 29 (d) Ownership of social media platforms by foreign entities

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

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30 can raise concerns regarding foreign influence and data
 31 security.
 32 (3) For purposes of this section, the term:
 33 (a) “Algorithm” has the same meaning as in s. 501.2041(1).
 34 (b) “Foreign-adversary-owned entity” means a social media
 35 company that is owned or substantially controlled by nationals,
 36 governments, or corporations domiciled, incorporated, or
 37 otherwise holding residence in a country designated as a foreign
 38 adversary under 15 C.F.R. s. 7.4.
 39 (c) “Social media platform” means a public online service
 40 that allows users to create and share or participate in social
 41 networking.
 42 (d) “Social or political advertising” means any
 43 advertisement on a social media platform that discusses social
 44 or political issues or is intended to influence public opinion
 45 or electoral outcomes.
 46 (4) (a) Each foreign-adversary-owned entity operating a
 47 social media platform in the state must publicly disclose the
 48 core functional elements of the social media platform’s content
 49 curation and algorithms.
 50 (b) The disclosure must identify:
 51 1. The factors that influence content ranking and
 52 visibility.
 53 2. Measures taken to address misinformation and harmful
 54 content.
 55 3. The process of personalization and targeting of content.
 56 (5) Each foreign-adversary-owned entity operating a social
 57 media platform must make publicly available the source code of
 58 its algorithms through an open-source license.

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59 (6) (a) Each foreign-adversary-owned entity operating a
60 social media platform must implement a user verification system
61 for each user and organization that purchases advertisements
62 concerning social or political issues. The system must verify
63 key identifying information, including citizenship, residency,
64 and age of the user or the individuals that own the
65 organization, as applicable.

66 (b) Once verified, the identity of the purchaser of each
67 social or political advertisement must be disclosed with the
68 advertisement.

69 (7) (a) A foreign-adversary-owned entity operating a social
70 media platform that violates this section is liable up to
71 \$10,000 for each discrete violation.

72 (b) The Department of Legal Affairs shall enforce this
73 section.

74 Section 2. This act shall take effect July 1, 2024.

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 Appropriations Committee on Criminal and Civil Justice

BILL: SB 1448

INTRODUCER: Senator Gruters

SUBJECT: Transparency in Social Media

DATE: February 19, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McMillan</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Henderson</u>	<u>Harkness</u>	<u>ACJ</u>	Favorable
3.	_____	_____	<u>FP</u>	_____

I. Summary:

SB 1448 creates the “Transparency in Social Media Act,” to require each foreign-adversary-owned entity¹ operating a social media platform in Florida to publicly disclose the core functional elements of the social media platform’s content curation and algorithms. The disclosures must identify the following:

- Factors that influence content ranking and visibility;
- Measures taken to address misinformation and harmful content; and
- The process of personalization and targeting of content.

The bill also requires each foreign-adversary-owned entity to make publicly available the source code of its algorithm through an open-source license, as well as implement a user verification system for each user and organization that purchased advertisements concerning social or political issues.

The bill may have a workload impact on the Department of Legal Affairs. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

Internet and Social Media Platforms

There are many ways in which individuals access computer systems and interact with systems and other individuals on the Internet. Examples include:

¹ The United States Department of Commerce has identified China (including Hong Kong), Cuba, Iran, North Korea, Russia, and the Nicolás Maduro regime in Venezuela as foreign adversaries. See 15 CFR § 7.4.

- Social media sites, which are websites and applications that allow users to communicate informally with others, find people, and share similar interests;²
- Internet platforms, which are servers used by an Internet provider to support Internet access by their customers;³
- Internet search engines, which are computer software used to search data (such as text or a database) for specified information;⁴ and
- Access software providers, which are providers of software (including client or server software) or enabling tools for content processing.⁵

Such platforms earn revenue through various modes and models. Examples include:

- Data monetization.⁶ This uses data that is gathered and stored on the millions of users that spend time on free content sites, including specific user location, browsing habits, buying behavior, and unique interests. This data can be used to help e-commerce companies tailor their marketing campaigns to a specific set of online consumers. Platforms that use this model are typically free for users to use.⁷
- Subscription or membership fees. This model requires users pay for a particular or unlimited use of the platform infrastructure.⁸
- Transaction fees. This model allows platforms to benefit from every transaction that is enabled between two or more actors. An example is AirBnB, where users transacting on the site are charged a fee.⁹

Trade Secrets

Generally, trade secrets are intellectual property rights on confidential information that are used by a business and provide an economic advantage to that business.¹⁰

² DelValle Institute Learning Center, *Social Media Platforms*, available at <https://delvalle.bphc.org/mod/wiki/view.php?pageid=65> (last visited Jan. 29, 2024).

³ IGI Global, *Internet Platform*, available at <https://www.igi-global.com/dictionary/internet-platform/15441> (last visited Jan. 29, 2024).

⁴ Merriam Webster, *Search Engine*, available at <https://www.merriam-webster.com/dictionary/search%20engine> (last visited Jan. 29, 2024).

⁵ 47 U.S.C. § 230(f)(4) defining “access software provider to mean a provider of software (including client or server software), or enabling tools that do any one or more of the following: (i) filter, screen, allow, or disallow content; (ii) pick, choose, analyze, or digest content; or (iii) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content.

⁶ The Alexander von Humboldt Institute for Internet and Society, *How do digital platforms make their money?*, July 29, 2019, available at <https://www.hiig.de/en/how-do-digital-platforms-make-their-money/> (last visited Jan. 29, 2024).

⁷ Investopedia, *How Do Internet Companies Profit with Free Services?*, available at <https://www.investopedia.com/ask/answers/040215/how-do-internet-companies-profit-if-they-give-away-their-services-free.asp#:~:text=Profit%20Through%20Advertising,content%20is%20through%20advertising%20revenue.&text=Each%20of%20these%20users%20represents,and%20services%20via%20the%20Internet> (last visited Jan. 29, 2024).

⁸ HIIS, *supra* note 6.

⁹ *Id.*

¹⁰ See The Florida Bar, *Trade Secret* (Dec. 14, 2022) <https://www.floridabar.org/practice-areas/trade-secrets/> (last visited Jan. 29, 2024).

Section 812.081, F.S., defines a “trade secret” as information¹¹ used in the operation of a business, which provides the business an advantage or an opportunity to obtain an advantage, over those who do not know or use it. The test provided for in statute, and adopted by Florida courts,¹² requires that a trade secret be actively protected from loss or public availability to any person not selected by the secret’s owner to have access thereto, and be:

- Secret;
- Of value;
- For use or in use by the business; and
- Of advantage to the business, or providing an opportunity to obtain an advantage, over those who do not know or use it.¹³

Penalties

Florida law criminalizes the disclosure or theft of trade secrets. For example:

- Section 815.04, F.S., makes it a third degree felony¹⁴ for a person to willfully, knowingly, and without authorization disclose or take data, programs, or supporting documentation that are trade secrets that reside or exist internal or external to a computer, computer system, computer network, or electronic device.¹⁵
- Section 812.081, F.S., makes it a third degree felony for a person to steal, embezzle, or copy without authorization an article that represents a trade secret, when done with an intent to:
 - Deprive or withhold from the trade secret’s owner the control of a trade secret, or
 - Appropriate a trade secret to his or her own use or to the use of another.

Florida Data Privacy Regulations

In 2023, the Florida Legislature passed SB 262, which created a unified scheme to allow Florida’s consumers to control the digital flow of their personal information. SB 262 was signed by the Governor on June 6, 2023.¹⁶ Among other things, SB 262 created ch. 501, part V, F.S., which takes effect on July 1, 2024, and gives Florida consumers the right to:

- Confirm and access their personal data;
- Delete, correct, or obtain a copy of that personal data;
- Opt out of the processing of personal data for the purposes of targeted advertising, the sale of personal data, or profiling in furtherance of a decision that produces a legal or similarly significant effect concerning a consumer;
- Opt out of the collection or processing of sensitive data, including precise geolocation data; and
- Opt out of the collection of personal data collected through the operation of a voice recognition or facial recognition feature.

¹¹ A trade secret may manifest as any scientific, technical, or commercial information, including any design, process, procedure, list of suppliers, list of customers, business code, or improvement thereof. Section 812.081, F.S.

¹² See, e.g., *Sepero Corp. v. Dep’t. of Env’t. Prot.*, 839 So. 2d 781 (Fla. 1st DCA 2003).

¹³ Section 812.081(1)(c), F.S.

¹⁴ A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. See ss. 775.082 and 775.083, F.S.

¹⁵ The offense is a second degree felony if committed for the purpose of creating or executing any scheme or artifice to defraud or to obtain property.

¹⁶ See ch. 2023-201, Laws of Fla.

The data privacy provisions of ch. 501, part V, F.S., generally apply to “controllers,” businesses that collect Florida consumers’ personal data, make in excess of \$1 billion in global gross annual revenues, and meet one of the following thresholds:

- Derives 50 percent or more of its global gross annual revenues from the online sale of advertisements, including from providing targeted advertising or the sale of ads online;
- Operates a consumer smart speaker and voice command component service with an integrated virtual assistant connected to a cloud computing service that uses hands-free verbal activation; or
- Operates an app store or digital distribution platform that offers at least 250,000 different software applications for consumers to download and install.

A controller who operates an online search engine is required to make available an up-to date plain language description of the main parameters that are most significant in determining ranking and the relative importance of those main parameters, including the prioritization or deprioritization of political partisanship or political ideology in search results. A controller must also conduct and document a data protection assessment of certain processing activities involving personal data. Additionally, a controller is required to provide consumers with a reasonably accessible and clear privacy notice, updated at least annually.

A violation of ch. 501, part V, F.S. is an unfair and deceptive trade practice actionable under ch. 501, part II, F.S., to be enforced by the Department of Legal Affairs (DLA). The DLA may provide a right to cure a violation of ch. 501, part V, F.S., by providing written notice of the violation and then allowing a 45-day period to cure the alleged violation. The DLA is required to make a report publicly available by February 1 each year on the DLA’s website that describes any actions it has undertaken to enforce ch. 501, part V, F.S.

SB 262 also created s. 112.23, F.S., which prohibits employees of a governmental entity from using their position or any state resources to communicate with a social media platform to request that it remove content or accounts. Additionally, a governmental entity cannot initiate or maintain any agreements with a social media platform for the purpose of content moderation. These prohibitions do not apply to routine account maintenance, attempts to remove accounts or content pertaining to the commission of a crime, or efforts to prevent imminent bodily harm, loss of life, or property damage.

Florida Deceptive and Unfair Trade Practices Act

History and Purpose

The Florida Deceptive and Unfair Trade Practices Act (FDUTPA) became law in 1973.¹⁷ The FDUTPA is a consumer and business protection measure that prohibits unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in trade or commerce.¹⁸ The FDUTPA is based on federal law, and s. 501.204(2), F.S., provides that it is the

¹⁷ Ch. 73-124, Laws of Fla.; codified at part II of ch. 501, F.S.

¹⁸ See s. 501.202, F.S. Trade or commerce means the advertising, soliciting, providing, offering, or distributing, whether by sale, rental, or otherwise, of any good or service, or any property, whether tangible or intangible, or any other article, commodity, or thing of value, wherever situated. “Trade or commerce” shall include the conduct of any trade or commerce, however denominated, including any nonprofit or not-for-profit person or activity. See s. 501.203(8), F.S.

intent of the Legislature that due consideration and great weight must be given to the interpretations of the Federal Trade Commission and the federal courts relating to section 5 of the Federal Trade Commission Act.¹⁹

The State Attorney or the Department of Legal Affairs may bring actions when it is in the public interest on behalf of consumers or governmental entities.²⁰ The Office of the State Attorney may enforce violations of the FDUTPA if the violations take place in its jurisdiction.²¹ The Department of Legal Affairs has enforcement authority if the violation is multi-jurisdictional, the state attorney defers in writing, or the state attorney fails to act within 90 days after a written complaint is filed.²² Consumers may also file suit through private actions.²³

Remedies under the FDUTPA

The Department of Legal Affairs and the State Attorney, as enforcing authorities, may seek the following remedies:

- Declaratory judgments.
- Injunctive relief.
- Actual damages on behalf of consumers and businesses.
- Cease and desist orders.
- Civil penalties of up to \$10,000 per willful violation.²⁴

Remedies for private parties are limited to the following:

- A declaratory judgment and an injunction where a person is aggrieved by a FDUTPA violation.
- Actual damages, attorney fees, and court costs, where a person has suffered a loss due to a FDUTPA violation.²⁵

Freedom of Speech and Internet Platforms

Section 230

The federal Communications Decency Act (CDA) was passed in 1996 “to protect children from sexually explicit Internet content.”²⁶ 47 U.S. Code § 230 (Section 230) was added as an amendment to the CDA to maintain the robust nature of Internet communication and, accordingly, to keep government interference in the medium to a minimum.²⁷

¹⁹ See s 501.204(2), F.S.

²⁰ See ss. 501.203(2), 501.206, and 501.207, F.S.

²¹ Section 501.203(2), F.S.

²² *Id.*

²³ Section 501.211, F.S.

²⁴ Sections 501.207(1), 501.208, and 501.2075, F.S. Civil Penalties are deposited into general revenue. Section 501.2075, F.S. Enforcing authorities may also request attorney fees and costs of investigation or litigation. Section 501.2105, F.S.

²⁵ Section 501.211(1) and (2), F.S.

²⁶ See *1 Force v. Facebook, Inc.*, 934 F.3d 53, 63 (2d Cir. 2019) (citing *FTC v. LeadClick Media, LLC*, 838 F.3d 158, 173 (2d Cir. 2016) (citing 141 Cong. Rec. S1953 (daily ed. Feb. 1, 1995) (statement of Sen. Exon))).

²⁷ *Force*, 934 F.3d at 63 (quoting *Ricci v. Teamsters Union Local 456*, 781 F.3d 25, 28 (2d Cir. 2015) (quoting *Zeran v. Am. Online, Inc.*, 129 F.3d 327, 330 (4th Cir. 1997))).

Congress stated in Section 230 that “[i]t is the policy of the United States—(1) to promote the continued development of the Internet and other interactive computer services and other interactive media; [and] (2) to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation.”²⁸

Specifically, Section 230 states that no provider or user of an interactive computer service may be held liable on account of:²⁹

- Any action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected; or
- Any action taken to enable or make available to information content providers or others the technical means to restrict access to material from any person or entity that is responsible for the creation or development of information provided through any interactive computer service.

Section 230 eased Congressional concern regarding the outcome of two inconsistent judicial decisions,³⁰ both of which applied traditional defamation law to internet providers.³¹ The first decision held that an interactive computer service provider could not be liable for a third party's defamatory statement, however the second decision imposed liability where a service provider filtered content in an effort to block obscene material.³² To provide clarity, Section 230 provides that “[n]o provider ... of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.”³³ In light of the objectives of Congress, the Circuits are in general agreement that the text of Section 230(c)(1) should be construed broadly in favor of immunity.³⁴

Section 230 specifically addresses how the federal law affects other laws. Section 230 prohibits all inconsistent causes of action and prohibits liability imposed under any state or local law.³⁵ Section 230 does not affect federal criminal law, intellectual property law, the Electronic Communications Privacy Act of 1986, or sex trafficking law.

There have been criticisms of the broad immunity provisions or liability shields which force individuals unhappy with third-party content to sue the user who posted it. While this immunity has fostered the free flow of ideas on the Internet, critics have argued that Section 230 shields publishers from liability for allowing harmful content.³⁶ Congressional and executive proposals

²⁸ 47 U.S.C. § 230(b)(1)–(2).

²⁹ 47 U.S.C. § 230(c).

