

Agenda Order

Tab 1	SPB 7014 by ACJ ; Trust Funds of the State Courts System						
Tab 2	CS/SB 48 by JU, Garcia ; Compare to H 01375 Alternative Judicial Procedures						
323662	A	S	FAV	ACJ, Garcia	Delete L.65 - 585:	03/06 10:05 AM	
Tab 3	SB 130 by Bradley ; Identical to CS/H 00059 Compensation of Victims of Wrongful Incarceration						
Tab 4	CS/SB 138 by CJ, Wright ; Compare to H 00687 Driving and Boating Offenses						
369714	A	S	RCS	ACJ, Wright	Delete L.56 - 473:	03/06 10:07 AM	
Tab 5	SB 234 by Leek ; Similar to H 00175 Criminal Offenses Against Law Enforcement Officers and Other Personnel						
Tab 6	CS/SB 322 by JU, Rodriguez ; Similar to H 00213 Property Rights						

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

MEETING DATE: Wednesday, March 5, 2025
TIME: 11:00 a.m.—1:00 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Building

MEMBERS: Senator Garcia, Chair; Senator Martin, Vice Chair; Senators Ingoglia, Osgood, Polsky, Rouson, Simon, Wright, and Yarborough

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
Consideration of proposed bill:			
1	SPB 7014	Trust Funds of the State Courts System; Terminating the Mediation and Arbitration Trust Fund; providing for the disposition of balances in and revenues of the trust fund be transferred to the State Courts Revenue Trust Fund; requiring the State Court Revenue Trust Fund to pay any outstanding debts or obligations of the Mediation and Arbitration Trust Fund as soon as practicable; requiring the Chief Financial Officer to close out and remove the Mediation and Arbitration Trust Fund from the various state accounting and financial systems using generally accepted accounting principles concerning assets, liabilities, and warrants outstanding, etc.	Submitted and Reported Favorably as Committee Bill Yeas 9 Nays 0
2	CS/SB 48 Judiciary / Garcia (Compare H 1375)	Alternative Judicial Procedures; Requiring, rather than authorizing, that specified sales procedures be followed for certain sales of real or personal property unless a court orders the use of other sales procedures; creating the "Transparency in Alternative Judicial Sales Procedures Act"; requiring parties that want to use an alternative sales procedure to file a motion with the court where the action is pending; authorizing persons to serve as auctioneers or in other roles, under specified conditions, etc. JU 02/11/2025 Fav/CS ACJ 03/05/2025 Amendment Adopted - Temporarily Postponed RC	Amendment Adopted - Temporarily Postponed

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Committee on Criminal and Civil Justice
 Wednesday, March 5, 2025, 11:00 a.m.—1:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 130 Bradley (Identical CS/H 59)	<p>Compensation of Victims of Wrongful Incarceration; Deleting the definition of the term “violent felony”; expanding the period during which a petition for compensation for wrongful incarceration may be filed; providing that a wrongfully incarcerated person is not eligible for compensation for any period of incarceration during which the person was concurrently serving a sentence for a conviction of another felony for which such person was lawfully incarcerated; revising provisions concerning the offset of civil judgments in favor of claimants against awards, etc.</p> <p>CJ 02/11/2025 Favorable ACJ 03/05/2025 Favorable FP</p>	<p>Favorable Yeas 8 Nays 0</p>
4	CS/SB 138 Criminal Justice / Wright (Compare H 687)	<p>Driving and Boating Offenses; Citing this act as “Trenton’s Law”; prohibiting a person from driving or being in actual physical control of a vehicle while under the influence of any intoxicating substance; requiring that a person be told that his or her failure to submit to a lawful test of breath or urine is a second degree misdemeanor or a first degree misdemeanor under certain circumstances; classifying a person’s refusal to submit to a chemical or physical test of breath or urine as a second degree misdemeanor or a first degree misdemeanor under certain circumstances; authorizing judicial circuits to create driving under the influence diversion programs; providing enhanced criminal penalties for a violation of vehicular homicide if the person has a prior conviction for a violation of specified provisions, etc.</p> <p>CJ 02/11/2025 Fav/CS ACJ 03/05/2025 Fav/CS FP</p>	<p>Fav/CS Yeas 6 Nays 2</p>
5	SB 234 Leek (Similar H 175, Compare H 1371, S 1444)	<p>Criminal Offenses Against Law Enforcement Officers and Other Personnel; Citing this act as the “Officer Jason Raynor Act”; revising a prohibition on the use or threatened use of force to resist arrest or detention; providing for enhanced punishment for manslaughter when committed against specified officers; revising provisions concerning assault or battery upon specified officers and other personnel, etc.</p> <p>CJ 02/11/2025 Favorable ACJ 03/05/2025 Favorable FP</p>	<p>Favorable Yeas 8 Nays 0</p>

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Committee on Criminal and Civil Justice
Wednesday, March 5, 2025, 11:00 a.m.—1:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	CS/SB 322 Judiciary / Rodriguez (Similar H 213)	Property Rights; Authorizing a property owner or his or her authorized agent to request the sheriff in the county in which the owner's commercial real property is located to immediately remove persons unlawfully occupying the owner's commercial real property if specified conditions are met; authorizing the sheriff to arrest an unauthorized person for legal cause; prohibiting unlawfully detaining or occupying or trespassing upon commercial real property and intentionally causing a specified amount of damage, etc. JU 02/18/2025 Fav/CS ACJ 03/05/2025 Favorable RC	Favorable Yeas 8 Nays 0

Other Related Meeting Documents

FOR CONSIDERATION By the Appropriations Committee on Criminal
and Civil Justice

604-02034-25

20257014pb

1 A bill to be entitled
2 An act relating to trust funds of the State Courts
3 System; terminating the Mediation and Arbitration
4 Trust Fund; providing for the disposition of balances
5 in and revenues of the trust fund be transferred to
6 the State Courts Revenue Trust Fund; requiring the
7 State Court Revenue Trust Fund to pay any outstanding
8 debts or obligations of the Mediation and Arbitration
9 Trust Fund as soon as practicable; requiring the Chief
10 Financial Officer to close out and remove the
11 Mediation and Arbitration Trust Fund from the various
12 state accounting and financial systems using generally
13 accepted accounting principles concerning assets,
14 liabilities, and warrants outstanding; providing an
15 effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. (1) The Mediation and Arbitration Trust Fund
20 within the State Courts System, FLAIR number 22-2-213, is
21 terminated.

22 (2) All current balances remaining in, and all revenues of,
23 the trust fund shall be transferred to the State Courts Revenue
24 Trust Fund.

25 (3) The State Courts Revenue Trust Fund shall pay any
26 outstanding debts or obligations of the terminated fund as soon
27 as practicable, and the Chief Financial Officer shall close out
28 and remove the trust fund from the various state accounting and
29 financial systems using generally accepted accounting principles

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604-02034-25

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30 concerning assets, liabilities, and warrants outstanding.

31 Section 2. This act shall take effect July 1, 2025.

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4-5-25

Meeting Date

The Florida Senate APPEARANCE RECORD

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48

Bill Number or Topic

~~ART 10.5.12~~

Committee

Amendment Barcode (if applicable)

Name

Rey Contreras

Phone

352 665 7397

Address

4 Palm Ln

Email

Rey@MIAMI Triales

Street

Ponte Vela

FL

32082

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)

4-5-25

Meeting Date

The Florida Senate APPEARANCE RECORD

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Bill Number or Topic

Amendment

Amendment Barcode (if applicable)

Committee
Name Ray Contreras

Phone 352-665-7397

Address 4 Palm Ln
Street

Email Ray@MIAMItrial.com

Porto Verde FL 32089
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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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 7014

INTRODUCER: Appropriations Committee on Criminal and Civil Justice

SUBJECT: Trust Funds

DATE: March 7, 2025

REVISED: _____

ANALYST

Kolich

STAFF DIRECTOR

Harkness

REFERENCE

ACTION

ACJ Submitted as Comm. Bill/FAV

I. Summary:

SB 7014 terminates the Mediation and Arbitration Trust Fund within the State Courts System.

The bill takes effect July 1, 2025.

II. Present Situation:

Trust Funds

Article III, s. 19(f) of the Florida Constitution requires the termination of all state trust funds within four years after their initial creation, unless the trust fund is exempted by the constitution or operation of law. If a trust fund was created pursuant to law, it should be reviewed, and either re-created after its initial creation or terminated, to prevent its automatic termination by the Florida Constitution. In subsequent reviews, the trust fund should be recommended for retention, if it is still necessary, or recommended for termination if it is no longer needed. To stagger trust fund reviews, a schedule is set forth each year listing which agency's trust funds are up for legislative review.¹

When the Legislature terminates a trust fund, the agency that administers the trust fund is required to pay all outstanding debts or obligations of the trust fund as soon as practicable, and the Chief Financial Officer is required to close out and remove the trust fund from the various state financial systems, using generally accepted accounting principles concerning assets, liabilities, and warrants outstanding.²

¹ Section 215.3208, F.S.

² *Id.*

Any moneys in a trust fund at the time it is terminated may be distributed as determined by the Legislature. If no such determination is made, the funds remaining after all outstanding obligations of the fund are met are deposited into the General Revenue Fund.³

The Mediation and Arbitration Trust Fund

The Mediation and Arbitration Trust Fund, FLAIR Number 22-2-213, was created within the State Courts System (SCS) in 1990. The funds were authorized to be used by the Supreme Court to carry out its responsibilities set forth in s. 44.106, F.S., which related to standards for mediator and arbitrator qualifications.⁴

In 2011 the Legislature redirected collected fees from the Mediation and Arbitration Trust Fund to the State Courts Revenue Trust Fund and eliminated all statutory references to the trust fund.⁵

III. Effect of Proposed Changes:

This bill terminates the Mediation and Arbitration Trust Fund within the State Courts System. There is no current balance in the trust fund.

The bill is effective July 1, 2025.

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.

³ *Id.*

⁴ Chapter 1990-188, Laws of Florida.

⁵ Chapter 2011-133, Laws of Florida.