³⁰ *Cubby, Inc. v. CompuServe, Inc.*, 776 F. Supp. 135 (S.D.N.Y. 1991) and *Stratton Oakmont, Inc. v. Prodigy Servs. Co.*, No. 31063/94, 1995 WL 323710 (N.Y. Sup. Ct. May 24, 1995).

³¹ *Force*, 934 F.3d at 63 (quoting *LeadClick*, 838 F.3d at 173).

³² *Force*, 934 F.3d at 63 (quoting *LeadClick*, 838 F.3d at 173 (citing 141 Cong. Rec. H8469-70 (daily ed. Aug. 4, 1995) (statement of Rep. Cox))).

³³ 47 U.S.C. § 230(c)(1).

³⁴ *Force*, 934 F.3d at 63 (quoting *LeadClick*, 838 F.3d at 173).

³⁵ 47 U.S.C. § 230(e).

³⁶ Zoe Bedell and John Major, What's Next for Section 230? A Roundup of Proposals Lawfare, (July 29, 2020) <https://www.lawfareblog.com/whats-next-section-230-roundup-proposals> (last visited Jan. 29, 2024).

to limit immunity for claims relating to platforms purposefully hosting content from those engaging in child exploitation, terrorism, and cyber-stalking have been introduced.³⁷ Bills have been filed that would require internet platforms to have clear content moderation policies, submit detailed transparency reports, and remove immunity for platforms that engage in certain behavioral advertising practices.³⁸ Proposals have also been offered to limit the liability shield for internet providers who restrict speech based on political viewpoints.³⁹

Recently, the United States Supreme Court heard *Twitter, Inc. v. Taamneh* and *Gonzalez v. Google*; these cases alleged that Twitter and Google aided and abetted terrorists who posted content to their platforms, and a key issue in both cases was whether social media companies can be held liable for their targeted recommendation algorithms.⁴⁰ However, the court decided both cases on alternative grounds, which leaves the question unanswered.

Freedom of Speech

The First Amendment of the United States Constitution protects the right to freedom of expression from government interference. The First Amendment is applicable to the states through the Due Process Clause of the Fourteenth Amendment.⁴¹ “The First Amendment assures the broadest tolerable exercise of free speech, free press, and free assembly, not merely for religious purposes, but for political, economic, scientific, news, or informational ends as well.”⁴² “Online speech is equally protected under the First Amendment as there is ‘no basis for qualifying the level of First Amendment scrutiny that should be applied’ to online speech.”⁴³ It is well established that a government regulation based on the content of speech is presumptively invalid and will be upheld only if it is necessary to advance a compelling governmental interest, precisely tailored to serve that interest, and is the least restrictive means available for establishing that interest.⁴⁴ The government bears the burden of demonstrating the constitutionality of any such content-based regulation.⁴⁵

The United States Supreme Court has recognized that First Amendment protection extends to corporations.⁴⁶ “This protection has been extended by explicit holdings to the context of political speech.”⁴⁷ Under these precedents, it is well settled that political speech does not lose First Amendment protection “simply because its source is a corporation.”⁴⁸ Generally, the government

³⁷ *Id.*

³⁸ Bedell, *supra* note 20; PACT Act, S.4066, 116th Cong. (2020); BAD ADS Act, S.4337, 116th Cong. (2020).

³⁹ Bedell, *supra* note 20; Limiting Section 230 Immunity to Good Samaritans Act, S.3983, 116th Cong. (2020).

⁴⁰ See *Twitter, Inc. v. Taamneh*, 143 S. Ct. 1206 (2023) and *Gonzalez v. Google LLC*, 143 S. Ct. 1191 (2023).

⁴¹ See *De Jonge v. Oregon*, 299 U.S. 353, 364–65(1937)(incorporating right of assembly);(incorporating right of freedom of speech).

⁴² *Douglas v. City of Jeannette (Pennsylvania)*, 319 U.S. 157, 179, (1943) (Jackson, J., concurring in result).

⁴³ *Reno v. Am. Civil Liberties Union*, 521 U.S. 844, 870 (1997).

⁴⁴ *Ashcroft v. Am. Civil Liberties Union*, 542 U.S. 656, 665-66 (2004).

⁴⁵ *Id.* at 660.

⁴⁶ *Citizens United v. Federal Election Commission*, 558 U.S. 310, 342 (2010).

⁴⁷ *Id.* (citing *NAACP v. Button* v. 371 U.S.415, 428-429 (1963); *Grosjean v. American Press Co.*, 297 U.S. 233, 244 (1936)).

⁴⁸ *Id.* (citing *First Nat. Bank of Boston v. Bellotti*, 435 U.S. at 784 (1978); *Pacific Gas & Elec. Co. v. Public Util. Comm'n of Cal.*, 475 U.S. 1, 8, 106 S.Ct. 903, 89 L.Ed.2d 1 (1986) (plurality opinion) (“The identity of the speaker is not decisive in determining whether speech is protected. Corporations and other associations, like individuals, contribute to the ‘discussion, debate, and the dissemination of information and ideas’ that the First Amendment seeks to foster” (quoting *Bellotti*, 435 U.S., at 783)).

may not require a corporation to host another's speech absent a showing of a compelling state interest.⁴⁹

Supremacy Clause, Commerce Clause, Bills of Attainder, and Contracts

The U.S. Constitution's Supremacy Clause establishes that federal statutes, treaties, and the U.S. Constitution are the "supreme Law of the Land."⁵⁰

Federal law may preempt state action that thwarts federal law in three ways:

- By an express statement of its intent to occupy a field. Express preemption need not be total, however—it can preempt all state laws or only certain state laws.
- With "a framework of regulation so pervasive that Congress left no room for the States to supplement it or where the federal interest is so dominant that the federal system will be assumed to preclude enforcement of state laws on the same subject."⁵¹
- Where state law conflicts, leaving an actor to choose whether to adhere to state or federal law.⁵² The state law may also be subject to conflict preemption where it "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress."⁵³

The federal government's authority to act in the realm of foreign affairs is vested by the U.S. Constitution.⁵⁴ State laws that intrude into this field of foreign affairs, even where not preempted by prior federal action, improperly impact foreign affairs and are therefore invalid.⁵⁵ Courts have generally held, however, that the state's intrusion must have more than an "incidental effect" on foreign affairs in order to be considered an encroachment onto the federal government's powers.⁵⁶

Article I, section 8, clause 3 of the U.S. Constitution grants Congress the power to "regulate commerce with foreign nations" Conversely, this provision serves as a limitation on states' authority to encroach onto the realm of foreign commerce where such action creates a risk of conflicts with foreign governments or impedes the federal government's ability to speak with one voice in regulating industry affairs with foreign states.⁵⁷ The "dormant foreign commerce

⁴⁹ *Consolidated Edison Co. v. Public Service Commission*, 447 U.S. 530 (1980); *First National Bank of Boston v. Bellotti*, 438 U.S. (1978); *Miami Herald Publishing Co. v. Tornillo*, 418 U.S. 241 (1974); *Pacific Gas & Electric Co. v. Public Utilities Commission of California*, 475 U.S. 1 (1986).

⁵⁰ U.S. CONST., Art. VI, cl. 2.

⁵¹ *Arizona v. U.S.*, 567 U.S. 387, 399 (2012).

⁵² *Crosby v. Nat'l. Foreign Trade Council*, 530 U.S. at 372 (2000).

⁵³ *Nat'l Foreign Trade Council, Inc. v. Giannoulis*, 523 F. Supp. 2d 731 (N.D. Ill. Feb. 23, 2007), quoting *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941).

⁵⁴ See, e.g., U.S. CONST., Art. I, s. 8 (power to declare war, maintain a military, and regulate foreign commerce); U.S. CONST., Art. II, s. 2 (power to enter into treaties); U.S. CONST., Art. III, s. 2 (power to hear case involving foreign states and citizens).

⁵⁵ *Zschernig v. Miller*, 389 U.S. 429 (1968); *American Ins. Ass'n v. Garamendi*, 539 U.S. 396 (2003) (finding that the President's powers in foreign policy were so great as to outweigh any need for a direct expression of preemption.)

⁵⁶ *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941).

⁵⁷ *Japan Line v. County of Los Angeles*, 441 U.S. 434, 446 (1979).

power”⁵⁸ voids state acts upon foreign commerce because of the Constitution's overriding concern for national uniformity in foreign commerce—even in instances when Congress has not affirmatively acted.⁵⁹ Courts also generally subject state action to a heightened scrutiny that assumes the supremacy of federal action in the realm of foreign relations.⁶⁰

Additionally, Congress has the power to regulate commerce among the states.⁶¹ Though phrased as a grant of regulatory power to Congress, the Commerce Clause has long been understood to have a negative or dormant aspect that denies the states the power to unjustifiably discriminate against or burden the interstate flow of articles of commerce.⁶²

Article I, section 9, of the U.S. Constitution provides that Congress shall pass “No Bill of Attainder or ex post facto Law.” Similarly, Article I, section 10, of the U.S. Constitution prohibits the states from enacting bills of attainder. The Supreme Court has described a bill of attainder as “a law that legislatively determines guilt and inflicts punishment upon an identifiable individual without provision of the protections of judicial trial.”⁶³

Article I, section 10, of the U.S. Constitution prohibits a state from passing any law impairing the obligation of contracts. Similarly, Article I, section 10 of the Florida Constitution prohibits the passage of laws impairing the obligation of contracts.

The International Emergency Economic Powers Act (IEEPA)

The IEEPA gives the President of the United States regulatory authority over a variety of economic transactions in the event of a national emergency that constitutes an unusual and extraordinary threat.⁶⁴ As of September 1, 2023, Presidents had declared 69 national emergencies invoking IEEPA, 39 of which are ongoing.⁶⁵ Executive Orders 13,873⁶⁶ and 14,034 invoked

⁵⁸ See generally, Stephen Mulligan, Congressional Research Service, *Constitutional Limits on States' Power over Foreign Affairs*, 3-4 (Aug. 15, 2022), available at <https://crsreports.congress.gov/product/pdf/LSB/LSB10808> (last visited Jan. 29, 2024).

⁵⁹ *United States v. Davila-Mendoza*, 972 F.3d 1264 (11th Cir. 2020).

⁶⁰ “The premise [...] is that the Commerce Clause analysis is identical, regardless of whether interstate or foreign commerce is involved. This premise [...] must be rejected. When construing Congress’ power to ‘regulate Commerce with foreign Nations,’ a more extensive constitutional inquiry is required.” *Japan Line* at 446.

⁶¹ U.S. CONST., Art. I, s. 8

⁶² *Or. Waste Sys., Inc. v. Dep’t of Env’tl. Quality of Or.*, 511 U.S. 93, 98 (1994).

⁶³ See *Nixon v. Administrator of General Services*, 433 U.S. 425 (1977).

⁶⁴ See Congressional Research Service, *Montana’s TikTok Ban, an Injunction, and Pending Legal Actions* (December 8, 2023), available at

<https://crsreports.congress.gov/product/pdf/LSB/LSB10972#:~:text=Commerce%20Clause%3A%20The%20court%20found,concept%20Montana%20did%20not%20contest>. (last visited Jan. 29, 2024). See also 50 U.S.C. § 1701.

⁶⁵ See Congressional Research Service, *The International Emergency Economic Powers Act: Origins, Evolution, and Use* (September 28, 2023), available at <https://crsreports.congress.gov/product/pdf/R/R45618> (last visited Jan. 29, 2024).

⁶⁶ The Supply Chain Rule implements Executive Orders 13873 and 14034, titled *Securing the Information and Communications Technology and Services Supply Chain (ICTS)*. Invoking National Emergencies Act (50 U.S.C. § 1601) and citing the International Emergency Economic Powers Act (50 U.S.C. § 1701), then-President Trump declared a national emergency because of the threat of foreign adversaries exploiting vulnerabilities in ICTS. In response to this threat, Executive Order 13873 prohibits transactions involving foreign-owned ICTS that present (1) an undue risk of sabotage or subversion to ICTS in the United States, (2) an undue risk of catastrophic effects on the security or resiliency of critical infrastructure or the digital economy in the United States, or (3) an unacceptable risk to U.S. national security or the security and safety of U.S. persons. The order delegates implementation to the Department of Commerce. In June 2021, President Biden issued

IEEPA authority in response to concerns about foreign adversaries' access to American digital data.⁶⁷ Executive Order 13,873, references risks posed by foreign adversaries, which the order defines as any foreign government or foreign person “engaged in a long-term pattern or serious instances of conduct significantly adverse” to U.S. security or the safety of U.S. persons.⁶⁸ Subsequently, the Department of Commerce identified China (including Hong Kong), Cuba, Iran, North Korea, Russia, and the Nicolás Maduro regime in Venezuela as foreign adversaries.⁶⁹

Florida SB 7072 (2021)

In 2021, the Florida Legislature passed SB 7072, which addressed concerns related to social media platforms. SB 7072 was signed by the Governor on May 24, 2021. Section 501.2041, F.S., was created, which provides that a social media platform must:

- Publish standards used for determining how to censor, deplatform, and shadow ban users, and apply such standards in a consistent manner;
- Inform each user about any changes to its user rules, terms, and agreements before implementing the changes and not make changes more than once every 30 days;
- Notify a user in a specified manner censoring or deplatforming the user;
- Allow a user to request the number of other individuals who were shown the user's content or posts, and provide such information upon such request by the user;
- Provide users with an option to opt out of post-prioritization and shadow banning algorithms to allow sequential or chronological posts and content;
- Provide users with an annual notice on the use of algorithms for post-prioritization and shadow banning and reoffer annual notice on the use of algorithms for post-prioritization and shadow banning;
- Ensure that posts by or about candidates for office in Florida are not shadow banned;
- Allow a user who has been deplatformed to access or retrieve all of the user's information, content, material, and data for at least 60 days after the user receives the required notice; and
- Ensure that journalistic enterprises are not censored, deplatformed, or shadow banned.

In s. 501.2041, F.S., “Social media platform” is defined as any information service, system, Internet search engine, or access software that:

- Provides or enables computer access by multiple users to a computer server, including an Internet platform and/or a social media site;

Executive Order 14034, which directed the Secretary of Commerce to evaluate the risks posed by connected software applications, commonly called “apps.” The order identified additional criteria for Commerce to consider when evaluating transactions involving apps under the Supply Chain Rule. Factors include the app's capacity to enable espionage and the sensitivity of data collected. In June 2023, Commerce published a final rule (88 FR 39353), effective July 17, 2023, that expressly includes apps in the definition of ICTS and adds app-specific risk factors to the Supply Chain Rule. See Congressional Research Service, *The Information and Communications Technology and Services (ICTS) Rule and Review Process* (June 22, 2023), available at <https://crsreports.congress.gov/product/pdf/IF/IF11760> (last visited Jan. 29, 2024).

⁶⁷ See Congressional Research Service, *Montana's TikTok Ban, an Injunction, and Pending Legal Actions* (December 8, 2023), available at

<https://crsreports.congress.gov/product/pdf/LSB/LSB10972#:~:text=Commerce%20Clause%3A%20The%20court%20found,concept%20Montana%20did%20not%20contest> (last visited Jan. 29, 2024).

⁶⁸ *Id.*

⁶⁹ 15 CFR § 7.4.

- Operates as a sole proprietorship, partnership, limited liability company, corporation, association, or other legal entity;
- Does business in Florida; and
- Satisfies at least one of the following thresholds:
 - Annual gross revenues in excess of \$100,000,000, as adjusted in January of each odd numbered year to reflect any increase in the Consumer Price Index; or
 - At least 100,000,000 monthly individual platform participants globally.