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:

The bill creates an undesignated section of law.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By the Committee on Judiciary; and Senator Garcia

590-01946-25

202548c1

1 A bill to be entitled
 2 An act relating to alternative judicial procedures;
 3 amending s. 45.031, F.S.; requiring, rather than
 4 authorizing, that specified sales procedures be
 5 followed for certain sales of real or personal
 6 property unless a court orders the use of other sales
 7 procedures; revising the timeframe during which the
 8 court directs the clerk to sell property at a public
 9 sale; specifying that if objections are not filed
 10 within a specified timeframe after a certain report is
 11 filed, disbursements stand as reported; requiring that
 12 a hearing be held if specified objections are timely
 13 filed; creating s. 45.0311, F.S.; providing a short
 14 title; providing legislative purpose; requiring
 15 parties that want to use an alternative sales
 16 procedure to file a motion with the court where the
 17 action is pending; providing requirements for such
 18 motion; requiring that alternative sales procedures
 19 meet specified minimum requirements; requiring that
 20 certain funds be placed in an escrow or trust account
 21 if not held by the clerk of the court; specifying that
 22 such funds, if held by the clerk, are subject to a
 23 certain service charge and may not be waived by a
 24 court; requiring that the person who conducts the sale
 25 promptly file a certain certificate of sale and serve
 26 a copy of such certificate on all parties involved;
 27 requiring that objections to the sale be filed within
 28 a specified timeframe; requiring a court to hold a
 29 hearing on such objections; requiring the filing of a

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30 additional certificates within certain timeframes in
 31 specified circumstances; providing the procedures for
 32 selecting a backup bidder if the original winning
 33 bidder fails to make the final payment before the sale
 34 closing date; requiring the person conducting the sale
 35 to file a certain notice; requiring the clerk to file
 36 such certificate of title and serve copies to all
 37 parties involved; providing that when certificates of
 38 title are filed, the sale stands confirmed and title
 39 passes to the purchaser without additional proceedings
 40 or instruments; requiring the clerk to record the
 41 certificate of title; providing that certain persons
 42 are authorized to disburse sale proceeds as authorized
 43 by a court order, but surplus funds must be deposited
 44 with the clerk together with court fees; providing
 45 applicability; creating s. 45.0312, F.S.; authorizing
 46 persons to serve as auctioneers or in other roles,
 47 under specified conditions; providing qualifications
 48 for such persons; authorizing persons to serve as
 49 escrow agents under specified conditions; providing
 50 qualifications for such person; defining the term
 51 "relative"; specifying what constitutes independence;
 52 authorizing civil actions under specified conditions;
 53 providing criminal penalties for persons who
 54 intentionally violate specified provisions or certain
 55 court orders; providing an effective date.

56
 57 Be It Enacted by the Legislature of the State of Florida:
 58

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59 Section 1. Section 45.031, Florida Statutes, is amended to
60 read:

61 45.031 Judicial sales procedure.—In any sale of real or
62 personal property under an order or a judgment, the procedures
63 provided in this section and ss. 45.0315-45.035 must ~~may~~ be
64 followed unless the court orders the use of alternate sales
65 procedures under s. 45.0311 or s. 45.03112 as an alternative to
66 any other sale procedure if so ordered by the court.

67 (1) FINAL JUDGMENT.—

68 (a) In the order or final judgment, the court shall direct
69 the clerk to sell the property at public sale on a specified day
70 that is no ~~shall be not~~ less than 45 ~~20~~ days or more than 60 ~~35~~
71 days after the date thereof, on terms and conditions specified
72 in the order or judgment. A sale may be held more than 35 days
73 after the date of final judgment or order if the plaintiff or
74 plaintiff's attorney consents to such time. The final judgment
75 must ~~shall~~ contain the following statement in conspicuous type:

76 IF THIS PROPERTY IS SOLD AT PUBLIC AUCTION, THERE MAY
77 BE ADDITIONAL MONEY FROM THE SALE AFTER PAYMENT OF
78 PERSONS WHO ARE ENTITLED TO BE PAID FROM THE SALE
79 PROCEEDS PURSUANT TO THIS FINAL JUDGMENT.

80
81
82 IF YOU ARE A SUBORDINATE LIENHOLDER CLAIMING A RIGHT
83 TO FUNDS REMAINING AFTER THE SALE, IF ANY, YOU MUST
84 FILE A CLAIM WITH THE CLERK NO LATER THAN THE DATE
85 THAT THE CLERK REPORTS THE FUNDS AS UNCLAIMED. IF YOU
86 FAIL TO FILE A TIMELY CLAIM, YOU WILL NOT BE ENTITLED
87 TO ANY REMAINING FUNDS.

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(b) If the property being foreclosed on has qualified for
the homestead tax exemption in the most recent approved tax
roll, the final judgment must ~~shall~~ additionally contain the
following statement in conspicuous type:

IF YOU ARE THE PROPERTY OWNER, YOU MAY CLAIM THESE
FUNDS YOURSELF. YOU ARE NOT REQUIRED TO HAVE A LAWYER
OR ANY OTHER REPRESENTATION AND YOU DO NOT HAVE TO
ASSIGN YOUR RIGHTS TO ANYONE ELSE IN ORDER FOR YOU TO
CLAIM ANY MONEY TO WHICH YOU ARE ENTITLED. PLEASE
CHECK WITH THE CLERK OF THE COURT, ...(INSERT
INFORMATION FOR APPLICABLE COURT)... WITHIN TEN (10)
DAYS AFTER THE SALE TO SEE IF THERE IS ADDITIONAL
MONEY FROM THE FORECLOSURE SALE THAT THE CLERK HAS IN
THE REGISTRY OF THE COURT.

IF YOU DECIDE TO SELL YOUR HOME OR HIRE SOMEONE TO
HELP YOU CLAIM THE ADDITIONAL MONEY, YOU SHOULD READ
VERY CAREFULLY ALL PAPERS YOU ARE REQUIRED TO SIGN,
ASK SOMEONE ELSE, PREFERABLY AN ATTORNEY WHO IS NOT
RELATED TO THE PERSON OFFERING TO HELP YOU, TO MAKE
SURE THAT YOU UNDERSTAND WHAT YOU ARE SIGNING AND THAT
YOU ARE NOT TRANSFERRING YOUR PROPERTY OR THE EQUITY
IN YOUR PROPERTY WITHOUT THE PROPER INFORMATION. IF
YOU CANNOT AFFORD TO PAY AN ATTORNEY, YOU MAY CONTACT
...(INSERT LOCAL OR NEAREST LEGAL AID OFFICE AND
TELEPHONE NUMBER)... TO SEE IF YOU QUALIFY FINANCIALLY
FOR THEIR SERVICES. IF THEY CANNOT ASSIST YOU, THEY

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117 MAY BE ABLE TO REFER YOU TO A LOCAL BAR REFERRAL
 118 AGENCY OR SUGGEST OTHER OPTIONS. IF YOU CHOOSE TO
 119 CONTACT ... (NAME OF LOCAL OR NEAREST LEGAL AID
 120 OFFICE)... FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS
 121 POSSIBLE AFTER RECEIPT OF THIS NOTICE.
 122

123 (c) A copy of the final judgment ~~must shall~~ be furnished by
 124 the clerk by first-class mail to the last known address of every
 125 party to the action or to the attorney of record for such party.
 126 Any irregularity in such mailing, including the failure to
 127 include this statement in any final judgment or order, does
 128 ~~shall~~ not affect the validity or finality of the final judgment
 129 or order or any sale held pursuant to the final judgment or
 130 order. Any sale held more than 60 ~~35~~ days after the final
 131 judgment or order does shall not affect the validity or finality
 132 of the final judgment or order or any sale held pursuant to such
 133 judgment or order.

134 (2) PUBLICATION OF SALE.—Notice of sale must shall be
 135 published on a publicly accessible website as provided in s.
 136 50.0311 for at least 2 consecutive weeks before the sale or once
 137 a week for 2 consecutive weeks in a newspaper of general
 138 circulation, as provided in chapter 50, published in the county
 139 where the sale is to be held. The second publication by
 140 newspaper must shall be at least 5 days before the sale. The
 141 notice must shall contain:

- 142 (a) A description of the property to be sold.
- 143 (b) The time and place of sale.
- 144 (c) A statement that the sale will be made pursuant to the
 145 order or final judgment.

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- 146 (d) The caption of the action.
- 147 (e) The name of the clerk making the sale.
- 148 (f) A statement that any person claiming an interest in the
 149 surplus from the sale, if any, other than the property owner as
 150 of the date of the lis pendens must file a claim before the
 151 clerk reports the surplus as unclaimed.
 152

153 The court may, in its discretion, extend ~~may enlarge~~ the time of
 154 the sale. Notice of the changed time of sale must shall be
 155 published as provided herein.

156 (3) CONDUCT OF SALE; DEPOSIT REQUIRED.—The sale must shall
 157 be conducted at public auction at the time and place set forth
 158 in the final judgment. The clerk shall receive the service
 159 charge imposed in s. 45.035 for services in making, recording,
 160 and certifying the sale and title that must shall be assessed as
 161 costs. At the time of the sale, the successful high bidder must
 162 ~~shall~~ post with the clerk a deposit equal to 5 percent of the
 163 final bid. The deposit must shall be applied to the sale price
 164 at the time of payment. If final payment is not made within the
 165 prescribed period, the clerk must shall readvertise the sale as
 166 provided in this section and pay all costs of the sale from the
 167 deposit. Any remaining funds must shall be applied toward the
 168 judgment.

169 (4) CERTIFICATION OF SALE.—After a sale of the property the
 170 clerk shall promptly file a certificate of sale and serve a copy
 171 of it on each party in substantially the following form:
 172

173 (Caption of Action)
 174

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CERTIFICATE OF SALE

The undersigned clerk of the court certifies that notice of public sale of the property described in the order or final judgment was published in, a newspaper circulated in County, Florida, in the manner shown by the proof of publication attached, and on, ...(year)..., the property was offered for public sale to the highest and best bidder for cash. The highest and best bid received for the property in the amount of \$... was submitted by, to whom the property was sold. The proceeds of the sale are retained for distribution in accordance with the order or final judgment or law. WITNESS my hand and the seal of this court on, ...(year)....

...(Clerk)...

By ...(Deputy Clerk)...

(5) CERTIFICATE OF TITLE.—If no objections to the sale are filed within 10 days after filing the certificate of sale, the clerk must ~~shall~~ file a certificate of title and serve a copy of it on each party in substantially the following form:

(Caption of Action)

CERTIFICATE OF TITLE

The undersigned clerk of the court certifies that he or she executed and filed a certificate of sale in this action on, ...(year)..., for the property described herein and that no objections to the sale have been filed within the time allowed

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for filing objections.

The following property in County, Florida:

(description)

was sold to

WITNESS my hand and the seal of the court on, ...(year)....

...(Clerk)...

By ...(Deputy Clerk)...

(6) CONFIRMATION; RECORDING.—When the certificate of title is filed the sale stands ~~shall stand~~ confirmed, and title to the property passes ~~shall pass~~ to the purchaser named in the certificate without the necessity of any further proceedings or instruments. The certificate of title must ~~shall~~ be recorded by the clerk.

(7) DISBURSEMENTS OF PROCEEDS.—

(a) On filing a certificate of title, the clerk shall disburse the proceeds of the sale in accordance with the order or final judgment and shall file a report of such disbursements and serve a copy of it on each party, and on the Department of Revenue if the department was named as a defendant in the action or if the Department of Commerce or the former Agency for Workforce Innovation was named as a defendant while the Department of Revenue was providing reemployment assistance tax collection services under contract with the Department of Commerce or the former Agency for Workforce Innovation through an interagency agreement pursuant to s. 443.1316.