Section 501.2041, F.S., also provides for enforcement by permitting the Department of Legal Affairs to find a social media platform who fails to comply with the requirements stated above to be in violation of the Florida Deceptive and Unfair Trade Practices Act. Additionally, a user may bring a private cause of action against a social media platform for failing to consistently apply certain standards for censoring or deplatforming without proper notice.

Litigation History

Immediately after the bill was signed by the Governor, but prior to the bill's effective date of July 1, 2021, the plaintiff filed a complaint in the U.S. District Court for the Northern District of Florida challenging the constitutionality of many of the bill's provisions and exceptions, and immediately moved the Court for a preliminary injunction. The District Court granted the preliminary injunction on June 30, 2021.⁷⁰

The filed complaint alleges the following:

- Count 1 of the complaint alleges the Act “violates the First Amendment's free-speech clause by interfering with the providers’ editorial judgment, compelling speech, and prohibiting speech.”
- Count 2 alleges the Act “is vague in violation of the Fourteenth Amendment.”
- Count 3 alleges the Act “violates the Fourteenth Amendment's equal protection clause by impermissibly discriminating between providers that are or are not under common ownership with a large theme park and by discriminating between providers that do or do not meet the Act's size requirements.”
- Count 4 alleges the Act “violates the Constitution's dormant commerce clause.”
- Count 5 alleges the Act “is preempted by 47 U.S.C. § 230(e)(3), which, together with § 230(c)(2)(A), expressly prohibits imposition of liability on an interactive computer service—this includes a social-media provider—for action taken in good faith to restrict access to material the service finds objectionable.”⁷¹

The District Court indicated that the law was not clearly settled related to issues about First Amendment treatment of social-media providers: “The plaintiffs say, in effect, that they should be treated like any other speaker. The State says, in contrast, that social-media providers are more like common carriers, transporting information from one person to another much as a train transports people or products from one city to another. The truth is in the middle.”⁷²

⁷⁰ *NetChoice, LLC v. Moody*, 546 F. Supp. 3d 1082 (N.D. Fla. 2021) (NetChoice, LLC, and the Computer & Communications Industry Association are trade associations whose members include social media providers).

⁷¹ *NetChoice, LLC*, 546 F. Supp. 3d at 1085.

⁷² *NetChoice, LLC*, 546 F. Supp. 3d at 1091.

The District Court determined that strict scrutiny applied as the standard to be used:

“Viewpoint- and content-based restrictions on speech are subject to strict scrutiny. A law restricting speech is content-based if it “applies to particular speech because of the topic discussed or the idea or message expressed.” Laws that are facially content-neutral, but that cannot be justified without reference to the content of the regulated speech, or that were adopted because of disagreement with the speaker's message, also must satisfy strict scrutiny.”⁷³

The District Court enjoined the State from enforcing any provision of s. 501.2041, F.S., on preemption and First Amendment grounds.

The State filed an appeal of the District Court’s decision in the U.S. Court of Appeals for the Eleventh Circuit.

On May 23, 2022, the U.S. Court of Appeals for the Eleventh Circuit affirmed the district court’s preliminary injunction in part, and vacated and remanded it in part.⁷⁴

The Eleventh Circuit found the following provisions of SB 7072, to likely violate the First Amendment:

- Section 106.072(2), F.S., which pertains to candidate deplatforming;
- Section 501.2041(2)(h), F.S., which pertains to the use of algorithms for the purpose of post-prioritization or shadow banning candidates;
- Section 501.2041(2)(j), F.S., which pertains to journalistic enterprises;
- Section 501.2041(2)(b), F.S., which pertains to the consistent application of censorship, deplatforming, and shadow banning standards;
- Section 501.2041(2)(c), F.S., which limits the number of changes that can be made to once every 30 days;
- Sections 501.2041(2)(f) and 501.2041(2)(g), F.S., which pertain to categorizing algorithms used for post-prioritization and shadow banning, as well as allowing for user opt-outs; and
- Section 501.2041(2)(d), F.S., which pertains to notifying a user when their content is censored or shadow banned.

However, the Eleventh Circuit found the following provisions of SB 7072, to likely not violate the First Amendment:

- Section 501.2041(2)(a), F.S., which pertains to the publication of standards used for determining how to censor, deplatform, and shadow ban;
- Section 501.2041(2)(c), F.S., which pertains to informing users to any changes to its user rules, terms, and agreements before implementing the changes;
- Section 501.2041(2)(e), F.S., which pertains to user view counts;
- Section 501.2041(2)(i), F.S., which pertains to user data access; and
- Section 106.072(4), F.S., which pertains to free advertising for a candidate.⁷⁵

The United States Supreme Court is set to hear oral arguments on February 26, 2024.

⁷³ *NetChoice, LLC*, 546 F. Supp. 3d at 1093.

⁷⁴ *Moody v. NetChoice, LLC*, 34 F.4th 1196 (11th Cir. 2022).

⁷⁵ *Moody* 34 F.4th 1196.

Effect of Proposed Changes:

The bill creates s. 501.20411, F.S., to be cited as the “Transparency in Social Media Act.” Additionally, the Legislature finds that:

- Social media platforms play a significant role in shaping public discourse and opinions;
- Algorithms used by social media platforms can influence user behavior and content visibility;
- Transparency in the functioning of such algorithms and in political and social advertising is vital for safeguarding democratic values and user privacy; and
- Ownership of social media platforms by foreign entities can raise concerns regarding foreign influence and data security.

The bill provides the following definitions:

- “Social media platform” means a public online service that allows users to create and share or participate in social networking; and
- “Social or political advertising” means any advertisement on a social media platform that discusses social or political issues or is intended to influence public opinion or electoral outcomes.

The bill requires each foreign-adversary-owned entity operating a social media platform in Florida to publicly disclose the core functional elements of the social media platform’s content curation and algorithms. The disclosures must identify the following:

- Factors that influence content ranking and visibility;
- Measures taken to address misinformation and harmful content; and
- The process of personalization and targeting of content.

The bill requires each foreign-adversary-owned entity operating a social media platform in Florida to make publicly available the source code of its algorithm through an open-source license.

The bill also requires each foreign-adversary-owned entity operating a social media platform to implement a user verification system for each user and organization that purchased advertisements concerning social or political issues. The system must verify key identifying information, including citizenship, residency, and age of the user or the individuals that own the organization, as applicable. Once verified, the identity of the purchaser of each social or political advertisement must be disclosed with the advertisement.

A foreign-adversary-owned entity operating a social media platform that violates the provisions of this bill is liable up to \$10,000 for each discrete violation. The Department of Legal Affairs is given enforcement authority.

The bill takes effect July 1, 2024.

III. 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:

See the “Present Situation,” in Section II of this bill analysis.

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

None.

B. Private Sector Impact:

Foreign-adversary-owned entities will be required to implement the provisions in the bill, which includes disclosure requirements and a user verification system.

C. Government Sector Impact:

There will be an indeterminate negative workload impact to the DLA to enforce the provisions in the bill. There may be a positive fiscal impact to the DLA as there is a \$10,000 fee for each violation.

V. Technical Deficiencies:

None.

VI. Related Issues:

The definition provided in the bill for “social or political advertising,” is potentially unclear and overbroad.

The bill defines “foreign-adversary-owned entity” as a social media company that is owned or substantially controlled by nationals, governments, or corporations domiciled, incorporated, or otherwise holding residence in a country designated as a foreign adversary under 15 C.F.R. s 7.4. It is unclear what amount or level of ownership is intended by use of “owner,” or what “substantially controlled” means as used in the definition.

Lack of clarity in the definitions could lead to problems in compliance and enforcement.

VII. Statutes Affected:

This bill creates section 501.20411 of the Florida Statutes.

VIII. 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.

The Florida Senate

APPEARANCE RECORD

2/20/24

1470

Meeting Date

Bill Number or Topic

Appropriations on Criminal and Civil Justice

Deliver both copies of this form to
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name Clerk Gwen Marshall Knight

Phone 850.606.4000

Address 301 S Monroe St
Street

Email _____

Tallahassee

FL

32301

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2/20/24

1470

Meeting Date

Bill Number or Topic

Appropriations on Criminal and Civil Justice

Deliver both copies of this form to
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Committee

Amendment Barcode (if applicable)

Name Clerk Doug Chorvat

Phone 352.754.4201

Address 20 N. Main Street
Street

Email _____

Brooksville

FL

34601

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) ([flsenate.gov](#))

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S-001 (08/10/2021)

The Florida Senate

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2/20/24

Meeting Date

Appropriations on Criminal and Civil Justice

Committee

1470

Bill Number or Topic

Amendment Barcode (if applicable)

Name Clerk Stacy Butterfield

Phone 863.534.4000

Address 255 N. Broadway Ave

Email stacybutterfield@polk-county.net

Street

Bartow

City

FL

State

33830

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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2/20/24

Meeting Date

Appropriations on Criminal and Civil Justice

Committee

1470

Bill Number or Topic

Amendment Barcode (if applicable)

Name Clerk Tara Green

Phone 904.284.6302

Address 825 North Orange Avenue

Email greent@clayclerk.com

Street

Green Cove Springs FL

32043

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2/20/21

1470

Meeting Date

Bill Number or Topic

Appropriations Committee on Criminal and Civil Justice

Deliver both copies of this form to
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name Sara Sanders Bremer

Phone 850.577.4516

Address 215 S. Monroe St
Street

Email sbremer@flclerks.com

Tallahassee

FL

32301

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Court Clerks and Comptrollers

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2/20/24

1470

Meeting Date

Bill Number or Topic

Appropriations on Criminal and Civil Justice

Deliver both copies of this form to
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name Clerk Jason Welty

Phone 8503420218

Address 1 Courthouse Circle

Email jwelty@jeffersonclerk.com

Street

Monticello

FL

32344

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)



The Florida Senate

Committee Agenda Request

To: Chair Jennifer Bradley
Appropriations Committee on Criminal and Civil Justice

Subject: Committee Agenda Request

Date: February 1, 2024

I respectfully request that **Senate Bill #1470**, relating to Clerks of the Circuit Court, be placed on the:

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

A handwritten signature in cursive script that reads "Travis Hutson".

Senator Travis Hutson
Florida Senate, District 7



928990

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Criminal and Civil Justice
(Pizzo) recommended the following:

Senate Amendment (with title amendment)

Between lines 439 and 440
insert:

Section 11. Present subsection (2) of section 142.01,
Florida Statutes, is redesignated as subsection (3), a new
subsection (2) is added to that section, and subsection (1) of
that section is amended, to read:

142.01 Fine and forfeiture fund; disposition of revenue;
clerk of the circuit court.-



928990

11 (1) (a) There shall be established by the clerk of the
12 circuit court in each county of this state a separate fund to be
13 known as the fine and forfeiture fund for use by the clerk of
14 the circuit court in performing court-related functions. The
15 fund shall consist of the following:

16 ~~1. (a)~~ Fines and penalties pursuant to ss. 28.2402(2),
17 34.045(2), 316.193, 327.35, 327.72, 379.2203(1), and 775.083(1).

18 ~~2. (b)~~ That portion of civil penalties directed to this fund
19 pursuant to s. 318.21.

20 ~~3. (c)~~ Court costs pursuant to ss. 28.2402(1)(b),
21 34.045(1)(b), 318.14(10)(b), 318.18(11)(a), 327.73(9)(a) and
22 (11)(a), and 938.05(3).

23 ~~4. (d)~~ Proceeds from forfeited bail bonds, unclaimed bonds,
24 unclaimed moneys, or recognizances pursuant to ss. 321.05(4)(a),
25 379.2203(1), and 903.26(3)(a).

26 ~~5. (e)~~ Fines and forfeitures pursuant to s. 34.191.

27 ~~6. (f)~~ Filing fees received pursuant to ss. 28.241 and
28 34.041, unless the disposition of such fees is otherwise
29 required by law.

30 ~~7. (g)~~ All other revenues received by the clerk as revenue
31 authorized by law to be retained by the clerk.

32 (b) The clerk of the circuit court in each county may
33 invest funds held in the fine and forfeiture fund as provided in
34 paragraph (a) in an interest-bearing account.

35 (2) Interest earned in the fine and forfeiture fund must be
36 deposited into the Public Records Modernization Trust Fund to be
37 used exclusively for additional court-related operations and
38 enhancements.

39



928990

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

41 And the title is amended as follows:

42 Delete line 40

43 and insert:

44 action program; amending s. 142.01, F.S.; authorizing
45 clerks of the circuit court to invest specified funds
46 in an interest-bearing account; requiring that
47 interest earned in the fine and forfeiture fund be
48 deposited in the Public Records Modernization Trust
49 Fund and used exclusively for certain operations and
50 enhancements; amending s. 186.003, F.S.; revising

By the Committee on Judiciary; and Senators Hutson, Rouson, and Martin

590-02621-24

20241470c1

1 A bill to be entitled
 2 An act relating to clerks of the court; amending s.
 3 27.52, F.S.; revising the fund into which moneys
 4 recovered by certain state attorneys must be
 5 deposited; amending s. 27.54, F.S.; revising the fund
 6 into which certain payments received must be deposited
 7 as related to public defenders or regional counsels;
 8 making technical changes; amending s. 27.703, F.S.;
 9 revising the entity that funds the capital collateral
 10 regional counsel; amending s. 28.241 F.S.; revising
 11 the allocation of filing fees for certain trial and
 12 appellate proceedings; amending s. 28.35, F.S.;
 13 providing additional duties of the Florida Clerks of
 14 Court Operations Corporation related to budget
 15 requests; revising the functions that clerks of the
 16 court may fund using certain fees and fines; amending
 17 s. 28.37, F.S.; requiring the Florida Clerks of Court
 18 Operations Corporation to calculate certain excesses
 19 collected from fines, fees, service charges, and costs
 20 annually by a date certain; amending s. 34.041, F.S.;
 21 revising the fund into which certain filing fees are
 22 to be deposited; amending s. 40.29, F.S.; authorizing
 23 the Florida Clerks of Court Operations Corporation to
 24 submit requests for reimbursement at a specified rate
 25 for petitions related to certain sexual violence
 26 offenses; requiring clerks of the court who receive
 27 the reimbursement to pay the law enforcement agency
 28 serving injunctions a specified fee if requested;
 29 authorizing the corporation to submit reimbursement

Page 1 of 22

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

590-02621-24

20241470c1

30 requests for approved applications for civil indigency
 31 in which the filing fee was waived; authorizing the
 32 corporation to submit to the Justice Administrative
 33 Commission a certain amount related to Florida
 34 Retirement System contribution rate increases for
 35 court-related employees; amending s. 57.082, F.S.;
 36 conforming provisions to changes made by the act;
 37 amending s. 110.112, F.S.; deleting a provision
 38 requiring each state attorney to publish an annual
 39 report addressing results of his or her affirmative
 40 action program; amending s. 186.003, F.S.; revising
 41 the definition of "state agency"; amending s. 318.18,
 42 F.S.; revising the distribution of certain civil
 43 penalty amounts and administrative fees; creating s.
 44 322.76, F.S.; creating the Clerk of the Court Driver
 45 License Reinstatement Pilot Program in Miami-Dade
 46 County; defining the term "clerk"; authorizing the
 47 clerk of the circuit court for Miami-Dade County to
 48 reinstate or provide an affidavit to the Department of
 49 Highway Safety and Motor Vehicles to reinstate certain
 50 suspended driver licenses; establishing requirements
 51 for the clerk under the program to be performed by a
 52 date certain; providing for expiration of the program;
 53 amending s. 501.2101, F.S.; revising the funds into
 54 which certain moneys received by state attorneys must
 55 be deposited; amending s. 741.30, F.S.; deleting a
 56 provision authorizing certain clerks of circuit courts
 57 to request reimbursement for certain petitions related
 58 to domestic violence; amending s. 784.046, F.S.;

Page 2 of 22

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

590-02621-24

20241470c1

59 deleting a provision authorizing the clerk of circuit
60 court, under specific circumstances, to request
61 reimbursement for certain petitions related to repeat,
62 sexual, or dating violence; amending s. 784.0485,
63 F.S.; deleting a provision authorizing clerks of the
64 circuit court, under specific circumstances, to
65 request reimbursement for certain petitions related to
66 stalking; providing an effective date.

67
68 Be It Enacted by the Legislature of the State of Florida:

69
70 Section 1. Paragraph (b) of subsection (7) of section
71 27.52, Florida Statutes, is amended to read:

72 27.52 Determination of indigent status.—

73 (7) FINANCIAL DISCREPANCIES; FRAUD; FALSE INFORMATION.—

74 (b) If the court has reason to believe that any applicant,
75 through fraud or misrepresentation, was improperly determined to
76 be indigent or indigent for costs, the matter shall be referred
77 to the state attorney. Twenty-five percent of any amount
78 recovered by the state attorney as reasonable value of the
79 services rendered, including fees, charges, and costs paid by
80 the state on the person's behalf, shall be remitted to the
81 Department of Revenue for deposit into the Grants and Donations
82 Trust Fund of the applicable state attorney ~~within the Justice~~
83 ~~Administrative Commission~~. Seventy-five percent of any amount
84 recovered shall be remitted to the Department of Revenue for
85 deposit into the General Revenue Fund.

86 Section 2. Paragraph (c) of subsection (2) of section
87 27.54, Florida Statutes, is amended to read:

590-02621-24

20241470c1

88 27.54 Limitation on payment of expenditures other than by
89 the state.—

90 (2) A county or municipality may contract with, or
91 appropriate or contribute funds to, the operation of the offices
92 of the various public defenders and regional ~~counsels~~ counsel as
93 provided in this subsection. A public defender or regional
94 counsel defending violations of special laws or county or
95 municipal ordinances punishable by incarceration and not
96 ancillary to a state charge shall contract with counties and
97 municipalities to recover the full cost of services rendered on
98 an hourly basis or reimburse the state for the full cost of
99 assigning one or more full-time equivalent attorney positions to
100 work on behalf of the county or municipality. Notwithstanding
101 any other provision of law, in the case of a county with a
102 population of less than 75,000, the public defender or regional
103 counsel shall contract for full reimbursement, or for
104 reimbursement as the parties otherwise agree. In local ordinance
105 violation cases, the county or municipality shall pay for due
106 process services that are approved by the court, including
107 deposition costs, deposition transcript costs, investigative
108 costs, witness fees, expert witness costs, and interpreter
109 costs. The person charged with the violation shall be assessed a
110 fee for the services of a public defender or regional counsel
111 and other costs and fees paid by the county or municipality,
112 which assessed fee may be reduced to a lien, in all instances in
113 which the person enters a plea of guilty or no contest or is
114 found to be in violation or guilty of any count or lesser
115 included offense of the charge or companion case charges,
116 regardless of adjudication. The court shall determine the amount

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117 of the obligation. The county or municipality may recover
 118 assessed fees through collections court or as otherwise
 119 permitted by law, and any fees recovered pursuant to this
 120 section shall be forwarded to the applicable county or
 121 municipality as reimbursement.

122 (c) Any payments received pursuant to this subsection shall
 123 be deposited into the Grants and Donations Trust Fund of within
 124 the applicable public defender or criminal conflict and civil
 125 regional counsel ~~Justice Administrative Commission~~ for
 126 appropriation by the Legislature.

127 Section 3. Subsection (2) of section 27.703, Florida
 128 Statutes, is amended to read:

129 27.703 Conflict of interest and substitute counsel.—

130 (2) Appointed counsel shall be paid from funds appropriated
 131 to the Justice Administrative Commission ~~Chief Financial~~
 132 ~~Officer~~. The hourly rate may not exceed \$100. However, all
 133 appointments of private counsel under this section shall be in
 134 accordance with ss. 27.710 and 27.711.

135 Section 4. Paragraph (a) of subsection (1) of section
 136 28.241, Florida Statutes, is amended to read:

137 28.241 Filing fees for trial and appellate proceedings.—

138 (1) Filing fees are due at the time a party files a
 139 pleading to initiate a proceeding or files a pleading for
 140 relief. Reopen fees are due at the time a party files a pleading
 141 to reopen a proceeding if at least 90 days have elapsed since
 142 the filing of a final order or final judgment with the clerk. If
 143 a fee is not paid upon the filing of the pleading as required
 144 under this section, the clerk shall pursue collection of the fee
 145 pursuant to s. 28.246.

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146 (a)1.a. Except as provided in sub-subparagraph b. and
 147 subparagraph 2., the party instituting any civil action, suit,
 148 or proceeding in the circuit court shall pay to the clerk of
 149 that court a filing fee of up to \$395 in all cases in which
 150 there are not more than five defendants and an additional filing
 151 fee of up to \$2.50, from which the clerk shall remit \$0.50 to
 152 the Department of Revenue for deposit into the General Revenue
 153 Fund, for each defendant in excess of five. Of the first \$200 in
 154 filing fees, \$195 must be remitted to the Department of Revenue
 155 for deposit into the State Courts Revenue Trust Fund, \$4 must be
 156 remitted to the Department of Revenue for deposit into the
 157 Administrative Trust Fund within the Department of Financial
 158 Services and used to fund the contract with the Florida Clerks
 159 of Court Operations Corporation created in s. 28.35, and \$1 must
 160 be remitted to the Department of Revenue for deposit into the
 161 Administrative Trust Fund within the Department of Financial
 162 Services to fund audits of individual clerks' court-related
 163 expenditures conducted by the Department of Financial Services.

164 b. The party instituting any civil action, suit, or
 165 proceeding in the circuit court under chapter 39, chapter 61,
 166 chapter 741, chapter 742, chapter 747, chapter 752, or chapter
 167 753 shall pay to the clerk of that court a filing fee of up to
 168 \$295 in all cases in which there are not more than five
 169 defendants and an additional filing fee of up to \$2.50 for each
 170 defendant in excess of five. Of the first \$100 in filing fees,
 171 \$95 must be remitted to the Department of Revenue for deposit
 172 into the State Courts Revenue Trust Fund, \$4 must be remitted to
 173 the Department of Revenue for deposit into the Administrative
 174 Trust Fund within the Department of Financial Services and used

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175 to fund the contract with the Florida Clerks of Court Operations
 176 Corporation created in s. 28.35, and \$1 must be remitted to the
 177 Department of Revenue for deposit into the Administrative Trust
 178 Fund within the Department of Financial Services to fund audits
 179 of individual clerks' court-related expenditures conducted by
 180 the Department of Financial Services.

181 c. An additional filing fee of \$4 shall be paid to the
 182 clerk. The clerk shall remit \$3.50 to the Department of Revenue
 183 for deposit into the Court Education Trust Fund and shall remit
 184 50 cents to the Department of Revenue for deposit into the
 185 Administrative Trust Fund within the Department of Financial
 186 Services to fund clerk education provided by the Florida Clerks
 187 of Court Operations Corporation. An additional filing fee of up
 188 to \$18 shall be paid by the party seeking each severance that is
 189 granted, from which the clerk shall remit \$3 to the Department
 190 of Revenue for deposit into the General Revenue Fund. The clerk
 191 may impose an additional filing fee of up to \$85, from which the
 192 clerk shall remit \$10 to the Department of Revenue for deposit
 193 into the General Revenue Fund, for all proceedings of
 194 garnishment, attachment, replevin, and distress. Postal charges
 195 incurred by the clerk of the circuit court in making service by
 196 certified or registered mail on defendants or other parties
 197 shall be paid by the party at whose instance service is made.
 198 Additional fees, charges, or costs may not be added to the
 199 filing fees imposed under this section, except as authorized in
 200 this section or by general law.

201 2.a. Notwithstanding the fees prescribed in subparagraph
 202 1., a party instituting a civil action in circuit court relating
 203 to real property or mortgage foreclosure shall pay a graduated

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204 filing fee based on the value of the claim.

205 b. A party shall estimate in writing the amount in
 206 controversy of the claim upon filing the action. For purposes of
 207 this subparagraph, the value of a mortgage foreclosure action is
 208 based upon the principal due on the note secured by the
 209 mortgage, plus interest owed on the note and any moneys advanced
 210 by the lender for property taxes, insurance, and other advances
 211 secured by the mortgage, at the time of filing the foreclosure.
 212 The value shall also include the value of any tax certificates
 213 related to the property. In stating the value of a mortgage
 214 foreclosure claim, a party shall declare in writing the total
 215 value of the claim, as well as the individual elements of the
 216 value as prescribed in this sub-subparagraph.

217 c. In its order providing for the final disposition of the
 218 matter, the court shall identify the actual value of the claim.
 219 The clerk shall adjust the filing fee if there is a difference
 220 between the estimated amount in controversy and the actual value
 221 of the claim and collect any additional filing fee owed or
 222 provide a refund of excess filing fee paid.

223 d. The party shall pay a filing fee of:

224 (I) Three hundred and ninety-five dollars in all cases in
 225 which the value of the claim is \$50,000 or less and in which
 226 there are not more than five defendants. The party shall pay an
 227 additional filing fee of up to \$2.50 for each defendant in
 228 excess of five. Of the first \$200 in filing fees, \$195 must be
 229 remitted by the clerk to the Department of Revenue for deposit
 230 into the General Revenue Fund, \$4 must be remitted to the
 231 Department of Revenue for deposit into the Administrative Trust
 232 Fund within the Department of Financial Services and used to

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233 fund the contract with the Florida Clerks of Court Operations
 234 Corporation created in s. 28.35, and \$1 must be remitted to the
 235 Department of Revenue for deposit into the Administrative Trust
 236 Fund within the Department of Financial Services to fund audits
 237 of individual clerks' court-related expenditures conducted by
 238 the Department of Financial Services;

239 (II) Nine hundred dollars in all cases in which the value
 240 of the claim is more than \$50,000 but less than \$250,000 and in
 241 which there are not more than five defendants. The party shall
 242 pay an additional filing fee of up to \$2.50 for each defendant
 243 in excess of five. Of the first \$355 in filing fees, \$350 must
 244 be remitted by the clerk to the Department of Revenue for
 245 deposit into the General Revenue Fund, \$4 must be remitted to
 246 the Department of Revenue for deposit into the Administrative
 247 Trust Fund within the Department of Financial Services and used
 248 to fund the contract with the Florida Clerks of Court Operations
 249 Corporation created in s. 28.35, and \$1 must be remitted to the
 250 Department of Revenue for deposit into the Administrative Trust
 251 Fund within the Department of Financial Services to fund audits
 252 of individual clerks' court-related expenditures conducted by
 253 the Department of Financial Services; or

254 (III) One thousand nine hundred dollars in all cases in
 255 which the value of the claim is \$250,000 or more and in which
 256 there are not more than five defendants. The party shall pay an
 257 additional filing fee of up to \$2.50 for each defendant in
 258 excess of five. Of the first \$1,240 ~~\$1,705~~ in filing fees, \$465
 259 ~~\$930~~ must be remitted by the clerk to the Department of Revenue
 260 for deposit into the General Revenue Fund, \$770 must be remitted
 261 to the Department of Revenue for deposit into the State Courts

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262 Revenue Trust Fund, \$4 must be remitted to the Department of
 263 Revenue for deposit into the Administrative Trust Fund within
 264 the Department of Financial Services to fund the contract with
 265 the Florida Clerks of Court Operations Corporation created in s.
 266 28.35, and \$1 must be remitted to the Department of Revenue for
 267 deposit into the Administrative Trust Fund within the Department
 268 of Financial Services to fund audits of individual clerks'
 269 court-related expenditures conducted by the Department of
 270 Financial Services.

271 e. An additional filing fee of \$4 shall be paid to the
 272 clerk. The clerk shall remit \$3.50 to the Department of Revenue
 273 for deposit into the Court Education Trust Fund and shall remit
 274 50 cents to the Department of Revenue for deposit into the
 275 Administrative Trust Fund within the Department of Financial
 276 Services to fund clerk education provided by the Florida Clerks
 277 of Court Operations Corporation. An additional filing fee of up
 278 to \$18 shall be paid by the party seeking each severance that is
 279 granted. The clerk may impose an additional filing fee of up to
 280 \$85 for all proceedings of garnishment, attachment, replevin,
 281 and distress. Postal charges incurred by the clerk of the
 282 circuit court in making service by certified or registered mail
 283 on defendants or other parties shall be paid by the party at
 284 whose instance service is made. Additional fees, charges, or
 285 costs may not be added to the filing fees imposed under this
 286 section, except as authorized in this section or by general law.

287 Section 5. Paragraph (i) of subsection (2) and paragraph
 288 (a) of subsection (3) of section 28.35, Florida Statutes, are
 289 amended, and paragraph (j) is added to subsection (2) of that
 290 section, to read:

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291 28.35 Florida Clerks of Court Operations Corporation.-
 292 (2) The duties of the corporation shall include the
 293 following:
 294 (i) Annually preparing a budget request which,
 295 notwithstanding the provisions of chapter 216 and in accordance
 296 with s. 216.351, provides the anticipated amount necessary for
 297 reimbursement pursuant to s. 40.29(6) and (7). The request for
 298 the anticipated reimbursement amount shall be submitted in the
 299 form and manner prescribed by the Justice Administrative
 300 Commission. Such request is not subject to change by the Justice
 301 Administrative Commission, except for technical changes
 302 necessary to conform to the legislative budget instructions, and
 303 shall be submitted to the Governor for transmittal to the
 304 Legislature.
 305 (j) Annually preparing a budget request that,
 306 notwithstanding the provisions of chapter 216 and in accordance
 307 with s. 216.351, provides the anticipated amount necessary to
 308 fund increases in employer contribution rates pursuant to ss.
 309 121.71 and 121.72 for court-related employees participating in
 310 the Florida Retirement System. The request for the anticipated
 311 appropriation must be submitted in the form and manner
 312 prescribed by the Justice Administrative Commission. The budget
 313 request may not be changed by the Justice Administrative
 314 Commission, except for technical changes necessary to conform to
 315 the legislative budget instructions, and must be submitted to
 316 the Governor for transmittal to the Legislature.
 317 (3) (a) The list of court-related functions that clerks may
 318 fund from filing fees, service charges, court costs, and fines
 319 is limited to those functions expressly authorized by law or

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320 court rule. Those functions include the following: case
 321 maintenance; records management; court preparation and
 322 attendance; processing the assignment, reopening, and
 323 reassignment of cases; processing of appeals; collection and
 324 distribution of fines, fees, service charges, and court costs;
 325 processing of bond forfeiture payments; data collection and
 326 reporting; determinations of indigent status; improving court
 327 technology; and paying reasonable administrative support costs
 328 to enable the clerk of the court to carry out these court-
 329 related functions.
 330 Section 6. Paragraph (b) subsection (4) of section 28.37,
 331 Florida Statutes, is amended to read:
 332 28.37 Fines, fees, service charges, and costs remitted to
 333 the state.-
 334 (4)
 335 (b) No later than February 1 annually, 2022, and each
 336 February 1 thereafter, the Florida Clerks of Court Operations
 337 Corporation must calculate ~~Department of Revenue shall transfer~~
 338 ~~50 percent of the cumulative excess, which of the original~~
 339 ~~revenue projection from the Clerks of the Court Trust Fund to~~
 340 ~~the General Revenue Fund. The remaining 50 percent in the Clerks~~
 341 ~~of the Court Trust Fund~~ may be used in the development of the
 342 total combined budgets of the clerks of the court as provided in
 343 s. 28.35(2)(f)6. ~~However,~~ A minimum of 10 percent ~~of the clerk-~~
 344 ~~retained portion~~ of the cumulative excess amount must be held in
 345 reserve until such funds reach an amount equal to at least 16
 346 percent of the total budget authority from the current county
 347 fiscal year, as provided in s. 28.36(3)(a).
 348 Section 7. Paragraphs (c) and (d) of subsection (1) of

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349 section 34.041, Florida Statutes, are amended to read:

350 34.041 Filing fees.—

351 (1)

352 (c) A party in addition to a party described in paragraph
353 (a) who files a pleading in an original civil action in the
354 county court for affirmative relief by cross-claim,
355 counterclaim, counterpetition, or third-party complaint, or who
356 files a notice of cross-appeal or notice of joinder or motion to
357 intervene as an appellant, cross-appellant, or petitioner, shall
358 pay the clerk of court a fee of \$295 if the relief sought by the
359 party under this paragraph exceeds \$2,500 but is not more than
360 \$15,000 and \$395 if the relief sought by the party under this
361 paragraph exceeds \$15,000. The clerk shall deposit ~~remit~~ the fee
362 if the relief sought by the party under this paragraph exceeds
363 \$2,500 but is not more than \$15,000 ~~to the Department of Revenue~~
364 ~~for deposit~~ into the fine and forfeiture fund established
365 pursuant to s. 142.01 General Revenue Fund. This fee does not
366 apply if the cross-claim, counterclaim, counterpetition, or
367 third-party complaint requires transfer of the case from county
368 to circuit court. However, the party shall pay to the clerk the
369 standard filing fee for the court to which the case is to be
370 transferred.