(b) The certificate of disbursements must ~~shall~~ be in substantially the following form:

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233

234 (Caption of Action)

235

236 CERTIFICATE OF DISBURSEMENTS

237

238 The undersigned clerk of the court certifies that he or she
 239 disbursed the proceeds received from the sale of the property as
 240 provided in the order or final judgment to the persons and in
 241 the amounts as follows:

242 Name	243 Amount
----------	------------

244

245 Total disbursements: \$....
246 Surplus retained by clerk, if any: \$....

247

247 IF YOU ARE A PERSON CLAIMING A RIGHT TO FUNDS REMAINING AFTER
 248 THE SALE, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN THE
 249 DATE THAT THE CLERK REPORTS THE FUNDS AS UNCLAIMED. IF YOU FAIL
 250 TO FILE A CLAIM, YOU WILL NOT BE ENTITLED TO ANY REMAINING
 251 FUNDS. AFTER THE FUNDS ARE REPORTED AS UNCLAIMED, ONLY THE OWNER
 252 OF RECORD AS OF THE DATE OF THE LIS PENDENS MAY CLAIM THE
 253 SURPLUS.

254

255 WITNESS my hand and the seal of the court on, ...(year)....

256

... (Clerk)...

257

By ... (Deputy Clerk)...

258

259 (c) If no objections to the report are filed ~~served~~ within
 260 10 days after the report ~~it~~ is filed, the disbursements by the
 261 clerk ~~shall~~ stand approved as reported. If timely objections to

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262

262 the report are filed, the party who filed such objections must
 263 ~~served, they shall~~ be heard by the court. Filing or service of
 264 objections to the report does not affect or cloud the title of
 265 the purchaser of the property in any manner.

266

266 (d) If any ~~there are~~ funds remain ~~remaining~~ after payment
 267 of all disbursements required by the final judgment of
 268 foreclosure and shown on the certificate of disbursements, the
 269 surplus must ~~shall~~ be distributed as provided in this section
 270 and ss. 45.0315-45.035.

271

271 (8) VALUE OF PROPERTY.—The amount of the bid for the
 272 property at the sale is ~~shall be~~ conclusively presumed to be
 273 sufficient consideration for the sale. Any party may file ~~serve~~
 274 an objection to the amount of the bid within 10 days after the
 275 clerk files the certificate of sale. If timely objections to the
 276 bid are filed, the party who filed such objections must ~~served,~~
 277 ~~the objections shall~~ be heard by the court. Filing or service of
 278 objections to the amount of the bid does not affect or cloud the
 279 title of the purchaser in any manner. If the case is one in
 280 which a deficiency judgment may be sought and application is
 281 made for a deficiency, the amount bid at the sale may be
 282 considered by the court as one of the factors in determining a
 283 deficiency under the usual equitable principles.

284

284 (9) EXECUTION SALES.—This section does ~~shall~~ not apply to
 285 property sold under executions.

286

286 (10) ELECTRONIC SALES.—The clerk may conduct the sale of
 287 real or personal property under an order or judgment pursuant to
 288 this section by electronic means. Such electronic sales must
 289 ~~shall~~ comply with the procedures provided in this chapter,
 290 except that electronic proxy bidding must ~~shall~~ be allowed and

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291 the clerk may require bidders to advance sufficient funds to pay
 292 the deposit required by subsection (3). The clerk shall provide
 293 access to the electronic sale by computer terminals open to the
 294 public at a designated location and shall accept an advance
 295 credit proxy bid from the plaintiff of any amount up to the
 296 maximum allowable credit bid of the plaintiff. A clerk who
 297 conducts such electronic sales may receive electronic deposits
 298 and payments related to the sale.

299 Section 2. Section 45.0311, Florida Statutes, is created to
 300 read:

301 45.0311 Alternative judicial sales procedures.-

302 (1) SHORT TITLE.-The section may be cited as the
 303 "Transparency in Alternative Judicial Sales Procedures Act."

304 (2) PURPOSE.-The purpose of this section is to:

305 (a) Recognize that alternatives to the judicial sales
 306 procedures under s. 45.031 are beneficial in certain
 307 proceedings, due to the nature of the real or personal property
 308 to be sold under an order or a judgment, to maximize the
 309 potential sales proceeds, including the net proceeds thereof,
 310 for the benefit of all parties, including the property owner.

311 (b) Recognize that transparency is necessary for all
 312 alternative procedures to prevent overreach by any party, avoid
 313 fraud, and maximize the sales price while minimizing expenses
 314 and delays.

315 (c) Recognize that persons facilitating alternative sales
 316 and handling deposits and sales proceeds, including surplus
 317 proceeds, must be qualified, independent, and not related to any
 318 party or the attorneys for a party and must be subject to the
 319 provisions of this section and the jurisdiction of the court.

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320 (3) REQUEST FOR ALTERNATIVE JUDICIAL SALES PROCEDURES.-Any
 321 party, including the property owner, may file a motion for the
 322 use of alternative sales procedures in the court where the
 323 action is pending. The motion must contain, at a minimum, all of
 324 the following:

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

326 (b) A short narrative addressing why the court should
 327 authorize alternative sales procedures for the sale of real or
 328 personal property and how such alternative sales procedures
 329 would maximize the sales price, including the net proceeds of
 330 the sale.

331 (c) The requested sales procedures, including the manner,
 332 date, time, place, method of sale, advertising, and manner of
 333 publication.

334 (d) An express statement of whether the sale will be
 335 conducted by the clerk of the circuit court or another person.

336 (e) An express statement of whether bids, deposits, and
 337 sales proceeds will be received and handled by the clerk of the
 338 circuit court or another person.

339 (f) For all persons to be employed under s. 43.0312 to
 340 conduct an aspect of the sale or to handle deposits or sales
 341 proceeds, including any surplus proceeds, the declaration
 342 required by s. 45.0312 for such person addressing his or her
 343 qualifications. This declaration may be attached to the motion.

344 (g) If the movant is not the property owner, a separate
 345 written joinder or the consent from the property owner, either
 346 of which must be contemporaneous to and reference this motion.

347 (h) In the body or as an attachment thereto, a proposed
 348 notice for publication of the sale and bidding procedures for

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349 the sale.

350 (4) MINIMUM REQUIREMENTS FOR ALTERNATIVE SALES.—An
 351 alternative sales procedure must meet all of the following
 352 minimum requirements:

353 (a) A hearing must be held in response to a motion filed
 354 under subsection (3) and the hearing date must be at least 20
 355 days after the date the motion is filed.

356 (b) The property owner must be joined or have consented to
 357 the motion under subsection (3) at the time of filing or by the
 358 end of the hearing required under paragraph (a).

359 (c) There may be only one set of bidding procedures. Each
 360 bidder must follow the same procedures and receive the same
 361 information relating to the sale of the real or personal
 362 property. Preferences or advantages may not be given to any
 363 party, person, or bidder.

364 (d) Publication of the notice of sale must meet or exceed
 365 the requirements of s. 45.031(2) and include the requirements of
 366 the sale and the requirements of this subsection.

367 (e) Credit bid rights must be limited to the amount owed to
 368 the creditor or lienholder as provided in the order or final
 369 judgment that determined such amount. Any overbid amount must be
 370 paid in cash.

371 (f) As a prerequisite to bidding, a deposit of 5 percent of
 372 a bidder's presale high bid amount must be posted in cash, by
 373 wire transfer, or by cashier's check, and a process must be in
 374 place for returning such funds to a bidder that is not the
 375 winning bidder.

376 (g) The highest cash bidder must win the bid.

377 (h) The winning bidder must post a deposit of 5 percent of

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378 the winning bid before 5 p.m. of the day after the auction sale,
 379 and such deposit is forfeited if the bidder fails to make the
 380 final payment by the required closing date.

381 (i) The date to close and consummate the sale must be
 382 within 30 days after the date of the sale auction, and the
 383 winning bidder forfeits his or her bid if the final payment is
 384 not made by such date.

385 (j) The sale must be held at least 45 days after the entry
 386 of the court's order authorizing an alternative sales procedure
 387 under this section.

388 (k) The place of sale must be the county where the action
 389 is pending, unless the filing party and property owner consent
 390 in writing to a specific location outside of the county which is
 391 open and freely available to the public, without any
 392 restriction, at the time of the sale and which includes Internet
 393 access.

394 (l) The bid instructions must specify whether backup
 395 bidders are authorized and the terms and conditions for such
 396 bidders.

397 (m) The winning bidder must pay all fees of the clerk of
 398 the court, including registry fees that may not be waived by the
 399 court, on the high bid amount, as prescribed by ss. 28.24(11)
 400 and 45.035(1).

401
 402 The requirements of this subsection may not be waived.

403 (5) POSSESSION OF DEPOSITS AND PAYMENTS.—

404 (a) If the bidder's deposit, the bid amount, or any other
 405 funds paid by a bidder or a party are not held by the clerk of
 406 the court, the funds or cashier's check must be held in an

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407 escrow or trust account by a person appointed by the court
 408 pursuant to s. 45.0312.

409 (b) For all deposits and sales held by a clerk, the funds
 410 are subject to the service charge in s. 28.24 and may not be
 411 waived by the court.

412 (6) CERTIFICATION OF SALE.—After a sale of a property
 413 pursuant to this section, the person who conducted the sale, or
 414 its attorney, must promptly file a certificate of sale and serve
 415 a copy on each party in substantially the following form:

416
 417 (Caption of Action)

418
 419 CERTIFICATE OF JUDICIAL SALE

420
 421 The undersigned clerk of the court certifies that notice of
 422 public sale of the property described in the order and the
 423 approved sale notice were published by ... (include all
 424 locations of publication)...., in the manner shown by attached,
 425 and on, ..(year)..., the property was offered for public
 426 sale to the highest and best bidder for cash. The highest and
 427 best bid received for the property in the amount of \$... was
 428 submitted by, to whom the property was sold, and such
 429 bidder paid \$... as of this date (insert deadline to close
 430 sale).... . The proceeds of the sale are retained for
 431 distribution in accordance with the order or final judgment or
 432 ss. 45.0311 and 45.0315-45.035, Florida Statutes. WITNESS my
 433 hand and the seal of this court on, ..(year)....

434 ...(...)

435 By ...(...)

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

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436

437 (7) OBJECTIONS TO SALE.—Objections to the sale must be
 438 filed within 10 days after filing the certificate of judicial
 439 sale. If timely objections to the certificate of judicial sale
 440 are filed, the court must hear from the party who filed such
 441 objections.

442 (8) CERTIFICATE OF RECEIPT OF SALE PROCEEDS.—If the sale is
 443 conducted by a person other than the clerk, such person must
 444 file a certificate of receipt of sales proceeds at the same time
 445 the certificate of judicial sale is filed and must file
 446 additional certificates of receipt of sales proceeds within 1
 447 business day after the receipt of additional sums from the high
 448 bidder or backup bidder.

449 (9) BACKUP BIDDER.—If the high bidder fails to make the
 450 final payment by the required sale closing date, the deposit is
 451 forfeited and must first be used to pay all costs of the sale,
 452 after which any remaining sums must be applied toward the
 453 judgment. In such a circumstance, the person conducting the sale
 454 shall notify the backup bidder that he or she must timely make
 455 payment by the deadline for backup bidders and file a
 456 certificate of forfeiture and an amended certificate of sale
 457 identifying the backup bidder as the winning bidder and the sale
 458 price and details applicable to such bidder.