371 (d) The clerk of court shall collect a service charge of
372 \$10 for issuing a summons or an electronic certified copy of a
373 summons, which the clerk shall deposit into the fine and
374 forfeiture fund established pursuant to s. 142.01 ~~remit to the~~
375 ~~Department of Revenue for deposit into the General Revenue Fund~~.
376 The clerk shall assess the fee against the party seeking to have
377 the summons issued.

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378 Section 8. Subsection (6) of section 40.29, Florida
379 Statutes, is amended, and subsections (7) and (8) are added to
380 that section, to read:

381 40.29 Payment of due-process costs; reimbursement for
382 petitions, ~~and orders, and waived civil filing fees for~~
383 indigency; payment of Florida Retirement System costs for court-
384 related employees.—

385 (6) Subject to legislative appropriation, the Florida
386 Clerks of Court Operations Corporation ~~clerk of the circuit~~
387 ~~court~~ may, on behalf of the clerks of the circuit court, on a
388 quarterly basis, submit to the Justice Administrative Commission
389 a certified request for reimbursement for petitions and orders
390 filed under ss. 394.459, 394.463, 394.467, 394.917, and
391 397.6814, at the rate of \$40 per petition or order and for
392 orders filed under ss. 741.30, 784.046, and 784.0485, the
393 Florida Clerks of Court Operations Corporation may, on a
394 quarterly basis, submit a request for reimbursement at the rate
395 of \$195 per petition. From this reimbursement, the clerk of the
396 court receiving reimbursement must pay any law enforcement
397 agency serving injunctions a fee not to exceed \$40 per
398 injunction, if so requested by the law enforcement agency. Such
399 request for reimbursement shall be submitted in the form and
400 manner prescribed by the Justice Administrative Commission
401 pursuant to s. 28.35(2)(i).

402 (7) Subject to legislative appropriation, the Florida
403 Clerks of Court Operations Corporation may, on a quarterly
404 basis, submit to the Justice Administrative Commission a
405 certified request for reimbursement for approved applications
406 for civil indigency under s. 57.082, in which the civil filing

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407 fee has been waived, at the rate of \$195 per approved
 408 application. The request for reimbursement shall be submitted in
 409 the form and manner prescribed by the Justice Administrative
 410 Commission pursuant to s. 28.35(2)(i).

411 (8) Subject to legislative appropriation, the Florida
 412 Clerks of Court Operations Corporation must submit to the
 413 Justice Administrative Commission a certified amount by county
 414 of the employer contribution rate increases for the Florida
 415 Retirement System for court-related employees.

416 Section 9. Paragraph (b) of subsection (7) of section
 417 57.082, Florida Statutes, is amended to read:

418 57.082 Determination of civil indigent status.—

419 (7) FINANCIAL DISCREPANCIES; FRAUD; FALSE INFORMATION.—

420 (b) If the court has reason to believe that any applicant,
 421 through fraud or misrepresentation, was improperly determined to
 422 be indigent, the matter shall be referred to the state attorney.
 423 Twenty-five percent of any amount recovered by the state
 424 attorney as reasonable value of the services rendered, including
 425 fees, charges, and costs paid by the state on the person's
 426 behalf, shall be remitted to the Department of Revenue for
 427 deposit into the Grants and Donations Trust Fund of within the
 428 applicable state attorney Justice Administrative Commission.
 429 Seventy-five percent of any amount recovered shall be remitted
 430 to the Department of Revenue for deposit into the General
 431 Revenue Fund.

432 Section 10. Paragraph (d) of subsection (4) of section
 433 110.112, Florida Statutes, is amended to read:

434 110.112 Affirmative action; equal employment opportunity.—

435 (4) Each state attorney and public defender shall:

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436 ~~(d) Report annually to the Justice Administrative~~
 437 ~~Commission on the implementation, continuance, updating, and~~
 438 ~~results of his or her affirmative action program for the~~
 439 ~~previous fiscal year.~~

440 Section 11. Subsection (6) of section 186.003, Florida
 441 Statutes, is amended to read:

442 186.003 Definitions; ss. 186.001-186.031, 186.801-186.901.—
 443 As used in ss. 186.001-186.031 and 186.801-186.901, the term:

444 (6) "State agency" or "agency" means any official, officer,
 445 commission, board, authority, council, committee, or department
 446 of the executive branch of state government. For purposes of
 447 this chapter, "state agency" or "agency" includes state
 448 attorneys, public defenders, the capital collateral regional
 449 counsel, the Justice Administrative Commission, and the Public
 450 Service Commission.

451 Section 12. Paragraph (a) of subsection (8) and subsection
 452 (18) of section 318.18, Florida Statutes, are amended to read:

453 318.18 Amount of penalties.—The penalties required for a
 454 noncriminal disposition pursuant to s. 318.14 or a criminal
 455 offense listed in s. 318.17 are as follows:

456 (8) (a) Any person who fails to comply with the court's
 457 requirements or who fails to pay the civil penalties specified
 458 in this section within the 30-day period provided for in s.
 459 318.14 must pay an additional civil penalty of \$16, \$1.50 ~~€6.50~~
 460 of which must be remitted to the Department of Revenue for
 461 deposit in the General Revenue Fund, ~~and~~ \$9.50 of which must be
 462 remitted to the Department of Revenue for deposit in the Highway
 463 Safety Operating Trust Fund, and \$5 of which shall be retained
 464 by the clerk of the court to be deposited in the Public Records

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465 Modernization Trust Fund and used exclusively for funding court-
 466 related technology needs of the clerk, as defined in s.
 467 29.008(1)(f)2. and (h). ~~Of this additional civil penalty of \$16,~~
 468 ~~\$4 is not revenue for purposes of s. 28.36 and may not be used~~
 469 ~~in establishing the budget of the clerk of the court under that~~
 470 ~~section or s. 28.35.~~ The department shall contract with the
 471 Florida Association of Court Clerks, Inc., to design, establish,
 472 operate, upgrade, and maintain an automated statewide Uniform
 473 Traffic Citation Accounting System to be operated by the clerks
 474 of the court which shall include, but not be limited to, the
 475 accounting for traffic infractions by type, a record of the
 476 disposition of the citations, and an accounting system for the
 477 finest assessed and the subsequent fine amounts paid to the
 478 clerks of the court. The clerks of the court must provide the
 479 information required by this chapter to be transmitted to the
 480 department by electronic transmission pursuant to the contract.

481 (18) In addition to any penalties imposed, an
 482 administrative fee of \$12.50 must be paid for all noncriminal
 483 moving and nonmoving violations under chapters 316, 320, and
 484 322. Of this administrative fee, \$6.25 must be deposited into
 485 the Public Records Modernization Trust Fund and used exclusively
 486 for funding court-related technology needs of the clerk, as
 487 defined in s. 29.008(1)(f)2. and (h), and \$6.25 must be
 488 deposited into the fine and forfeiture fund established pursuant
 489 to s. 142.01 ~~The clerk shall remit the administrative fee to the~~
 490 ~~Department of Revenue for deposit into the General Revenue Fund.~~

491 Section 13. Section 322.76, Florida Statutes, is created to
 492 read:

493 322.76 Miami-Dade County Clerk of the Court Driver License

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494 Reinstatement Pilot Program.—There is created in Miami-Dade
 495 County the Clerk of the Court Driver License Reinstatement Pilot
 496 Program.

497 (1) As used in this section, the term "clerk" means the
 498 clerk of the circuit court for Miami-Dade County.

499 (2) Notwithstanding any other provision to the contrary in
 500 this chapter, the clerk may reinstate or provide an affidavit to
 501 the department to reinstate a suspended driver license:

502 (a) For a person who failed to fulfill a court-ordered
 503 child support obligation.

504 (b) As a result of the end of suspension because of points,
 505 under s. 322.27, notwithstanding the person receiving a hardship
 506 waiver.

507 (c) For a person who failed to comply with any provision of
 508 chapter 318 or this chapter.

509 (3) Notwithstanding s. 322.29(1), an examination is not
 510 required for the reinstatement of a driver license suspended
 511 under s. 318.15 or s. 322.245 unless an examination is otherwise
 512 required by this chapter. A person applying for the
 513 reinstatement of a driver license suspended under s. 318.15 or
 514 s. 322.245 must present to the clerk certification from the
 515 court that he or she has either complied with all obligations
 516 and penalties imposed pursuant to s. 318.15 or with all
 517 directives of the court and the requirements of s. 322.245.

518 (4) A nonrefundable service fee must be paid pursuant to s.
 519 322.29(2).

520 (5) Before July 1, 2024, the department shall work with the
 521 clerk, through the clerk's association, to ensure the ability
 522 within its technology system for the clerk to reinstate

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523 suspended driver licenses under the pilot program, to begin on
524 July 1, 2024.

525 (6) By December 31, 2025, the clerk must submit to the
526 Governor, the President of the Senate, the Speaker of the House
527 of Representatives, and the executive director of the Florida
528 Clerks of Court Operations Corporation a report containing the
529 following information:

530 (a) Number of driver license reinstatements.

531 (b) Amount of fees and costs collected, including the
532 aggregate funds received by the clerk, local governmental
533 entities, and state entities, including the General Revenue
534 Fund.

535 (c) The personnel, operating, and other expenditures
536 incurred by the clerk.

537 (d) Feedback received from the community, if any, in
538 response to the clerk's participation in the pilot program.

539 (e) Whether the pilot program led to improved timeliness
540 for the reinstatement of driver licenses.

541 (f) The clerk's recommendation as to whether the pilot
542 program should be extended in Miami-Dade County or expanded to
543 other clerks' offices.

544 (g) Any other information the clerk deems necessary.

545 (7) This section expires on July 1, 2026.

546 Section 14. Subsection (1) of section 501.2101, Florida
547 Statutes, is amended to read:

548 501.2101 Enforcing authorities; moneys received in certain
549 proceedings.—

550 (1) Any moneys received by an enforcing authority for
551 attorney attorney's fees and costs of investigation or

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552 litigation in proceedings brought under the provisions of s.
553 501.207, s. 501.208, or s. 501.211 shall be deposited as
554 received in the Legal Affairs Revolving Trust Fund if the action
555 is brought by the Department of Legal Affairs, and in the Grants
556 and Donations Consumer Frauds Trust Fund of a state attorney the
557 Justice Administrative Commission if the action is brought by
558 the a state attorney.

559 Section 15. Paragraph (a) of subsection (2) of section
560 741.30, Florida Statutes, is amended to read:

561 741.30 Domestic violence; injunction; powers and duties of
562 court and clerk; petition; notice and hearing; temporary
563 injunction; issuance of injunction; statewide verification
564 system; enforcement; public records exemption.—

565 (2) (a) Notwithstanding any other law, the assessment of a
566 filing fee for a petition for protection against domestic
567 violence is prohibited. ~~However, subject to legislative~~
568 ~~appropriation, the clerk of the circuit court may, on a~~
569 ~~quarterly basis, submit to the Office of the State Courts~~
570 ~~Administrator a certified request for reimbursement for~~
571 ~~petitions for protection against domestic violence issued by the~~
572 ~~court, at the rate of \$40 per petition. The request for~~
573 ~~reimbursement must be submitted in the form and manner~~
574 ~~prescribed by the Office of the State Courts Administrator. From~~
575 ~~this reimbursement, the clerk shall pay any law enforcement~~
576 ~~agency serving the injunction the fee requested by the law~~
577 ~~enforcement agency; however, this fee may not exceed \$20.~~

578 Section 16. Paragraph (b) of subsection (3) of section
579 784.046, Florida Statutes, is amended to read:

580 784.046 Action by victim of repeat violence, sexual

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581 violence, or dating violence for protective injunction; dating
 582 violence investigations, notice to victims, and reporting;
 583 pretrial release violations; public records exemption.-

584 (3) (b) Notwithstanding any other law, the clerk of the
 585 court may not assess a fee for filing a petition for protection
 586 against repeat violence, sexual violence, or dating violence.
 587 ~~However, subject to legislative appropriation, the clerk of the~~
 588 ~~court may, each quarter, submit to the Office of the State~~
 589 ~~Courts Administrator a certified request for reimbursement for~~
 590 ~~petitions for protection issued by the court under this section~~
 591 ~~at the rate of \$40 per petition. The request for reimbursement~~
 592 ~~shall be submitted in the form and manner prescribed by the~~
 593 ~~Office of the State Courts Administrator. From this~~
 594 ~~reimbursement, the clerk shall pay the law enforcement agency~~
 595 ~~serving the injunction the fee requested by the law enforcement~~
 596 ~~agency; however, this fee may not exceed \$20.~~

597 Section 17. Paragraph (a) of subsection (2) of section
 598 784.0485, Florida Statutes, is amended to read:

599 784.0485 Stalking; injunction; powers and duties of court
 600 and clerk; petition; notice and hearing; temporary injunction;
 601 issuance of injunction; statewide verification system;
 602 enforcement.-

603 (2) (a) Notwithstanding any other law, the clerk of court
 604 may not assess a filing fee to file a petition for protection
 605 against stalking. ~~However, subject to legislative appropriation,~~
 606 ~~the clerk of the circuit court may, on a quarterly basis, submit~~
 607 ~~to the Office of the State Courts Administrator a certified~~
 608 ~~request for reimbursement for petitions for protection against~~
 609 ~~stalking issued by the court, at the rate of \$40 per petition.~~

Page 21 of 22

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

590-02621-24

20241470c1

610 ~~The request for reimbursement shall be submitted in the form and~~
 611 ~~manner prescribed by the Office of the State Courts~~
 612 ~~Administrator. From this reimbursement, the clerk shall pay any~~
 613 ~~law enforcement agency serving the injunction the fee requested~~
 614 ~~by the law enforcement agency; however, this fee may not exceed~~
 615 ~~\$20.~~

616 Section 18. This act shall take effect upon becoming a law.

Page 22 of 22

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

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 Appropriations Committee on Criminal and Civil Justice

BILL: CS/CS/SB 1470

INTRODUCER: Judiciary Committee and Senator Hutson and others

SUBJECT: Clerks of the Court

DATE: February 22, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bond</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
2.	<u>Kolich</u>	<u>Harkness</u>	<u>ACJ</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1470 increases funding of the clerks of court by:

- Allowing the clerks to retain certain civil filing fees, service charges, and clerks' excess revenues that are currently directed to the General Revenue Fund.
- Increasing the categories and amounts related to no-fee cases where the clerks may request state reimbursement.
- Creating the Miami-Dade Clerk of the Court Driver License Reinstatement Pilot Program.
- Allowing the clerks of court to submit an annual budget request for reimbursement of the anticipated amount necessary to fund increases in the employer contribution rate for the Florida Retirement System.
- Adding "improving court technology" to the list of court-related function that clerks may fund from filing fees, services charges, court costs, and fines.
- Allowing the clerk of the circuit court in each county to invest funds held in the fine and forfeiture fund in an interest-bearing account.