459 (10) CERTIFICATE OF TITLE.—If no objections to the sale are
 460 timely filed or the court has not entered an order overruling
 461 any objection to the sale, and if the purchase price and clerk
 462 fees have been paid, the person conducting the sale must file a
 463 notice that confirms that the sale is consummated, names the
 464 bidder purchasing the property, and states that a certificate of

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

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465 title is ready to be issued by the clerk of the circuit court.
466 After filing such notice, or, for sales conducted by the clerk
467 of the court, after receipt of the purchase price and clerk
468 fees, the clerk shall file a certificate of title and serve a
469 copy of such title on each party in substantially the following
470 form:

471
472 (Caption of Action)

473
474 CERTIFICATE OF TITLE

475
476 The undersigned clerk of the court certifies that in
477 accordance with the certificate of sale and consummation of sale
478 filed in this action on, ...(year)..., for:

479 The following property in County, Florida:
480 (description)
481 was sold to, and that no
482 objections to the sale have been filed within the time allowed
483 for filing objections or have been determined.

484
485 WITNESS my hand and the seal of the court on, ...(year)....
486 ...(Clerk)...
487 By ...(Deputy Clerk)...

488
489 (11) CONFIRMATION; RECORDING.-When the certificate of title
490 is filed, the sale stands confirmed and the title to the
491 property passes to the purchaser named in such certificate
492 without the need of any other proceeding or instrument. The
493 clerk of the circuit court shall record the certificate of

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494 title.

495 (12) DISBURSEMENT OF PROCEEDS.-If the sale is conducted by
496 a person other than the clerk of the circuit court, such person
497 is authorized to disburse the sale proceeds as expressly
498 authorized by the court order, but any surplus funds must be
499 deposited with the clerk of the court together with court fees
500 under ss. 28.24 and 45.031(1). For sales conducted by the clerk,
501 s. 45.031(7) governs.

502 (13) SURPLUS FUNDS.-The requirements related to
503 distribution of surplus funds by the clerk as provided in ss.
504 45.031(1), 45.032, 45.033, and 45.035(2) apply and may not be
505 waived by a court.

506 (14) VALUE OF PROPERTY.-Section 45.031(8) applies to sales
507 conducted under this section.

508 (15) REDEMPTION OF RIGHTS.-Section 45.0315 applies to sales
509 conducted under this section.

510 Section 3. Section 45.0312, Florida Statutes, is created to
511 read:

512 45.0312 Appointment of auctioneers and escrow agents for
513 alternative judicial sales.-

514 (1) AUCTIONEERS AND SALE PROFESSIONALS.-Subject to court
515 approval, after a motion and a hearing held no later than 20
516 days after notice for such hearing, a person may serve as an
517 auctioneer, or in another professional role necessary to the
518 alternative sales procedure authorized by the court under s.
519 45.0311, only if such person:

520 (a) Is an auctioneer licensed under part VI of chapter 468,
521 a real estate broker licensed under chapter 475 and in good
522 standing for the preceding 5 years, an attorney who is a member

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523 in good standing with The Florida Bar and has been practicing
 524 for at least 5 years, or a title insurer authorized to transact
 525 business in this state pursuant to s. 624.401 and in good
 526 standing for the preceding 5 years;

527 (b) Is insured individually or under an entity policy for
 528 errors and omissions with a minimum of \$250,000 per incident and
 529 a deductible of no more than \$10,000, or a fidelity bond of no
 530 less than \$50,000 or such higher coverage or bond amounts as the
 531 court may require;

532 (c) Declares in writing under penalty of perjury that he or
 533 she is eligible under this subsection and independent as
 534 required by subsection (3); and

535 (d) Has such additional qualifications as the court
 536 requires.

537 (2) ESCROW AGENTS.—Subject to court approval, after a
 538 motion and a hearing held no less than 20 days after notice for
 539 such hearing, a person may serve as an escrow agent for the
 540 handling of deposits and sales proceeds necessary to the
 541 alternative sales procedures authorized by the court under s.
 542 45.0311 only if such person:

543 (a) Is a qualified public depository as defined in s.
 544 280.02;

545 (b) Is a title insurance agent licensed pursuant to s.
 546 626.8417, a title insurance agency licensed pursuant to s.
 547 626.8418, or a title insurer authorized to transact business in
 548 this state pursuant to s. 624.401; has been in good standing for
 549 the preceding 5 years; and such person's trust and escrow
 550 accounts are maintained with a qualified public depository as
 551 defined in s. 280.02;

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552 (c) Is an attorney who is a member in good standing of The
 553 Florida Bar who has been practicing law for at least 5 years;
 554 such person's trust account is maintained with a qualified
 555 public depository as defined in s. 280.02; and such person is
 556 insured individually or under an entity policy for errors and
 557 omissions with a minimum of \$250,000 per incident and a
 558 deductible of no more than \$10,000 or a fidelity bond of no less
 559 than \$50,000, or such higher coverage or bond amounts as the
 560 court may require; and

561 (d) Declares in writing under penalty of perjury that such
 562 person is eligible under this subsection and independent as
 563 required by subsection (3).

564 (3) INDEPENDENCE.—

565 (a) As used in this subsection, the term "relative" means
 566 an individual who is related to another as father, mother, son,
 567 daughter, brother, sister, uncle, aunt, first cousin, nephew,
 568 niece, husband, wife, father-in-law, mother-in-law, son-in-law,
 569 daughter-in-law, brother-in-law, sister-in-law, stepfather,
 570 stepmother, stepson, stepdaughter, stepbrother, stepsister, half
 571 brother, or half sister.

572 (b) To be independent for the purposes of this section, a
 573 person may not:

574 1. Be a party to the action, an attorney representing a
 575 party in the action, or an employee of a party or the attorney
 576 of a party in the action.

577 2. Be a relative of a party to the action, or an employee,
 578 an officer, a director, an affiliate, or a subsidiary thereof;
 579 or an attorney representing a party in the action, or a
 580 relative, an employee, an officer, a director, or an affiliate

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581 or an associate thereof.

582 3. Have any financial relationship to the action, to the
583 real or personal property being sold, or to a party or attorney
584 described in paragraph (a) or a relative as described in
585 paragraph (b), other than the payment of the fees authorized by
586 court order.

587 (4) ACTIONS FOR FAILURE TO FOLLOW COURT ORDER AND
588 ALTERNATIVE SALES PROCEDURES.-

589 (a) An action for actual damages for a material violation
590 of this section may be brought by the property owner or any
591 party to the action for the failure of a person approved by the
592 court under this section to follow the alternative judicial
593 sales procedures in s. 45.0311 or this section, or court orders
594 entered pursuant to s. 45.0311 or this section.

595 (b) Notwithstanding any other law, a person approved by the
596 court under this section who intentionally violates s. 45.0311,
597 this section, or any court order entered under s. 45.0311 or
598 this section commits a felony of the third degree, punishable as
599 provided in s. 775.082, s. 775.083, or s. 775.084.

600 Section 4. This act shall take effect July 1, 2025.

4-5-25

Meeting Date

The Florida Senate APPEARANCE RECORD

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

48

Bill Number or Topic

~~ART 10.5.12~~

Committee

Amendment Barcode (if applicable)

Name

Rey Contreras

Phone

352 665 7397

Address

4 Palm Ln

Email

Rey@MIAMI Triales

Street

Ponte Vela

FL

32082

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)

4-5-25

Meeting Date

The Florida Senate APPEARANCE RECORD

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Senate professional staff conducting the meeting

48

Bill Number or Topic

Amendment

Amendment Barcode (if applicable)

Committee
Name Ray Contreras

Phone 352-665-7397

Address 4 Palm Ln

Email Ray@MIAMItrial.com

Street
Porto Verde FL 32089
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](#))

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



The Florida Senate

Committee Agenda Request

To: Senator Ileana Garcia, Chair
Appropriations Committee on Criminal and Civil Justice

Subject: Committee Agenda Request

Date: February 13, 2025

I respectfully request that **Senate Bill #48**, relating to **Alternative Judicial Procedures**; Requiring, rather than authorizing, that specified sales procedures be followed for certain sales of real or personal property unless a court orders the use of other sales procedures; creating the "Transparency in Alternative Judicial Sales Procedures Act"; requiring parties that want to use an alternative sales procedure to file a motion with the court where the action is pending; authorizing persons to serve as auctioneers or in other roles, under specified conditions, etc., be placed on the:

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

A handwritten signature in black ink, appearing to read "Ileana Garcia", written over a horizontal line.

Senator Ileana Garcia
Florida Senate, District 36

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 48

INTRODUCER: Judiciary Committee and Senator Garcia

SUBJECT: Alternative Judicial Procedures

DATE: March 4, 2025

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 48 mandates use of the statutory real property foreclosure sales procedures, extends the time for conducting a foreclosure sale, and allows specified alternate judicial sales procedures to be used when appropriate.

The bill extends the time for conducting a foreclosure sale from the current time of between 20 and 35 days after the final judgment to between 45 and 60 days after the final judgment.

The bill requires that the plaintiff request the use of an alternative foreclosure sale procedure by separate motion. A deviation from the standard procedures that favors one bidder over another, gives the plaintiff a credit bid in excess of the amount owed, allows a bidder to post less than a five percent deposit, provides for a final payment more than 30 days from the date of the sale, or allows a sale outside of the county without consent of all parties, is prohibited.

If a deviation from standard foreclosure sale procedures proposes the use of an escrow agent or auctioneer other than the clerk of court, the escrow agent must be approved by the trial court and the auctioneer must be a state licensed auctioneer, real estate broker, attorney, or title agent. The bill creates a civil cause of action that may be filed against a private escrow agent or auctioneer who violates the foreclosure law or the requirements of the final judgment of foreclosure. The bill also creates a third degree felony for intentional violations of the foreclosure law or the requirements of the final judgment by a private escrow agent or auctioneer.

The bill may generate additional workload for the Clerks of Court and the state court system. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2025.

II. Present Situation:

Foreclosure

Foreclosure is the legal process for forced sale at auction of real property to satisfy, in part or in whole, an unpaid lawful debt owed by the owner of the property. If the winning bidder is a third-party bidder, the proceeds of the sale first pay the costs of the foreclosure, then the rest of the proceeds are applied to the debt owed to the judgment creditor. Some foreclosure auctions yield a surplus because the final bid exceeds the debt. A foreclosure surplus is paid to or for the benefit of the foreclosed former owner.

In most foreclosures, however, there is no surplus after the foreclosure sale. Commonly, the plaintiff is the winning bidder and takes title to the property. Foreclosure is most often used in the context of a mortgage where the property owner has agreed to the debt. Foreclosures also result from construction liens, certain tax liens, association liens, and judgment liens.