Providing that interest earned in the fine and forfeiture fund must be deposited into the Public Records Modernization Trust Fund to be used exclusively for additional court-related operations and enhancements.

The bill also corrects several technical fiscal references related to clerks, state attorneys, public defenders, regional counsels, and capital collateral regional counsels.

The bill redirects an estimated \$37.6 million in revenues from the General Revenue Fund to the Clerks' Fine and Forfeiture Fund and Public Records Modernization Trust Fund starting in Fiscal

Year 2024-2025. The section of the bill on clerks' excess revenue will redirect an estimated \$3.3 million in nonrecurring funds from the General Revenue Fund in Fiscal Year 2024-2025. The Miami-Dade pilot program is estimated to reduce revenues accruing to the General Revenue Fund by a total of \$1.6 million in Fiscal Years 2024-2025 and 2025-2026. The bill also allows the clerks to invest specified funds, which may increase revenue to the fine and forfeiture fund and the Public Records Modernization Trust Fund. See Section V., Fiscal Impact Statement.

The bill takes effect upon becoming a law.

II. Present Situation:

Clerk of the Circuit Court

The clerk of the circuit court is a constitutional officer. Each of Florida's 67 counties are required to elect a clerk of the circuit court¹ to serve as both the clerk of court, completing judiciary functions, and as the "*ex officio*"² clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds."³ In the clerk's role as auditor and custodian of county funds, the clerk may also be referred to as the comptroller.⁴

Funding for the Clerks' Court-Related Functions

In its capacity as the clerk of the circuit and county courts, the clerk is required to perform various court-related, administrative, and ministerial functions. Court funding is governed by Art. V, s. 14 of the Florida Constitution. For the clerks of the circuit courts, Art. V, s. 14(b) provides that the clerks are self-sustaining and are to fund their court-related functions through the collection of filing fees, service charges, and other costs. Specifically, Art. V, s. 14(b) states:

All funding for the offices of the clerks of the circuit and county courts performing court-related functions, except as otherwise provided in this subsection and subsection (c), shall be provided by adequate and appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions as required by general law. Selected salaries, costs, and expenses of the state courts system may be funded from appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions, as provided by general law. Where the requirements of either the United States Constitution or the Constitution of the State of Florida preclude the imposition of filing fees for judicial

¹ FLA. CONST. art. V, s. 16; FLA. CONST. art. VIII, s. 1.

² See BLACK'S LAW DICTIONARY (10th ed. 2014) ("*ex officio*" means "By virtue or because of an office; by virtue of the authority implied by office.").

³ FLA. CONST. art. V, s. 16. This provision also provides that two officials may split the position, one serving as clerk of court and one serving in the *ex officio* position. Additionally, this provision permits the election of a county clerk of court when authorized by general or special law. *Id.*

⁴ See generally Florida Court Clerks & Comptrollers, *Role of the Clerk and Comptroller*, <https://www.flclerks.com/page/RoleoftheClerk> (last visited Jan. 19, 2024). See also BLACK'S LAW DICTIONARY (10th ed. 2014) ("comptroller" means, "[a]n officer of a business or a private, state, or municipal corporation who is charged with duties usu. relating to fiscal affairs, including auditing and examining accounts and reporting the financial status periodically.").

proceedings and service charges and costs for performing court-related functions sufficient to fund the court-related functions of the offices of the clerks of the circuit and county courts, the state shall provide, as determined by the Legislature, adequate and appropriate supplemental funding from state revenues appropriated by general law.⁵

The court-related functions authorized by law or court rule which must be funded by the clerk's collection of filing fees, service charges, costs, and fines, include the following:

- Case maintenance.
- Records management.
- Court preparation and attendance.
- Processing the assignment, reopening, and reassignment of cases.
- Processing appeals.
- Collection and distribution of fines, fees, service charges, and court costs.
- Data collection and reporting.
- Determinations of indigent status.
- Paying reasonable administrative support costs to enable the clerks to carry out court-related functions.⁶

Public Defender Services; Due Process Costs; Reimbursement

The state must provide an attorney to an indigent criminal defendant facing imprisonment.⁷ A criminal defendant must apply for indigent status.⁸ In practice, the applications are generally summarily approved upon filing if facially valid, but subject to later audit. The indigent status may be challenged by the state attorney at a later time. If the state attorney prevails, 25 percent of monies recovered are payable to the Grants and Donations Trust Fund within the Justice Administrative Commission ("JAC") and the remaining 75 percent is paid to the General Revenue Fund.

Some city and county ordinance violations may result in incarceration of the defendant, thus requiring appointment of an attorney if the defendant is indigent. The cost of providing a state public defender related to a city or county ordinance violation (not otherwise related to a state criminal charge) is the responsibility of the city or county, but the city or county may seek reimbursement from a defendant found guilty or who has pled no contest.⁹ If there is a recovery, the monies recovered are payable to the Grants and Donations Trust Fund within the JAC.¹⁰

Florida Retirement System

The Florida Retirement System ("FRS") operates the state employee retirement plan. Membership in the FRS is required for all full-time or part-time employees in a regularly-

⁵ FLA. CONST. art. V, s. 14(b) (emphasis added).

⁶ Section 28.35(3)(a), F.S. *See also* Florida Court Clerks & Comptrollers, *Role of the Clerk and Comptroller*, <https://www.flclerks.com/page/RoleoftheClerk> (last visited Jan. 19, 2024).

⁷ *Gideon v. Wainwright*, 372 U.S. 335 (1963).

⁸ Section 27.52(1), F.S.

⁹ Section 27.54, F.S.

¹⁰ Section 27.54(2)(c). F.S.

established position with a state agency, county government, district school board, state university, or community college, or with a participating city, independent special district, metropolitan planning organization, public charter school, or public charter technical career center. The membership requirements apply to the clerks and their employees who otherwise meet the conditions for FRS participation. Florida law requires each:

- Employee participating in the FRS to contribute 3 percent of his or her pretax salary, beginning with his or her first paycheck, regardless of which plan he or she chooses.
- Employer to contribute a percentage of the participating employee's gross monthly salary, which percentage is set by the Legislature annually based on the employee's membership class.

Although state agencies receive appropriations for required FRS employer contribution increases, the clerks do not; such increases must instead be paid by the clerks out of their portion of the collected revenue.¹¹ Consequently, the clerks assert that they are often unable to meet their required FRS employer contribution increases, and thus must occasionally resort to eliminating staff to lower their obligations.¹²

Clerk's Reimbursement for No-Fee Court Functions

In 2002, the Florida Legislature established a mechanism whereby the clerks could request reimbursement for domestic violence injunctions issued by the court, subject to a legislative appropriation.¹³ Under this law, a clerk may, on a quarterly basis, submit to the Office of the State Courts Administrator a certified request for such reimbursement, which will be reimbursed at the rate of \$40 per petition if the Legislature appropriates funds for that purpose. From that \$40, the clerk must pay any law enforcement agency serving the injunction a fee of up to \$20, if the agency so requests payment.¹⁴

In 2022, the Florida Legislature established a similar mechanism whereby the clerks could request reimbursement for other types of cases for which no filing fees are authorized, including those brought under the Baker Act and the Marchman Act, at the rate of \$40 per case.¹⁵ Under this law, the Florida Clerks of Court Operations Corporation (CCOC) must annually submit the anticipated amount necessary for such reimbursements to the JAC, who must then transmit the request to the Executive Office of the Governor as part of its legislative budget request.¹⁶

III. Effect of Proposed Changes:

Court System Fiscal and Operational Changes

The bill provides that, when a state attorney recovers monies from a person who wrongfully claimed to be indigent or indigent for costs, the 25 percent split is redirected from the Grants and Donations Trust Fund within the JAC to the Grants and Donations Trust Funds of the state attorney who made the recovery. This applies to criminal and civil cases.

¹¹ Florida Court Clerks & Comptrollers, *Bill Analysis for HB 977* (2023).

¹² *Id.*

¹³ Chapter 2002-55, Laws of Fla.

¹⁴ Section 741.30, F.S.

¹⁵ Chapter 2022-201, Laws of Fla.

¹⁶ Section 40.29, F.S.

The bill provides that, when a public defender recovers monies from a person who was charged with a city or county ordinance not related to a state criminal charge who was provided public defender services (or costs if found indigent for costs), the recovery is redirected from the Grants and Donations Trust Fund within the JAC to the Grants and Donations Trust Fund of the public defender who made the recovery.

The bill corrects s. 27.703(2), F.S., to provide that conflict counsel are paid through the JAC and not the Chief Financial Officer.

The bill repeals the requirement for each state attorney and public defender to report annually to the JAC on the implementation, continuance, updating, and results of his or her affirmative action program for the previous fiscal year.

The bill removes the state attorneys, public defenders, capital collateral regional counsels, and the JAC from the definition of “agency” as applied to the chapter on state and regional planning.

The bill corrects s. 501.2101, F.S., to provide that, when a state attorney recovers monies from a person who has violated the Florida Deceptive and Unfair Trade Practices Act, the recovery is payable into the Grants and Donations Trust Fund at the JAC for that state attorney and not the Consumer Frauds Trust Fund for that state attorney. The Consumer Frauds Trust Fund within the JAC was terminated in 2004.¹⁷

Clerks of Court Fiscal Changes

Redirection of Certain Fees to the Benefit of the Clerks of Court

Any funds collected by a clerk that are not directed to a particular fund are retained by the clerk for use in operating the office of the clerk. Because a direction of monies collected is in statute and not in the state budget, a change in direction stays in effect until changed by a future Legislature. The bill redirects the following:

- \$465 per case from the filing fee for foreclosure where the outstanding mortgage balance is \$250,000 or more is redirected from the General Revenue Fund to the clerks of court.
- \$5 of the penalty for failure to timely pay a traffic infraction is redirected from the General Revenue Fund to the clerk’s Public Records Modernization Trust Fund to be used exclusively for funding court-related technology needs of the clerk.
- The \$12.50 administrative fee imposed on every noncriminal moving and nonmoving traffic violation is redirected from the General Revenue Fund, half of which is redirected to the Public Records Modernization Trust Fund to be used exclusively for funding court-related technology needs of the clerk, and half into the fine and forfeiture fund to benefit the clerk.
- The \$295 fee for the filing of a cross-claim, counterclaim, counterpetition, or third-party complaint in a county court civil action where the person is seeking between \$2,500 and \$15,000 is redirected from the General Revenue Fund to the clerks of court.
- The \$10 fee for issuance of a summons in a county court civil action from the General Revenue Fund to the applicable county's Fine and Forfeiture Fund.

¹⁷ Chapter 2004-220, Laws of Fla.

The bill repeals the requirement that the Department of Revenue transfer 50 percent of the cumulative excess of the original revenue projections from the Clerk of the Court Trust Fund to General Revenue. Instead, the Florida Clerks of Court Operations Corporation must calculate the cumulative excess, which may be used in the development of the total combined budgets of the clerks of the court.

State Appropriations; Budget Requests by the Clerks

The bill allows the clerks of court to submit an annual budget request for reimbursement of the anticipated amount necessary to fund increases in the employer contribution rate for the Florida Retirement System. The JAC is directed to forward the budget request to the Executive Office of the Governor for transmittal to the Legislature.

The bill transfers responsibility for requesting state reimbursement for no-fee cases from the clerks of the court to the Clerks of Court Operations Corporation. The bill adds the following areas in which the clerks may seek state reimbursement for no-fee cases:

- The bill adds that the clerks may request state reimbursement of \$195 for each petition for a domestic violence injunction,¹⁸ injunction against repeat violence, sexual violence or dating violence,¹⁹ or injunction against stalking.²⁰ From this reimbursement, the clerk of the court receiving reimbursement must pay any law enforcement agency serving the injunction a fee of up to, but not exceeding, \$40 per injunction, if so requested by the law enforcement agency. The ability to request \$40 a case in current law is repealed.
- The bill adds that the clerks may request state reimbursement of \$195 per civil case where the plaintiff or petitioner was found indigent and was therefore entitled to file the case without a filing fee.

The changes made all merely allow the clerks to *request* state funding. Each funding request is subject to legislative appropriation and, thus, is not guaranteed to be paid to the clerks.

Clerk Budgeting and Expenditures

The bill adds “improving court technology” to the list of authorized categories of expenditures that can be made by a clerk of court.

Clerk Investment of Funds

The bill allows the clerk of the circuit court in each county to invest funds held in the fine and forfeiture fund in an interest-bearing account. The interest earned in the fund must be deposited into the Public Records Modernization Trust Fund to be exclusively used for additional court-related operations and enhancements.

¹⁸ Section 741.30, F.S.

¹⁹ Section 784.046, F.S.

²⁰ Section 784.0485, F.S.

Miami-Dade County Clerk of Court Driver License Reinstatement Pilot Program

The bill creates the Miami-Dade County Clerk of Court Driver License Reinstatement Pilot Program. The program allows the Miami-Dade county clerk of courts to reinstate a driver license when the driver has satisfied all obligations and conditions for reinstatement. The program will operate between July 1, 2024, and July 1, 2026.

Currently, once all financial and court-related obligations are met, the reinstatement fee is \$60. If reinstated by the clerk of the court, \$37.50 is retained by the clerk and \$22.50 is remitted to the Department of Revenue for deposit into the Highway Safety Operating Trust Fund. Currently in Miami-Dade County, most reinstatements are processed by the Department of Highway Safety and Motor Vehicles, although plans are in place to shift department responsibility to the local tax collector. The department estimates that this pilot program would move approximately 18 percent of reinstatements to the Miami-Dade County Clerk of Courts from the department.²¹

The bill also requires the program to issue a report regarding the program by December 31, 2025, to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the executive director of the Florida Clerks of Court Operations Corporation containing:

- Number of driver license reinstatements.
- Amount of fees and costs collected, including the aggregate funds received by the clerk, local governmental entities, and state entities, including the General Revenue Fund.
- The personnel, operating, and other expenditures incurred by the clerk.
- Feedback received from the community, if any, in response to the clerk's participation in the pilot program.
- Whether the pilot program led to improved timeliness for the reinstatement of driver licenses.
- The clerk's recommendation as to whether the pilot program should be extended in Miami-Dade County or expanded to other clerks' offices.
- Any other information the clerk deems necessary.

Effective Date

This bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in Art. VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

²¹ 2024 Revenue Estimating Conference, Impact Conference Reports, at pg. 149.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Revenue Estimating Conference (REC) met on January 12, 2024, and determined the bill will redirect approximately \$37.6 million in recurring funds from the General Revenue Fund to the Clerks' Fine and Forfeiture Trust Fund and the Public Records Modernization Trust Fund beginning in Fiscal Year 2024-2025.²² The annual general revenue reduction and amount accruing to the trust funds is expected to grow each fiscal year thereafter; the impact in Fiscal Year 2028-2029 is expected to be \$39.5 million.

The REC estimated the Fiscal Year 2024-2025 fiscal impact of the individual fee categories in the bill as follows:

- Section 28.241, F.S., relating to foreclosure: \$3,411,027.
- Section 34.041(1)(c), F.S., relating to counterclaim: \$300,000.
- Section 34.041(1)(d), F.S., relating to county summons: \$8,433,502.
- Section 318.18(8)(a), F.S., relating to late civil penalty: \$4,906,817.
- Section 318.18(8)(a), F.S., relating to \$12.50 traffic fee: \$20,505,277.

The bill's provisions in Section 8 and the request for reimbursement for increases in employer contribution rates for FRS costs, is subject to appropriation. The provisions in Section 6, allowing the clerks to keep the cumulative excess of the original revenue projection rather than transmitting it to the General Revenue Fund, will result in a \$3.3 million dollar nonrecurring reduction to the General Revenue Fund.

²² 2024 Revenue Estimating Conference, Impact Conference Reports, at pgs. 147-153.

The REC estimated that the Miami-Dade Pilot Program will result in a \$0.8 million reduction in the General Revenue Fund in Fiscal Year 2024-2025 and in Fiscal Year 2025-2026 for a total of \$1.6 million.

Sections 1, 2, 3, 9, and 14 relating to the Justice Administrative Commission is estimated to have no fiscal impact on state funds.

The bill also allows the clerk of the circuit court in each county to invest funds held in the fine and forfeiture fund in an interest bearing account. Interest earned in the fund must be deposited into the Public Records Modernization Trust Fund to be used exclusively for additional court-related operations and enhancements. This may have a positive fiscal impact on the fine and forfeiture fund and the Public Records Modernization Trust Fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 27.52, 27.54, 27.703, 28.241, 28.35, 28.37, 34.041, 40.29, 57.082, 110.112, 186.003, 318.18, 501.2101, 741.30, 784.046, and 784.0485.

The bill creates section 322.76 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Appropriations Committee on Criminal and Civil Justice on February 20, 2024:

The committee substitute:

- Allows the clerk of the circuit court in each county to invest funds held in the fine and forfeiture fund in an interest-bearing account.
- Provides that interest earned in the fine and forfeiture fund must be deposited into the Public Records Modernization Trust Fund to be used exclusively for additional court-related operations and enhancements.

CS by Judiciary on January 29, 2024:

The delete-all amendment adds two new sections to the bill.

Section 7 of the amendment adds a redirect of the \$295 fee for the filing of a cross-claim, counterclaim, counterpetition, or third-party complaint in a county court civil action

where the person is seeking between \$2,500 and \$15,000. The redirect is from the General Revenue Fund to the applicable county's Fine and Forfeiture Fund, which fund is used by the clerks for operating expenses. The section also adds a redirect of the \$10 fee for issuance of a summons in a county court civil action from the General Revenue Fund to the applicable county's Fine and Forfeiture Fund.

Section 13 of the amendment creates the Miami-Dade County Clerk of the Court Driver License Reinstatement Pilot Program. The program allows the clerk of court to reinstate a suspended driver license upon completion of conditions and payment of sums due. The amendment also makes numerous technical and grammatical improvements without changing the effect of the provision.

B. Amendments:

None.

The Florida Senate

APPEARANCE RECORD

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2/20/24

Meeting Date

7068

Bill Number or Topic

CJ APPROPS

Committee

765932

Amendment Barcode (if applicable)

Name

AARON WAYT

FL ASSN OF CRIM DEF LAWYERS

Phone

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City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. § 11.045 and Joint Rule 1. [2020-2022 Joint Rules](https://www.flsenate.gov/legistics/2020/2020-2022-Joint-Rules).

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2-20-24

Meeting Date

7068

Bill Number or Topic

Appropriations on Crim & Civil Justice

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765932

Amendment Barcode (if applicable)

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Name

850-606-1000

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Email

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Tallahassee FL 32301

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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7068

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ACT

Committee

Amendment Barcode (if applicable)

Name Melissa Nelson, State Attorney

Phone (904) 255-2500

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Email MWNelson@coj.net

Jacksonville, FL 32202

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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2/20/24
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TO 60
Bill Number or Topic

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Committee

Amendment Barcode (if applicable)

Name

CARLY BASFORD

Phone

856 - 832 - 5510

Address

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Email

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SA14.FL.GOV

Street

Panama City, FL 32401

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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9/20/24
Meeting Date

SPB 7068
Bill Number or Topic

Committee

State Attorney General

Amendment Barcode (if applicable)

Name Jack Campbell

Phone

Address 301 S. Monroe St
street

Email Campbell@lecountyfl.gov

Tallahassee FL
City State Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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SPB 7068

Bill Number or Topic

2/20/24

Meeting Date

CT Appropriations

Committee

Amendment Barcode (if applicable)

Name Jackie Dunn/Data 4 Change

Phone 404 723 4778

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Email DATA4CHANGE@

Street

OUTLOOK.COM

Fernandina Beach FL 32035

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

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2/20/24

Meeting Date

7068

Bill Number or Topic

CJ APPROPS

Committee

Amendment Barcode (if applicable)

Name AARON WAYT

Phone (407) 435-3194

Address

Email

Street

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

February 20, 2024

Meeting Date

The Florida Senate
APPEARANCE RECORD

7068

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

C&CJ Approps

Committee

Amendment Barcode (if applicable)

Name **Barney Bishop III**

Phone **850.510.9922**

Address **1454 Vieux Carre Drive**

Email **Barney@BarneyBishop.com**

Street

Tallahassee

FL

32308

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Smart Justice Alliance

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf flsenate.gov](#)

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

S-001 (08/10/2021)



765932

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/20/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Criminal and Civil Justice
(Bradley) recommended the following:

Senate Amendment (with title amendment)

1 Delete lines 20 - 21
2
3 and insert:
4
5 consideration of evidence at the detention hearing. The court
6 may base an order of pretrial detention under paragraph (d),
7 solely on

8
9 ===== T I T L E A M E N D M E N T =====

10 And the title is amended as follows:



765932

11 Delete line 4
12 and insert:
13 certain orders of pretrial detention solely on
14 hearsay;

FOR CONSIDERATION By the Appropriations Committee on Criminal
and Civil Justice

604-03244-24

20247068pb

1 A bill to be entitled
2 An act relating to pretrial detention hearings;
3 amending s. 907.041, F.S.; authorizing a court to base
4 an order of pretrial detention solely on hearsay;
5 making technical changes; providing an effective date.
6
7 Be It Enacted by the Legislature of the State of Florida:
8
9 Section 1. Paragraphs (j) through (m) of subsection (5) of
10 section 907.041, Florida Statutes, are redesignated as
11 paragraphs (k) through (n), respectively, paragraph (i) of that
12 subsection is amended, and a new paragraph (j) is added to that
13 subsection, to read:
14 907.041 Pretrial detention and release.-
15 (5) PRETRIAL DETENTION.-
16 (i) ~~The defendant is entitled to be represented by counsel,~~
17 ~~to present witnesses and evidence, and to cross-examine~~
18 ~~witnesses.~~ The rules concerning admissibility of evidence in
19 criminal trials do not apply to the presentation and
20 consideration of evidence at the detention hearing, and the
21 court may base an order of pretrial detention solely on
22 hearsay. ~~but~~ Evidence secured in violation of the United States
23 Constitution or the Constitution of the State of Florida shall
24 not be admissible.
25 (j) The defendant is entitled to be represented by counsel,
26 to present witnesses and evidence, and to cross-examine
27 witnesses. No testimony by the defendant shall be admissible to
28 prove guilt at any other judicial proceeding, but such testimony
29 may be admitted in an action for perjury, based upon the

Page 1 of 2

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

604-03244-24

20247068pb

30 defendant's statements made at the pretrial detention hearing,
31 or for impeachment.
32 Section 2. This act shall take effect upon becoming a law.

Page 2 of 2

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

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: Appropriations Committee on Criminal and Civil Justice

BILL: SB 7068

INTRODUCER: Appropriations Committee on Criminal and Civil Justice

SUBJECT: Pretrial Detention Hearings

DATE: February 22, 2024

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
Kulich	Harkness		ACJ Submitted as Comm. Bill/Fav

I. Summary:

SB 7068 amends s. 907.041, F.S., to allow a court to base an order of pretrial detention under s. 907.041(5)(d), F.S., solely on hearsay. This ensures that victims and other witnesses are not required to appear in person at pretrial detention hearings.

Section 907.041(5), F.S., specifies circumstances in which the state has discretion to motion for pretrial detention, and circumstances in which the state, or the court, must motion for pretrial detention. Paragraph (5)(d), provides the circumstances in which a motion for pretrial detention *must* be made.

The bill changes the evidentiary requirements for a pretrial detention hearing, but does not affect the requirement to hold such a hearing, the standard of proof at such a hearing, or the time frame in which the hearing must be conducted.

The bill may have an indeterminate fiscal impact on state and local government expenditures. See Section V., Fiscal Impact Statement.

The bill takes effect upon becoming a law.

II. Present Situation:

Article I, s. 14 of the Florida Constitution states that “[u]nless charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption is great, every person charged with a crime or violation of municipal or county ordinance shall be entitled to pretrial release on reasonable conditions. If no conditions of release can reasonably protect the community from risk of physical harm to persons, assure the presence of the accused at trial, or assure the integrity of the judicial process, the accused may be detained.”

Bail

A person must appear before a judge within 24 hour of arrest for a “first appearance”.¹ During first appearance, a judge advises a defendant of the charges for which he or she was arrested, determines whether there is probable cause that a defendant committed such an offense, and advises a defendant of specified rights.² If a judge determines that probable cause exists, the judge then determines whether a defendant is entitled to pretrial release. A judge may grant pretrial release either by setting a specified bail amount or releasing the defendant on his or her own recognizance.³

Pretrial Detention

Defendants may be held without bail under the Florida Constitution if they are charged with a capital offense, or an offense that is punishable by life imprisonment.⁴ These pretrial detention hearings are often referred to as *Arthur* hearings. The Florida Supreme Court has held that to detain a defendant, the state must present some evidence in addition to the information or indictment that establishes that the defendant’s proof of guilt is evident or the presumption is great.⁵ This is a higher standard than the beyond a reasonable doubt standard used to convict a defendant at trial, and the state may rely solely on hearsay to meet the standard.

Section 907.041, F.S., also permits or requires the state to motion for a pretrial detention hearing based upon the circumstances of the case. In pretrial detention hearings under statutory provisions, the state must meet the beyond a reasonable doubt standard.⁶ This is a lower standard than the state must meet in an *Arthur* hearing, however court rule provides that the state may not present only hearsay evidence.

Discretionary Motion for Pretrial Detention

Under s. 907.041, F.S., upon a motion by the state attorney, the court may order pretrial detention if it finds a substantial probability, based on a defendant’s past and present patterns of behavior, consideration of the criteria used for determining bail, and any other relevant facts, that any of the following circumstances exist:

- The defendant has previously violated conditions of release and that no further conditions of release are reasonably likely to assure the defendant's appearance at subsequent proceedings;
- The defendant, with the intent to obstruct the judicial process, has threatened, intimidated, or injured any victim, potential witness, juror, or judicial officer, or has attempted or conspired to do so, and that no condition of release will reasonably prevent the obstruction of the judicial process;
- The defendant is charged with trafficking in controlled substances under s. 893.135, F.S., there is a substantial probability that the defendant has committed the offense, and no conditions of release will reasonably assure the defendant's appearance at subsequent criminal proceedings;

¹ Fla. R. Crim. P. 3.130.

² *Id.*

³ Fla. R. Crim. P. 3.131.

⁴ Art. I, s. 14, Fla. Const.

⁵ *See State v. Arthur*, 390 So. 2d 717 (Fla. 1980).

⁶ Fla. R. Crim. P. 3.131.

- The defendant is charged with DUI manslaughter, there is a substantial probability that the defendant committed the crime, and the defendant poses a threat of harm to the community;
- The defendant poses the threat of harm to the community;⁷
- The defendant was on probation, parole, or other release pending completion of sentence or on pretrial release for a dangerous crime⁸ at the time the current offense was committed;
- The defendant has violated one or more conditions of pretrial release or bond for the offense currently before the court and the violation, in the discretion of the court, supports a finding that no conditions of release can reasonably protect the community from risk of physical harm to persons or assure the presence of the accused at trial; or
- The defendant:
 - Has previously been sentenced as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal, or the state attorney files a notice seeking that the defendant be sentenced as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal;
 - There is a substantial probability that the defendant committed the offense; and
 - There are no conditions of release that can reasonably protect the community from risk of physical harm or ensure the presence of the accused at trial.⁹

Mandatory Motion for Pretrial Detention

In 2023, the Legislature enacted several changes to bail and pretrial detention proceedings in s. 907.041, F.S., which went into effect on January 1, 2024.¹⁰ One of the more significant changes required the state attorney or the court, on its own motion, to motion for pretrial detention if a defendant is arrested for a dangerous crime that is a capital felony,¹¹ a life felony,¹² or a first degree felony¹³ and the court determines there is probable cause to believe that the defendant committed the offense.¹⁴ A judge must order pretrial detention if:

- He or she finds a substantial probability that the defendant committed such an offense; and,

⁷ A court may conclude a defendant poses the threat of harm to the community if the defendant is charged with a dangerous crime, there is a substantial probability that the defendant committed such crime, the factual circumstances of the crime indicate a disregard for the safety of the community, and there are no conditions of release reasonably sufficient to protect the community from the risk of physical harm to persons. Section 907.041(5)(c)5., F.S.

⁸ A “dangerous crime” includes: arson; aggravated assault; aggravated battery; illegal use of explosives; child abuse or aggravated child abuse; abuse of an elderly person or disabled adult, or aggravated abuse of an elderly person or disabled adult; aircraft piracy; kidnapping; homicide; manslaughter including DUI manslaughter and BUI manslaughter; sexual battery; robbery; carjacking; lewd, lascivious, or indecent assault or act upon or in presence of a child under the age of 16 years; sexual activity with a child, who is 12 years of age or older but less than 18 years of age, by or at solicitation of person in familial or custodial authority; burglary of a dwelling stalking and aggravated stalking; an act of domestic violence as defined in s. 741.28, F.S.; home invasion robbery; an act of terrorism as defined in s. 775.30, F.S.; manufacturing any substances in violation of ch. 893, F.S.; attempting or conspiring to commit any such crime; human trafficking; trafficking in dangerous fentanyl or fentanyl analogues; extortion; or written threats to kill. Section 907.041(5)(a), F.S.

⁹ Section 907.041(5)(c), F.S.

¹⁰ See ch. 2023–27, Laws of Fla.

¹¹ A capital felony is punishable by death or mandatory life imprisonment. Section 775.082, F.S.

¹² A life felony is punishable by a term of imprisonment for life or by a term of years not exceeding life imprisonment and a \$15,000 fine. Sections 775.082, 775.083, or 775.084, F.S.

¹³ A first degree felony is punishable by up to 30 years imprisonment and a \$10,000 fine. Sections 775.082, 775.083, or 775.084, F.S.

¹⁴ Section 907.041(5)(d), F.S.