Current law does not require a certain sale procedure, a trial judge entering a final judgment in a foreclosure case may use any procedure that conforms to constitutional due process. However, a foreclosure procedure is created by statute¹ and embodied in court-created final judgment forms.² The statutory and rule procedures are followed by most courts in most foreclosure cases.³ Under the default procedures:

- The trial court directs the clerk of court to auction the property on a specific date that is not less than 20 days or more than 35 days after the date of judgment.⁴
- Certain notices regarding the possibility of a foreclosure surplus that may be claimed by the foreclosed owner must be included in the final judgment.⁵
- The clerk must furnish every defendant with a copy of the final judgment setting the sale date.⁶
- Notice of the sale must be published for two consecutive weeks on a publicly available website or once a week for two consecutive weeks in a newspaper of general circulation. The requirements for information that must be in the notice are listed in statute.⁷
- The clerk must be paid a service charge of \$70.⁸

¹ Section 45.031, F.S.

² Form 1.996(a), F.R.C.P.

³ A 2012 appellate decision implies that the statutory procedure should be followed unless there is reason not to. *Royal Palm Corp. Ctr. Ass'n, Ltd. v. PNC Bank, NA*, 89 So. 3d 923, 927 (Fla. 4th DCA 2012). The statute is not a “procedural straightjacket” and a trial court has reasonable discretion to change the procedure in a case. *Id.* at 28, *LR5A–JV v. Little House, LLC*, 50 So. 3d 691 (Fla. 5th DCA 2010).

⁴ Section 45.031(1)(a), F.S.

⁵ Section 45.031(1)(b), F.S.

⁶ Section 45.031(1)(c), F.S. In practice, the foreclosing plaintiff must furnish the copies, addressed envelopes, and postage. The clerk merely certifies that the mailing was completed and that the clerk gave the mailing to the Postal Service.

⁷ Section 45.031(2), F.S.

⁸ Sections 45.031(3) and 45.035, F.S.

- The sale must be by public auction.⁹ The statute does not specify a time or place; it merely requires that the time and place be in final judgment and in the public notice. Historically, sales were conducted on a porch, patio, or exterior staircase of the courthouse, at a time and place set locally by longstanding tradition.¹⁰ Currently, most foreclosure sales are conducted through an internet-based auction system selected by the clerk.¹¹
- At a traditional auction sale, custom and practice is that the foreclosing plaintiff makes the first bid at \$100.¹² Often, there is no other bidder. If other bidders participate, the clerk must allow the foreclosing plaintiff a credit bid of any amount up to the amount of the judgment. The plaintiff's credit bid is not specified in statute but was created by custom and use because "no useful purpose [is] served in requiring a bondholder or a mortgagor to pay cash to a court officer conducting a judicial sale when he would be entitled to immediately have it paid back to him under the decree authorizing the sale."¹³ Note that the plaintiff's credit bid is limited to the amount of the judgment. A plaintiff bidding more than the amount of the judgment must pay the overage to the clerk.
- A successful third-party bidder (one other than the foreclosing plaintiff) must immediately post a deposit of five percent of the winning bid. If the winning bidder does not pay the remaining amount of his or her bid plus service charges and taxes by the stated deadline, the deposit is forfeited and is applied against the outstanding judgment.¹⁴ If the winning bidder fails to pay the full bid timely, the case file goes back to the trial court to set a new sale date. The statutory process does not specify the deadline for full payment. It appears that the deadlines are set by local custom. A review of eight counties showed that half required full payment on the day of the sale and the latest deadline required full payment by 4:00 p.m. on the day after the auction.¹⁵
- Whether the winning bidder is the plaintiff or a third-party bidder, the parties to the foreclosure have 10 days to object to the sale. If no timely objection is filed, the clerk issues a Certificate of Title to the winning bidder¹⁶ and the person named in the certificate is deemed the owner free and clear of any real property interest foreclosed.¹⁷ If a third party is the winning bidder and has paid the clerk the winning bid amount, the clerk, after deducting any outstanding costs, service charges, and taxes pays the remaining sum to the plaintiff, up to the amount of the outstanding judgment. If there are funds then remaining, known as a surplus, the clerk disburses the funds accordingly.¹⁸

⁹ Section 45.031(3), F.S.

¹⁰ For instance, Leon County historically conducted sales weekdays starting at 11:00 am on the west exterior patio of the courthouse. The west side of the building was still in the shade at that time, summer rainstorms usually did not start until after 2:00 pm., and the midday sale time gave the deputy clerk time before and after the sale to complete paperwork.

¹¹ Section 45.031(10), F.S.

¹² The customary first bid of \$100 likely comes from the calculation of the documentary stamp tax of \$0.70 for every \$100 or portion thereof, making \$0.70 the minimum tax imposed. The documentary stamp tax is due on all documents transferring title to real property, including the clerk's Certificate of Title.

¹³ *Branch Banking & Tr. Co. v. Tomblin*, 163 So. 3d 1229, 1230 (Fla. 5th DCA 2015), *Grable v. Nunez*, 66 So. 2d 675, 677 (Fla.1953).

¹⁴ Section 45.031(3), F.S.

¹⁵ Surveyed counties were Broward, Duval, Escambia, Hillsborough, Leon, Miami-Dade, Orange, Palm Beach, Pinellas, and Sarasota.

¹⁶ Section 45.035(5), F.S.

¹⁷ Section 45.035(6), F.S.

¹⁸ The distribution of the surplus from a foreclosure sale is not affected by this bill.

- The clerk of court may retain a vendor to conduct foreclosure auctions through the internet.¹⁹ It appears that most of the clerks use this option.²⁰

Current Concerns related to Foreclosure Sales

In practice, trial court judges do not prepare ordinary final judgments. Instead, they require the attorney for the prevailing party to prepare the judgment form, subject to the court's supervision. Recently, some attorneys have requested that courts allow procedures that differ from the suggested statutory procedure and trial court judges have allowed those differences.²¹ Examples of questionable differences include:

- An auctioneer other than a clerk or the clerk's selected internet sales vendor is used. In some cases, the auctioneer has been the foreclosing plaintiff's attorney.
- Auctions have been conducted on or near the foreclosed property, sometimes in places with little public access, little to no reasonable parking, or access that might not reasonably accommodate the disabled.
- In some auctions, the final judgment provided that the foreclosing plaintiff would take title should the winning bidder fail to timely pay the bid. A sham bidder would appear and would drive up the bids to where all others would drop out. Later, the sham bidder would not pay, leaving the plaintiff to be deemed the winning bidder.²²
- A bidder for the plaintiff was given an unlimited credit bid (i.e., was allowed to bid in excess of the judgment), but was not required to pay the excess of the bid that should have been paid as surplus to the former owner.

III. Effect of Proposed Changes:

This bill makes the existing statutory procedures for foreclosure sales mandatory and allows a trial court to use alternatives to those procedures, with certain limits.

The existing statutory procedures are not modified but for a change to the time between entry of a final judgment and the date of sale. The bill provides that a sale must be scheduled no sooner than 45 days after the final judgment and no later than 60 days after the final judgment.

The bill creates the Transparency in Alternative Judicial Sales Procedures Act in s. 45.0311, F.S. The stated purposes of this act are to:

- Recognize that alternatives to the statutory foreclosure sales procedures are beneficial in certain proceedings due to the nature of the real property to be sold under an order or a judgment, to maximize the potential sales proceeds, including the net proceeds thereof, for the benefit of all parties including the property owner.

¹⁹ Section 45.031(10), F.S.

²⁰ Forty-four of the state's 67 counties (including the 8 sample counties) use the same vendor. See RealAuction: Our Client site, <https://www.realauction.com/clients/index>.

²¹ Ben Weider and Brittany Wallman, *RIGGED. Florida lawyer writes rules to win condo auctions for \$100. Judges let him do it.* MIAMI HERALD, April 2, 2024, updated January 23, 2025, <https://www.miamiherald.com/news/business/real-estate-news/article285934076.html>.

²² Motion to Vacate Amended Final Judgment (November 3, 2021), *Emerald Tower Assoc. v. Celano*, Broward County Circuit Court case CACE202112603.

- Recognize that transparency is necessary for all alternative procedures to prevent overreach by any party, avoid fraud, and maximize the sales price while minimizing expenses and delays.
- Recognize that persons facilitating alternative sales and handling deposits and sales proceeds, including surplus proceeds, must be qualified, independent, and not related to any party or the attorneys for a party and must be subject to the jurisdiction of the court.

A request to use an alternative sales procedure must be made by separate motion and thus cannot be slipped into a proposed final judgment of foreclosure. The motion must be made by, or agreed to, by the property owner, and must be filed at least 20 days prior to hearing the motion. The motion must include:

- A description of the property.
- An explanation of why the court should use the proposed alternative, including how the alternative may lead to higher net proceeds.
- A description of the proposed alternative.
- A statement as to whether the clerk of court or another person will handle the proceeds.
- A declaration under penalty of perjury that the person to conduct the foreclosure sale satisfies the statutory qualifications and is free of conflicts of interest, if the person is not the clerk of court.
- The form of the notice for publication of the sale and bidding procedures.

The following minimum requirements of the sale cannot be modified by the court:

- Bidding procedures must be uniform among all bidders.
- The published notice of sale must include at a minimum the information required in the standard procedures.
- The credit bid of a plaintiff may not exceed the amount set by the final judgment.
- The winning bidder must post at least five percent of the bid at or before the time of the sale.
- The time to pay the winning bid may not exceed 30 days.
- The sale may not be sooner than 45 days after the entry of the final judgment.
- The sale must be in the county that the property lies in, except that a sale may be conducted outside of the county if the plaintiff and property owner agree and if the location of the sale is open to the public and has internet access.
- The winning bidder must pay all clerk's fees.

If someone other than the clerk of court is holding funds, the funds must be held in an authorized trust account.

The bill creates relevant forms.

The bill provides that the existing 10-day limit for filing an objection to sale applies to any sale under an alternative procedure.

The alternative procedure may provide for recognition of a backup bidder in lieu of conducting a new sale. If there is a surplus, it must be distributed pursuant to current law.

The bill also creates s. 45.0312, F.S. to govern the appointment of private sector professionals to perform some of the functions related to a foreclosure sale. A private auctioneer for a foreclosure sale must be licensed by the state as an auctioneer, real estate broker, attorney, or title insurer.²³ A private auctioneer must have errors and omissions coverage of at least \$250,000 with no more than a \$10,000 deductible or must post a fidelity bond in an amount set by the court but no less than \$50,000. A private auctioneer must file a declaration under oath that the auctioneer meets the requirements in statute.

Appointment of a private escrow agent for the foreclosure deposits and sales proceeds must be approved by the trial court. The motion must be filed at least 20 days prior to the hearing. The following individuals and entities may be appointed:

- A qualified public depository.
- A title insurance agency or title insurer whose accounts are in a qualified public depository.
- An attorney licensed in Florida whose trust account is in a qualified public depository and who has errors and omissions coverage of at least \$250,000 with no more than a \$10,000 deductible, or who posts a fidelity bond in an amount set by the court but no less than \$50,000.