- Based on the defendant’s past and present patterns of behavior, consideration of the criteria used for determining bail, and any other relevant facts, the court finds that no conditions of release or bail will reasonably protect the community from risk of physical harm, ensure the presence of the defendant at trial, or assure the integrity of the judicial process.¹⁵

Pretrial Detention Procedures

In a pretrial detention hearing, the defendant is entitled to be represented by counsel, to present witnesses and evidence, and to cross-examine witnesses.¹⁶ The rules concerning the admissibility of evidence in criminal trials do not apply to the presentation and consideration of evidence in pretrial detention proceedings; however, evidence that was secured in violation of the United States Constitution or Florida Constitution is inadmissible.¹⁷ If a defendant chooses to testify at a pretrial detention hearing, his or her statements are not admissible to prove guilt in any other criminal proceeding other than in an action for perjury or for impeachment purposes.¹⁸ In both a discretionary and mandatory motion for pretrial detention, the state attorney has the burden of showing the need for pretrial detention.¹⁹

If a defendant is arrested for a “dangerous crime” that requires a court or a state attorney to file a motion for pretrial detention, such pretrial detention hearing must be held within five days of a defendant’s first appearance hearing or, if there is no first appearance hearing, within five days of the defendant’s arraignment.²⁰ If the state attorney files a discretionary motion for pretrial detention, the pretrial detention hearing must be held within five days after the filing of the motion for pretrial detention.²¹

Any party may file a motion for reconsideration of a pretrial detention order at any time before a defendant’s trial if the judge finds that information exists that was not known to the party moving for reconsideration at the time of the pretrial detention hearing if such information has a material bearing on determining whether there are conditions of release or bail that will reasonably assure the appearance of the defendant as required and the safety of any other person and the community from harm.

Any party may file a motion for reconsideration of a pretrial detention order at any time before a defendant’s trial if the judge finds that information exists that was not known to the party moving for reconsideration at the time of the pretrial detention hearing if such information has a material bearing on determining whether there are conditions of release or bail that will reasonably assure the appearance of the defendant as required and the safety of any other person and the community from harm.²²

¹⁵ *Id.*

¹⁶ S. 907.041(5)(i), F.S.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Section 907.041(5)(h), F.S.

²⁰ Section 907.041(5)(g), F.S. Generally, arraignment is a defendant’s first court appearance after first appearance. At arraignment, a defendant is formally advised of charges filed by the State and advised of specified rights.

²¹ *Id.*

²² Section 907.041(5)(j), F.S.

Florida Rules of Criminal Procedure

Rule 3.131. Pretrial Release

The Florida Rules of Criminal Procedure govern the procedure in all criminal proceedings in state courts. Rule 3.131 mirrors the right to bail under article I, section 14 of the Florida Constitution, and provides every person the right to pretrial release on reasonable conditions unless:

- He or she is charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption is great; or
- No conditions of release can reasonably protect the community from risk of physical harm to persons, assure the presence of the accused at trial, or assure the integrity of the judicial process.²³

In *State v. Arthur*, the Florida Supreme Court (FSC) held that, to preclude a defendant who is charged with a capital offense or offense punishable by life imprisonment from being released on bail, the state attorney must present some evidence in addition to the information or indictment that establishes that the defendant's proof of guilt is evident or the presumption is great, which is a higher standard²⁴ than what is necessary to prove a defendant guilty at trial.²⁵ The FSC specified in *Arthur* that such evidence could be presented in the form of hearsay, including transcripts or affidavits and other evidence relied upon by the grand jury or state attorney in charging the crime.²⁶ "Hearsay" is a statement, other than one made by the declarant²⁷ while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.²⁸

Rule 3.132. Pretrial Detention

For cases where a defendant is either not charged with a capital offense or an offense punishable by life imprisonment, or where the state attorney elects to file a motion for pretrial detention under s. 907.041, F.S., Rule 3.132, provides procedures that a court must follow.²⁹ Rule 3.132 generally mirrors the statutory language of s. 907.041, F.S.; however, Rule 3.132, differs in two ways: by requiring the state attorney to show the need for pretrial detention beyond a reasonable doubt, and by prohibiting a final order of pretrial detention from being based exclusively on hearsay evidence.³⁰ The FSC has not amended Rule 3.132 since the Legislature significantly modified the law relating to pretrial detention in the 2023 Session. The current hearsay prohibition in Rule 3.132, coupled with the requirement for mandatory pretrial detention hearings in s. 907.041(5)(d), F.S., that went into effect on January 1, 2024,³¹ may be interpreted

²³ Fla. R. Crim. P. 3.131(a).

²⁴ "...the degree of proof sufficient to deny an accused the right to bail in a capital case under our Constitution, to -wit, proof that guilt is evident or the presumption of guilt is great is actually a greater degree of proof than that which is required to establish guilt merely to the exclusion of a reasonable doubt." *State v. Williams*, 87 So. 2d 45 (Fla. 1956). See also *Russell v. State*, 71 So. 27 (Fla. 1916).

²⁵ 2 *State v. Arthur*, 390 So. 2d 717, 720 (Fla. 1980); *Preston v. Gee*, 133 So. 3d 1218 (Fla. 2d DCA 2014).

²⁶ *Id.*

²⁷ A "declarant" is a person who makes a statement. S. 90.801(1)(a), F.S.

²⁸ S. 90.801(1)(b), F.S.

²⁹ Fla. R. Crim. P. 3.132.

³⁰ Fla. R. Crim. P. 3.132(c)(1).

³¹ *Supra*, note 7.

to require a state attorney to subpoena victims, witnesses, and law enforcement officers to appear at a pretrial hearing and be subjected to cross-examination at such a hearing.³²

III. Effect of Proposed Changes:

SPB 7068 amends s. 907.041, F.S., to authorize a court to base an order of pretrial detention under s. 907.041(5)(d), F.S., solely on hearsay.

Section 907.041(5), F.S., specifies circumstances in which the state has discretion to motion for pretrial detention, and circumstances in which the state, or the court, must motion for pretrial detention. Paragraph (5)(d), provides the circumstances in which a motion for pretrial detention *must* be made.

This provides that pretrial detention hearings under s. 907.041, F.S., may be based on the same type of evidence as that presented in an *Arthur* hearing, thereby ensuring that victims and other witnesses are not required to appear in person at pretrial detention hearings.

The bill is effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The confrontation clause under the Sixth Amendment to the United States Constitution provides that “[i]n all criminal prosecutions, the accused shall enjoy the right...to be confronted with the witnesses against him.”³³ Thus, a defendant in a criminal proceeding has the right to physically face witnesses who are testifying against him or her and the

³² The Criminal Procedure Rules Committee is currently in the process of revising Rule 3.132. The most recent draft of this revision retains the prohibition on a court basing a final order of pretrial detention exclusively on hearsay evidence. Criminal Procedure Rules Committee Agenda, January 26, 2024.

³³ U.S. Const. amend VI.

right to conduct a cross-examination of such witnesses.³⁴ As such, the confrontation clause generally limits the admission of hearsay in criminal proceedings since such hearsay is made out-of-court and the defendant does not have an opportunity to conduct a cross-examination of the declarant. However, the confrontation clause is a right that attaches at trial and does not apply to other ancillary criminal proceedings, such as a pretrial detention hearing.³⁵ In *Godwin v. Johnson*, the Florida First District Court of Appeal explicitly held that the confrontation clause did not apply in a pretrial detention proceeding.³⁶

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill changes the evidentiary requirements for a pretrial detention hearing, but does not affect the requirement to hold such a hearing, the standard of proof at such a hearing, or the time frame in which the hearing must be conducted. If there is an increase in motions for pretrial detention there may be a workload impact to the State Courts System; however, this impact can likely be absorbed within existing resources. Moreover, if there is an increase in orders of pretrial detention, there may be a negative fiscal impact to county jails.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 907.041 of the Florida Statutes.

³⁴ *Pennsylvania v. Ritchie*, 480 U.S. 39, 51 (1987).

³⁵ *Barber v. Page*, 390 U.S. 179 (1968). *Bruton v. United States*, 391 U.S. 123 (1968).

³⁶ *Godwin v. Johnson*, 957 So. 2d 39 (Fla. First DCA 2007).

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.

CourtSmart Tag Report

Room: SB 37

Case No.:

Type:

Caption: Senate Appropriations Committee on Criminal and Civil Justice

Judge:

Started: 2/20/2024 8:33:03 AM

Ends: 2/20/2024 10:02:09 AM

Length: 01:29:07

8:33:02 AM Sen. Bradley (Chair)
8:33:38 AM S 1448
8:34:12 AM Sen. Gruters
8:35:02 AM Sen. Powell
8:35:41 AM Sen. Gruters
8:36:08 AM Barney Bishop III, Florida Smart Justice Alliance (waives in support)
8:36:51 AM S 1470
8:36:57 AM Sen. Hutson
8:37:37 AM Sen. Rouson
8:37:56 AM Sen. Hutson
8:38:28 AM Am. 928990
8:38:42 AM Sen. Pizzo
8:39:30 AM Sen. Hutson
8:39:40 AM S 1470 (cont.)
8:39:50 AM Clerk Jason Welty (waives in support)
8:39:55 AM Sarah Sanders Bremer, Lobbyist, Florida Court Clerks and Comptrollers (waives in support)
8:40:01 AM Clerk Tara Green (waives in support)
8:40:06 AM Clerk Stacy Butterfield (waives in support)
8:40:09 AM Clerk Doug Chorvat (waives in support)
8:40:13 AM Clerk Gwen Marshall Knight (waives in support)
8:40:21 AM Sen. Hutson
8:41:04 AM S 24
8:41:26 AM Sen. Rouson
8:42:48 AM Troy Rafferty, Survivors of the Dozier School
8:52:10 AM Ralph Freeman
8:53:10 AM Richard Huntly, President, Black Boys at Dozier
8:58:52 AM Bryant E. Middleton
9:09:33 AM John M Bell (waives in support)
9:09:36 AM Charles Fudge (waives in support)
9:09:42 AM Harley James Denyke (waives in support)
9:09:48 AM Ralph Coley (waives in support)
9:09:54 AM Virginia Kennedy (waives in support)
9:10:02 AM Roy Conerly (waives in support)
9:10:07 AM Elizabeth Cooper (waives in support)
9:10:16 AM Cecil Gardne (waives in support)
9:10:23 AM Gene Luker (waives in support)
9:10:29 AM Rachel Mccoy (waives in support)
9:10:37 AM Paul A. Elgin (waives in support)
9:10:43 AM Charles Kennedy (waives in support)
9:10:50 AM Katie Bohnett, Alliance for Safety and Justice (waives in support)
9:10:56 AM Barney Bishop II (waives in support)
9:11:14 AM Sen. Pizzo
9:11:29 AM Sen. Rouson
9:11:53 AM Sen. Pizzo
9:12:20 AM Sen. Rouson
9:12:36 AM Sen. Torres
9:14:59 AM Sen. Pizzo
9:16:38 AM Sen. Rouson
9:19:05 AM S 26
9:19:13 AM Sen. Rouson
9:19:33 AM Am. 421638
9:19:40 AM Sen. Rouson

9:20:15 AM S 26 (cont.)
9:20:28 AM Ralph Freeman (waives in support)
9:20:33 AM Barney Bishop III (waives in support)
9:21:16 AM S 116
9:21:25 AM Sen. Burgess
9:22:12 AM Jackie Dunn, Data 4 Change
9:25:11 AM Kristen Allen, Mothers Against Drunk Driving
9:26:55 AM Barney Bishop III (waives in support)
9:27:01 AM Aaron Dipietro (waives in support)
9:27:11 AM Sen. Pizzo
9:27:26 AM Sen. Burgess
9:28:54 AM S 118
9:29:36 AM SPB 7068
9:29:45 AM Am. 765932
9:30:10 AM Sen. Bradley
9:31:22 AM Jessica Yeary
9:31:46 AM Aaron Wayt, Florida Association of Criminal Defense Lawyers (waives in support)
9:31:59 AM S 7068 (cont.)
9:32:19 AM Sen. Pizzo
9:33:17 AM Sen. Powell (Chair)
9:33:58 AM Sen. Bradley
9:35:26 AM Sen. Powell
9:35:40 AM Sen. Bradley
9:36:01 AM Aaron Wayt
9:39:26 AM Sen. Martin
9:40:11 AM Aaron Wayt
9:41:09 AM Sen. Pizzo
9:41:23 AM Aaron Wayt
9:41:49 AM Sen. Pizzo
9:41:57 AM Aaron Wayt
9:42:09 AM Jackie Dunn (waives against)
9:42:15 AM Jack Campbell, State Attorney
9:45:00 AM Sen. Pizzo
9:45:08 AM Jack Campbell
9:45:42 AM Sen. Pizzo
9:46:09 AM Jack Campbell
9:47:09 AM Sen. Pizzo
9:47:41 AM Jack Campbell
9:47:43 AM Sen. Pizzo
9:47:49 AM Jack Campbell
9:47:52 AM Sen. Pizzo
9:48:12 AM Jack Campbell
9:48:22 AM Sen. Pizzo
9:49:06 AM Jack Campbell
9:50:59 AM Sen. Pizzo
9:51:14 AM Jack Campbell
9:51:22 AM Sen. Pizzo
9:51:38 AM Carry Basford (waives in support)
9:51:49 AM Melissa Nelson (waives in support)
9:52:03 AM Sen. Martin
9:54:12 AM Sen. Pizzo
9:58:11 AM Sen. Bradley
10:00:42 AM Sen. Pizzo
10:00:56 AM Sen. Powell
10:02:09 AM *
10:02:09 AM *

**THE FLORIDA
SENATE**

Tallahassee, Florida 32399-1100

COMMITTEES:

Agriculture
Appropriations
Appropriations Committee on Criminal
and Civil Justice
Appropriations Committee on Health
and Human Services
Children, Families, and Elder Affairs
Community Affairs
Military & Veterans Affairs, Space and
Domestic
Security
Rules

SENATOR DENNIS BAXLEY

President Pro Tempore
13th District

February 19, 2024

The Honorable Chair Jennifer Bradley
408 Senate Office Building
Tallahassee, FL 32399

Dear Chair Bradley,

This is a letter requesting to be excused from Appropriations Committee on Criminal and Civil Justice meeting tomorrow.

My wife, Ginette, had a fall and broke her hip, thus her having to have hip replacement surgery. I will be out this week.

Onward & Upward,



Senator Dennis Baxley
Senate District 13

DKB/dd

REPLY TO:

- 206 South Hwy 27/441, Lady Lake, Florida 32159 (352) 750-3133
- 404 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5013

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Judiciary, *Chair*
Appropriations Committee on Criminal
and Civil Justice
Appropriations Committee on Transportation,
Tourism, and Economic Development
Criminal Justice
Education Postsecondary
Education Pre-K -12
Fiscal Policy
Rules

JOINT COMMITTEES:

Joint Committee on Public Counsel Oversight

SENATOR CLAY YARBOROUGH

4th District

February 20, 2024

Chair Jennifer Bradley
408 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Chair Bradley,

I would like to request an excusal from today's Appropriations Committee on Criminal and Civil Justice.

Thank you for your consideration of this request.

Regards,

A handwritten signature in blue ink that reads "Clay Yarborough".

Clay Yarborough

REPLY TO:

- 1615 Huffingham Road, Suite 1, Jacksonville, Florida 32216 (904) 723-2034
- 308 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5004

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore



The Florida Senate

Excusal Request

To: Senator Jennifer Bradley, Chair
Appropriations Committee on Criminal and Civil Justice

Subject: Attendance in Committee

Date: February 20, 2024

Chair Bradley,

Please excuse me from the committee meeting being held this morning. I am not feeling well and have been advised to stay home for a few days. In the meantime, if you have any questions, please don't hesitate to reach out to my staff. I apologize for my absence and hope to be back very soon.

Thank you,

A handwritten signature in black ink, appearing to read "Ed Hooper", written over a horizontal line.

Senator Ed Hooper
Florida Senate, District 21