A private auctioneer or private escrow agent must be independent. The bill provides that the following persons and entities are not independent and thus may not be appointed:

- A party to the action, an attorney representing a party in the action, or an employee of a party or the attorney of a party in the action.
- A relative of a party to the action, or an employee, an officer, a director, an affiliate, or a subsidiary thereof; or an attorney representing a party in the action, or a relative, an employee, an officer, a director, or an affiliate or an associate thereof.
- Any person or entity that has any financial relationship to the action, to the real or personal property being sold, or to a party or attorney or a relative as described above. Payment to the private auctioneer or escrow agent of fees authorized by the court is not a disqualifying financial relationship.

The bill creates a private cause of action available to any party to the foreclosure proceeding for damages resulting from failure to follow the requirements of a final judgment of foreclosure using alternative procedures. The bill also creates a third degree felony²⁴ for intentional violation of the alternative procedures statute or the requirements of the final judgment of foreclosure. The offense only applies to a private auctioneer or private escrow agent appointed by the trial court.

The bill takes effect July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

²³ Sections 468.385, 475.01(1)(a), and 454.021, F.S.

²⁴ A third degree felony is punishable by imprisonment of up to 5 years and a fine of no more than \$5,000. Sections 775.082 and 775.083, F.S.

B. Public Records/Open Meetings Issues:

None.

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:

The change in the allowable time period for conducting a foreclosure sale will delay the plaintiff's recovery, which may lessen a plaintiff's net recovery in foreclosures where the debt already exceeds the value of the real property. The potential losses include property depreciation, the common risks related to real property (vandalism and natural disaster), and the time value of money.

C. Government Sector Impact:

The bill may increase the Clerks of Court workload and staffing needs. Additionally, the bill will provide fee predictability to the Clerk by prohibiting the court from waiving the statutory fee in s. 45.035(1), F.S.²⁵

The Office of the State Courts Administrator estimated that the bill's provisions would result in a minimal increase in workload to the state court system considering the additional processes required for a judicial sale to proceed, reauctioning conditions, and court audits and orders prolonging the handling of the matter in court.²⁶

VI. Technical Deficiencies:

None.

²⁵ Florida Court Clerks and Comptrollers, and the Florida Clerk of Court Operations Corporation, 2025 Agency Analysis of SB 48 (February 11, 2025).

²⁶ Office of the State Courts Administrator, 2025 Judicial Impact Statement, SB 48 (February 6, 2025).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 45.031 of the Florida Statutes.

This bill creates the following sections of the Florida Statutes: 45.0311 and 45.0312.

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.



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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/06/2025	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 65 - 585

and insert:

procedures under s. 45.0311 or s. 45.0312 ~~as an alternative to
any other sale procedure if so ordered by the court.~~

(1) FINAL JUDGMENT.—

(a) In the order or final judgment, the court shall direct
the clerk to sell the property at public sale on a specified day
that is no ~~shall be not~~ less than 45 ~~20~~ days or more than 60 ~~35~~



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11 days after the date thereof, on terms and conditions specified
12 in the order or judgment. A sale may be held more than 60 ~~35~~
13 days after the date of final judgment or order if the plaintiff
14 or plaintiff's attorney consents to such time. The final
15 judgment must ~~shall~~ contain the following statement in
16 conspicuous type:

17
18 IF THIS PROPERTY IS SOLD AT PUBLIC AUCTION, THERE MAY
19 BE ADDITIONAL MONEY FROM THE SALE AFTER PAYMENT OF
20 PERSONS WHO ARE ENTITLED TO BE PAID FROM THE SALE
21 PROCEEDS PURSUANT TO THIS FINAL JUDGMENT.

22
23 IF YOU ARE A SUBORDINATE LIENHOLDER CLAIMING A RIGHT
24 TO FUNDS REMAINING AFTER THE SALE, IF ANY, YOU MUST
25 FILE A CLAIM WITH THE CLERK NO LATER THAN THE DATE
26 THAT THE CLERK REPORTS THE FUNDS AS UNCLAIMED. IF YOU
27 FAIL TO FILE A TIMELY CLAIM, YOU WILL NOT BE ENTITLED
28 TO ANY REMAINING FUNDS.

29
30 (b) If the property being foreclosed on has qualified for
31 the homestead tax exemption in the most recent approved tax
32 roll, the final judgment must ~~shall~~ additionally contain the
33 following statement in conspicuous type:

34
35 IF YOU ARE THE PROPERTY OWNER, YOU MAY CLAIM THESE
36 FUNDS YOURSELF. YOU ARE NOT REQUIRED TO HAVE A LAWYER
37 OR ANY OTHER REPRESENTATION AND YOU DO NOT HAVE TO
38 ASSIGN YOUR RIGHTS TO ANYONE ELSE IN ORDER FOR YOU TO
39 CLAIM ANY MONEY TO WHICH YOU ARE ENTITLED. PLEASE



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40 CHECK WITH THE CLERK OF THE COURT, ... (INSERT
41 INFORMATION FOR APPLICABLE COURT)... WITHIN TEN (10)
42 DAYS AFTER THE SALE TO SEE IF THERE IS ADDITIONAL
43 MONEY FROM THE FORECLOSURE SALE THAT THE CLERK HAS IN
44 THE REGISTRY OF THE COURT.

45
46 IF YOU DECIDE TO SELL YOUR HOME OR HIRE SOMEONE TO
47 HELP YOU CLAIM THE ADDITIONAL MONEY, YOU SHOULD READ
48 VERY CAREFULLY ALL PAPERS YOU ARE REQUIRED TO SIGN,
49 ASK SOMEONE ELSE, PREFERABLY AN ATTORNEY WHO IS NOT
50 RELATED TO THE PERSON OFFERING TO HELP YOU, TO MAKE
51 SURE THAT YOU UNDERSTAND WHAT YOU ARE SIGNING AND THAT
52 YOU ARE NOT TRANSFERRING YOUR PROPERTY OR THE EQUITY
53 IN YOUR PROPERTY WITHOUT THE PROPER INFORMATION. IF
54 YOU CANNOT AFFORD TO PAY AN ATTORNEY, YOU MAY CONTACT
55 ... (INSERT LOCAL OR NEAREST LEGAL AID OFFICE AND
56 TELEPHONE NUMBER)... TO SEE IF YOU QUALIFY FINANCIALLY
57 FOR THEIR SERVICES. IF THEY CANNOT ASSIST YOU, THEY
58 MAY BE ABLE TO REFER YOU TO A LOCAL BAR REFERRAL
59 AGENCY OR SUGGEST OTHER OPTIONS. IF YOU CHOOSE TO
60 CONTACT ... (NAME OF LOCAL OR NEAREST LEGAL AID
61 OFFICE)... FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS
62 POSSIBLE AFTER RECEIPT OF THIS NOTICE.

63
64 (c) A copy of the final judgment must ~~shall~~ be furnished by
65 the clerk by first-class mail to the last known address of every
66 party to the action or to the attorney of record for such party.
67 Any irregularity in such mailing, including the failure to
68 include this statement in any final judgment or order, does



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69 ~~shall~~ not affect the validity or finality of the final judgment
70 or order or any sale held pursuant to the final judgment or
71 order. Any sale held more than 60 ~~35~~ days after the final
72 judgment or order does ~~shall~~ not affect the validity or finality
73 of the final judgment or order or any sale held pursuant to such
74 judgment or order.

75 (2) PUBLICATION OF SALE.—Notice of sale must ~~shall~~ be
76 published on a publicly accessible website as provided in s.
77 50.0311 for at least 2 consecutive weeks before the sale or once
78 a week for 2 consecutive weeks in a newspaper of general
79 circulation, as provided in chapter 50, published in the county
80 where the sale is to be held. The second publication by
81 newspaper must ~~shall~~ be at least 5 days before the sale. The
82 notice must ~~shall~~ contain:

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

84 (b) The time and place of sale.

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

87 (d) The caption of the action.

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

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

93
94 The court may, in its discretion, extend ~~may enlarge~~ the time of
95 the sale. Notice of the changed time of sale must ~~shall~~ be
96 published as provided herein.

97 (3) CONDUCT OF SALE; DEPOSIT REQUIRED.—The sale must ~~shall~~



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98 be conducted at public auction at the time and place set forth
99 in the final judgment. The clerk shall receive the service
100 charge imposed in s. 45.035 for services in making, recording,
101 and certifying the sale and title that must ~~shall~~ be assessed as
102 costs. At the time of the sale, the successful high bidder must
103 ~~shall~~ post with the clerk a deposit equal to 5 percent of the
104 final bid. The deposit must ~~shall~~ be applied to the sale price
105 at the time of payment. If final payment is not made within the
106 prescribed period, the clerk must ~~shall~~ readvertise the sale as
107 provided in this section and pay all costs of the sale from the
108 deposit. Any remaining funds must ~~shall~~ be applied toward the
109 judgment.

110 (4) CERTIFICATION OF SALE.—After a sale of the property,
111 the clerk shall promptly file a certificate of sale and serve a
112 copy of it on each party in substantially the following form:

113

114 (Caption of Action)

115

116

CERTIFICATE OF SALE

117

118 The undersigned clerk of the court certifies that notice of
119 public sale of the property described in the order or final
120 judgment was published in, a newspaper circulated in
121 County, Florida, in the manner shown by the proof of publication
122 attached, and on, ... (year) ..., the property was offered
123 for public sale to the highest and best bidder for cash. The
124 highest and best bid received for the property in the amount of
125 \$.... was submitted by, to whom the property was sold. The
126 proceeds of the sale are retained for distribution in accordance



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127 with the order or final judgment or law, including ss. 45.0315-
128 45.035, Florida Statutes, relating to any surplus. WITNESS my
129 hand and the seal of this court on, ...(year)....
130(Clerk)..
131 By ...(Deputy Clerk)..
132

133 (5) CERTIFICATE OF TITLE.—If no objections to the sale are
134 filed within 10 days after filing the certificate of sale, the
135 clerk must ~~shall~~ file a certificate of title and serve a copy of
136 it on each party in substantially the following form:

137
138 (Caption of Action)

139
140 CERTIFICATE OF TITLE

141
142 The undersigned clerk of the court certifies that he or she
143 executed and filed a certificate of sale in this action on,
144 ...(year)...., for the property described herein and that no
145 objections to the sale have been filed within the time allowed
146 for filing objections.

147 The following property in County, Florida:

148 (description)
149 was sold to

150
151 WITNESS my hand and the seal of the court on, ...(year)....
152(Clerk)..
153 By ...(Deputy Clerk)..
154

155 (6) CONFIRMATION; RECORDING.—When the certificate of title



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156 is filed the sale stands ~~shall stand~~ confirmed, and title to the
157 property passes ~~shall pass~~ to the purchaser named in the
158 certificate without the necessity of any further proceedings or
159 instruments. The certificate of title must ~~shall~~ be recorded by
160 the clerk.

161 (7) DISBURSEMENTS OF PROCEEDS.—

162 (a) On filing a certificate of title, the clerk shall
163 disburse the proceeds of the sale in accordance with the order
164 or final judgment and shall file a report of such disbursements
165 and serve a copy of it on each party, and on the Department of
166 Revenue if the department was named as a defendant in the action
167 or if the Department of Commerce or the former Agency for
168 Workforce Innovation was named as a defendant while the
169 Department of Revenue was providing reemployment assistance tax
170 collection services under contract with the Department of
171 Commerce or the former Agency for Workforce Innovation through
172 an interagency agreement pursuant to s. 443.1316.

173 (b) The certificate of disbursements must ~~shall~~ be in
174 substantially the following form:

175

176 (Caption of Action)

177

178 CERTIFICATE OF DISBURSEMENTS

179

180 The undersigned clerk of the court certifies that he or she
181 disbursed the proceeds received from the sale of the property as
182 provided in the order or final judgment to the persons and in
183 the amounts as follows:

184 Name Amount



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Total disbursements: \$....

Surplus retained by clerk, if any: \$....

IF YOU ARE A PERSON CLAIMING A RIGHT TO FUNDS REMAINING AFTER THE SALE, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN THE DATE THAT THE CLERK REPORTS THE FUNDS AS UNCLAIMED. IF YOU FAIL TO FILE A CLAIM, YOU WILL NOT BE ENTITLED TO ANY REMAINING FUNDS. AFTER THE FUNDS ARE REPORTED AS UNCLAIMED, ONLY THE OWNER OF RECORD AS OF THE DATE OF THE LIS PENDENS MAY CLAIM THE SURPLUS.

WITNESS my hand and the seal of the court on, ...(year)....
... (Clerk)...
By ... (Deputy Clerk)...

(c) If no objections to the report are filed ~~served~~ within 10 days after the report ~~it~~ is filed, the disbursements by the clerk ~~shall~~ stand approved as reported. If timely objections to the report are filed, the party who filed such objections must ~~served, they shall~~ be heard by the court. Filing or service of objections to the report does not affect or cloud the title of the purchaser of the property in any manner.

(d) If any ~~there are~~ funds remain ~~remaining~~ after payment of all disbursements required by the order or final judgment ~~of foreclosure~~ and shown on the certificate of disbursements, the surplus must ~~shall~~ be distributed as provided in this section and ss. 45.0315-45.035.

(8) VALUE OF PROPERTY.—The amount of the bid for the



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214 property at the sale is ~~shall be~~ conclusively presumed to be
215 sufficient consideration for the sale. Any party may file ~~serve~~
216 an objection to the amount of the bid within 10 days after the
217 clerk files the certificate of sale. If timely objections to the
218 bid are filed, the party who filed such objections must ~~served,~~
219 ~~the objections shall~~ be heard by the court. Filing or service of
220 objections to the amount of the bid does not affect or cloud the
221 title of the purchaser in any manner. If the case is one in
222 which a deficiency judgment may be sought and application is
223 made for a deficiency, the amount bid at the sale may be
224 considered by the court as one of the factors in determining a
225 deficiency under the usual equitable principles.

226 (9) EXECUTION SALES.—This section does ~~shall~~ not apply to
227 property sold under executions.

228 (10) ELECTRONIC SALES.—The clerk may conduct the sale of
229 real or personal property under an order or judgment pursuant to
230 this section by electronic means. Such electronic sales must
231 ~~shall~~ comply with the procedures provided in this chapter,
232 except that electronic proxy bidding must ~~shall~~ be allowed, and
233 the clerk may require bidders to advance sufficient funds to pay
234 the deposit required by subsection (3). The clerk shall provide
235 access to the electronic sale by computer terminals open to the
236 public at a designated location and shall accept an advance
237 credit proxy bid from the plaintiff of any amount up to the
238 maximum allowable credit bid of the plaintiff. A clerk who
239 conducts such electronic sales may receive electronic deposits
240 and payments related to the sale.

241 Section 2. Section 45.0311, Florida Statutes, is created to
242 read:



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243 45.0311 Alternative judicial sales procedures.-

244 (1) SHORT TITLE.-The section may be cited as the
245 "Transparency in Alternative Judicial Sales Procedures Act."

246 (2) PURPOSE.-The purpose of this section is to recognize
247 that:

248 (a) Alternatives to the judicial sales procedures under s.
249 45.031 are beneficial in certain proceedings, due to the nature
250 of the real or personal property to be sold under an order or a
251 judgment, to maximize the potential sales proceeds, including
252 the net proceeds thereof, for the benefit of all parties,
253 including the property owner.

254 (b) Transparency is necessary for all alternative
255 procedures to prevent overreach by any party, avoid fraud, and
256 maximize the sales price while minimizing expenses and delays.

257 (c) Persons facilitating alternative sales and handling
258 deposits and sales proceeds, including surplus proceeds, must be
259 qualified, independent, and not related to any party or the
260 attorneys for a party and must be subject to the provisions of
261 this section and the jurisdiction of the court.

262 (3) REQUEST FOR ALTERNATIVE JUDICIAL SALES PROCEDURES.-Any
263 party, including the property owner, may file a motion for the
264 use of alternative sales procedures in the court where the
265 action is pending. The motion must contain, at a minimum, all of
266 the following:

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

268 (b) A short narrative addressing the rationale for the
269 court to authorize alternative sales procedures for the sale of
270 real or personal property and the manner in which such
271 alternative sales procedures would maximize the sales price,



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272 including the net proceeds of the sale.

273 (c) The requested sales procedures, including the manner,
274 date, time, place, method of sale, advertising, and manner of
275 publication.

276 (d) An express statement of whether the sale will be
277 conducted by the clerk of the circuit court or another person.

278 (e) An express statement of whether bids, deposits, and
279 sales proceeds will be received and handled by the clerk of the
280 circuit court or another person.

281 (f) For all persons to be employed under s. 43.0312 to
282 conduct an aspect of the sale or to handle deposits or sales
283 proceeds, including any surplus proceeds, the declaration
284 required by s. 45.0312 for such person addressing his or her
285 qualifications. This declaration may be attached to the motion.

286 (g) If the movant is not the property owner, a separate
287 written joinder or the consent from the property owner, either
288 of which must be contemporaneous to and must reference this
289 motion.

290 (h) In the body of the motion or as an attachment thereto,
291 a proposed notice for publication of the sale and bidding
292 procedures for the sale.

293 (4) MINIMUM REQUIREMENTS FOR ALTERNATIVE SALES.—An
294 alternative sales procedure must meet all of the following
295 minimum requirements:

296 (a) A hearing must be held in response to a motion filed
297 under subsection (3), and the hearing date must be at least 20
298 days after the date the motion is filed.

299 (b) The property owner must be joined, or have consented
300 to, the motion under subsection (3) at the time of filing or by



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301 the end of the hearing required under paragraph (a).

302 (c) There may be only one set of bidding procedures. Each
303 bidder must follow the same procedures and receive the same
304 information relating to the sale of the real or personal
305 property. Preferences or advantages may not be given to any
306 party, person, or bidder.

307 (d) Publication of the notice of sale must meet or exceed
308 the requirements of s. 45.031(2) and include the requirements of
309 the sale and the requirements of this subsection.

310 (e) Credit bid rights are limited to the amount owed to the
311 creditor or lienholder as provided in the order or final
312 judgment that determined such amount. Any overbid amount must be
313 paid in cash.

314 (f) As a prerequisite to bidding, a deposit of 5 percent of
315 a bidder's presale high bid amount must be posted in cash, by
316 wire transfer, or by cashier's check, and a process must be in
317 place for returning such funds to a bidder that is not the
318 winning bidder.

319 (g) The highest cash bidder must win the bid.

320 (h) The winning bidder must post a deposit of 5 percent of
321 the winning bid before 5 p.m. of the day after the auction sale,
322 and such deposit is forfeited if the bidder fails to make the
323 final payment by the required closing date.

324 (i) The date to close and consummate the sale must be
325 within 30 days after the date of the sale auction, and the
326 winning bidder forfeits his or her bid if the final payment is
327 not made by such date.

328 (j) The sale must be held at least 45 days after the entry
329 of the court's order authorizing an alternative sales procedure



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330 under this section.

331 (k) The place of sale must be the county where the action
332 is pending, unless the filing party and property owner consent
333 in writing to a specific location outside of the county. At the
334 time of sale, the place of sale must include Internet access and
335 be open and freely accessible to the public without any
336 restriction.

337 (l) The bid instructions must specify whether backup
338 bidders are authorized and the terms and conditions for such
339 bidders.

340 (m) The winning bidder must pay all fees of the clerk of
341 the court, including registry fees that may not be waived by the
342 court, on the high bid amount, as prescribed by ss. 28.24(11)
343 and 45.035(1).

344
345 The requirements of this subsection may not be waived.

346 (5) POSSESSION OF DEPOSITS AND PAYMENTS.—

347 (a) If the bidder's deposit, the bid amount, or any other
348 funds paid by a bidder or a party are not held by the clerk of
349 the court, the funds or cashier's check must be held in an
350 escrow or trust account by a person appointed by the court
351 pursuant to s. 45.0312.

352 (b) For all deposits and sales held by a clerk, the funds
353 are subject to the service charge in s. 28.24 and may not be
354 waived by the court.

355 (6) CERTIFICATION OF SALE.—After a sale of a property
356 pursuant to this section, the person who conducted the sale, or
357 the person's attorney, shall promptly file a certificate of sale
358 and serve a copy on each party in substantially the following



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359 form:

360

361 (Caption of Action)

362

363

CERTIFICATE OF JUDICIAL SALE

364

365 The undersigned clerk of the court certifies that notice of

366 public sale of the property described in the order and the

367 approved sale notice were published by(include all

368 locations of publication)...., in the manner shown by attached,

369 and on, ... (year)..., the property was offered for public

370 sale to the highest and best bidder for cash. The highest and

371 best bid received for the property in the amount of \$.... was

372 submitted by, to whom the property was sold, and such

373 bidder paid \$.... as of this date(insert deadline to close

374 sale).... . The proceeds of the sale are retained for

375 distribution in accordance with the order or final judgment or

376 ss. 45.0311 and 45.0315-45.035, Florida Statutes. WITNESS my

377 hand and the seal of this court on, ... (year)....

378 ... (...)

379 By ... (...)

380

381 (7) OBJECTIONS TO SALE.-Objections to the sale must be

382 filed within 10 days after filing the certificate of judicial

383 sale. If timely objections to the certificate of judicial sale

384 are filed, the party who filed such objections must be heard by

385 the court.

386 (8) CERTIFICATE OF RECEIPT OF SALE PROCEEDS.-If the sale is

387 conducted by a person other than the clerk, such person must



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388 file a certificate of receipt of sales proceeds at the same time
389 the certificate of judicial sale is filed and must file
390 additional certificates of receipt of sales proceeds within 1
391 business day after the receipt of additional sums from the high
392 bidder or backup bidder.

393 (9) BACKUP BIDDER.—If the high bidder fails to make the
394 final payment by the required sale closing date, the deposit is
395 forfeited and must first be used to pay all costs of the sale,
396 after which any remaining sums must be applied toward the
397 judgment. In such a circumstance, the person conducting the sale
398 shall notify the backup bidder that he or she must timely make
399 payment by the deadline for backup bidders and file a
400 certificate of forfeiture and an amended certificate of sale
401 identifying the backup bidder as the winning bidder and the sale
402 price and details applicable to such bidder.

403 (10) CERTIFICATE OF TITLE.—If no objections to the sale are
404 timely filed or the court has not entered an order overruling
405 any objection to the sale, and if the purchase price and clerk
406 fees have been paid, the person conducting the sale must file a
407 notice that confirms that the sale is consummated, names the
408 bidder purchasing the property, and states that a certificate of
409 title is ready to be issued by the clerk of the circuit court.
410 After filing such notice, or, for sales conducted by the clerk
411 of the court, after receipt of the purchase price and clerk
412 fees, the clerk shall file a certificate of title and serve a
413 copy of such title on each party in substantially the following
414 form:

415
416 (Caption of Action)



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445

CERTIFICATE OF TITLE

The undersigned clerk of the court certifies that in accordance with the certificate of sale and consummation of sale filed in this action on, ... (year)...., for:

The following property in County, Florida:

(description)

was sold to, and that no objections to the sale have been filed within the time allowed for filing objections or have been determined.

WITNESS my hand and the seal of the court on, ... (year)....

... (Clerk)...

By ... (Deputy Clerk)...

(11) CONFIRMATION; RECORDING.—When the certificate of title is filed, the sale stands confirmed and the title to the property passes to the purchaser named in such certificate without the need of any other proceeding or instrument. The clerk of the circuit court shall record the certificate of title.

(12) DISBURSEMENT OF PROCEEDS.—If the sale is conducted by a person other than the clerk of the circuit court, such person is authorized to disburse the sale proceeds as expressly authorized by the court order, but any surplus funds must be deposited with the clerk of the court together with court fees under ss. 28.24 and 45.031(1). For sales conducted by the clerk, s. 45.031(7) governs.



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446 (13) SURPLUS FUNDS.—The requirements related to
447 distribution of surplus funds by the clerk as provided in ss.
448 45.031(1), 45.032, 45.033, and 45.035(2) apply and may not be
449 waived by a court.

450 (14) VALUE OF PROPERTY.—Section 45.031(8) applies to sales
451 conducted under this section.

452 (15) REDEMPTION OF RIGHTS.—Section 45.0315 applies to sales
453 conducted under this section.

454 Section 3. Section 45.0312, Florida Statutes, is created to
455 read:

456 45.0312 Appointment of auctioneers and escrow agents for
457 alternative judicial sales.—

458 (1) AUCTIONEERS AND SALE PROFESSIONALS.—Subject to court
459 approval, after a motion and a hearing held no later than 20
460 days after notice for such hearing, a person may serve as an
461 auctioneer, or in another professional role necessary to the
462 alternative sales procedure authorized by the court under s.
463 45.0311, only if such person:

464 (a) Is an auctioneer licensed under part VI of chapter 468,
465 a real estate broker licensed under chapter 475 and in good
466 standing for the preceding 5 years, an attorney who is a member
467 in good standing with The Florida Bar and has been practicing
468 for at least 5 years, or a title insurer authorized to transact
469 business in this state pursuant to s. 624.401 and in good
470 standing for the preceding 5 years;

471 (b) Is insured individually or under an entity policy for
472 errors and omissions with a minimum of \$250,000 per incident and
473 a deductible of no more than \$10,000, or a fidelity bond of no
474 less than \$50,000 or such higher coverage or bond amounts as the



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475 court may require;

476 (c) Declares in writing under penalty of perjury that he or
477 she is eligible under this subsection and independent as
478 required by subsection (3); and

479 (d) Has such additional qualifications as the court
480 requires.

481 (2) ESCROW AGENTS.—Subject to court approval, after a
482 motion and a hearing held no less than 20 days after notice for
483 such hearing, a person may serve as an escrow agent for the
484 handling of deposits and sales proceeds necessary to the
485 alternative sales procedures authorized by the court under s.
486 45.0311 only if such person:

487 (a) Is a qualified public depository as defined in s.
488 280.02;

489 (b) Is a title insurance agent licensed pursuant to s.
490 626.8417, a title insurance agency licensed pursuant to s.
491 626.8418, or a title insurer authorized to transact business in
492 this state pursuant to s. 624.401; has been in good standing for
493 the preceding 5 years; and such person's trust and escrow
494 accounts are maintained with a qualified public depository as
495 defined in s. 280.02;

496 (c) Is an attorney who is a member in good standing of The
497 Florida Bar who has been practicing law for at least 5 years;
498 such person's trust account is maintained with a qualified
499 public depository as defined in s. 280.02; and such person is
500 insured individually or under an entity policy for errors and
501 omissions with a minimum of \$250,000 per incident and a
502 deductible of no more than \$10,000 or a fidelity bond of no less
503 than \$50,000, or such higher coverage or bond amounts as the



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504 court may require; and

505 (d) Declares in writing under penalty of perjury that such
506 person is eligible under this subsection and independent as
507 required by subsection (3).

508 (3) INDEPENDENCE.-

509 (a) As used in this subsection, the term "relative" means
510 an individual who is related to another as father, mother, son,
511 daughter, brother, sister, uncle, aunt, first cousin, nephew,
512 niece, husband, wife, father-in-law, mother-in-law, son-in-law,
513 daughter-in-law, brother-in-law, sister-in-law, stepfather,
514 stepmother, stepson, stepdaughter, stepbrother, stepsister, half
515 brother, or half sister.

516 (b) To be independent for the purposes of this section, a
517 person may not:

518 1. Be a party to the action, an attorney representing a
519 party in the action, or an employee of a party or the attorney
520 of a party in the action.

521 2. Be a relative of a party to the action, or an employee,
522 an officer, a director, an affiliate, or a subsidiary thereof;
523 or an attorney representing a party in the action, or a
524 relative, an employee, an officer, a director, or an affiliate
525 or an associate thereof.

526 3. Have any financial relationship to the action, to the
527 real or personal property being sold, or to a party or attorney
528 described in subparagraph 1. or a relative as described in
529 subparagraph 2., other than the payment of the fees authorized
530 by

531
532 ===== T I T L E A M E N D M E N T =====



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533 And the title is amended as follows:

534 Delete lines 9 - 13

535 and insert:

536 sale; increasing the timeframe after the date of final
537 judgment or order under a specified condition;
538 revising the certificate of sale the clerk must file
539 after a sale of a property; specifying that if
540 objections are not filed within a specified timeframe
541 after a certain report is filed, disbursements stand
542 as reported; requiring that a hearing be held if
543 specified objections are timely filed; providing that
544 if any funds remain after payment of all disbursements
545 required by order or final judgment of the court and
546 shown on the certificate of disbursements, the surplus
547 must be distributed in a specified manner; creating s.
548 45.0311, F.S.; providing a short

By Senator Bradley

6-00356A-25

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A bill to be entitled

An act relating to compensation of victims of wrongful incarceration; amending s. 961.02, F.S.; deleting the definition of the term "violent felony"; amending s. 961.03, F.S.; expanding the period during which a petition for compensation for wrongful incarceration may be filed; providing that certain persons who had petitions dismissed or who had not previously filed such petitions may file such petitions; amending s. 961.04, F.S.; providing that a wrongfully incarcerated person is not eligible for compensation for any period of incarceration during which the person was concurrently serving a sentence for a conviction of another felony for which such person was lawfully incarcerated; deleting provisions excluding persons convicted of violent felonies from compensation; deleting other exclusions; amending s. 961.06, F.S.; revising provisions concerning the offset of civil judgments in favor of claimants against awards; providing that the Chief Financial Officer may not draw a warrant to purchase an annuity for a claimant in certain circumstances; requiring the Chief Financial Officer to draw a warrant after a certain term has concluded; amending s. 961.07, F.S.; revising provisions concerning a continuing appropriation for certain payments; providing that certain payments are subject to specific appropriation; providing an effective date.

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

Section 1. Subsection (6) of section 961.02, Florida Statutes, is amended to read:

961.02 Definitions.—As used in ss. 961.01-961.07, the term: ~~(6) "Violent felony" means a felony listed in s. 775.084(1)(c)1. or s. 948.06(8)(c).~~

Section 2. Paragraph (b) of subsection (1) of section 961.03, Florida Statutes, is amended, and paragraph (c) is added to that subsection, to read:

961.03 Determination of status as a wrongfully incarcerated person; determination of eligibility for compensation.—

(1)

(b) The person must file the petition with the court:

1. Within 2 years ~~90 days~~ after the order vacating a conviction and sentence becomes final and the criminal charges against the person are dismissed or the person is retried and acquitted if the person's conviction and sentence is vacated on or after July 1, 2025 ~~2008~~.

2. By July 1, 2027 ~~2010~~, if the person's conviction and sentence was vacated and the criminal charges against the person were dismissed or the person was retried and acquitted on or after January 1, 2006, but before July 1, 2025, and he or she previously filed a petition under this section that was dismissed or no petition was filed under this section because:

a. The date on which the criminal charges against the person were dismissed or the date on which the person was acquitted upon retrial occurred more than 90 days after the date of the final order vacating the conviction and sentence; or

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59 b. The person was convicted of an unrelated felony before
 60 or during his or her wrongful conviction and incarceration and
 61 was ineligible for compensation under s. 961.04 as it existed
 62 before July 1, 2025.

63 (c) A deceased person's heirs, successors, or assigns do
 64 not have standing to file a petition on the deceased person's
 65 behalf under this section by an order that became final prior to
 66 July 1, 2008.

67 Section 3. Section 961.04, Florida Statutes, is amended to
 68 read:

69 961.04 Eligibility for compensation for wrongful
 70 incarceration.—A wrongfully incarcerated person is not eligible
 71 for compensation under the act for any period of incarceration
 72 during which the person was concurrently serving a sentence for
 73 a conviction of another felony for which such person was
 74 lawfully incarcerated. ~~if:~~

75 ~~(1) Before the person's wrongful conviction and~~
 76 ~~incarceration, the person was convicted of, or pled guilty or~~
 77 ~~nolo contendere to, regardless of adjudication, any violent~~
 78 ~~felony, or a crime committed in another jurisdiction the~~
 79 ~~elements of which would constitute a violent felony in this~~
 80 ~~state, or a crime committed against the United States which is~~
 81 ~~designated a violent felony, excluding any delinquency~~
 82 ~~disposition;~~

83 ~~(2) Before the person's wrongful conviction and~~
 84 ~~incarceration, the person was convicted of, or pled guilty or~~
 85 ~~nolo contendere to, regardless of adjudication, more than one~~
 86 ~~felony that is not a violent felony, or more than one crime~~
 87 ~~committed in another jurisdiction, the elements of which would~~

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88 ~~constitute a felony in this state, or more than one crime~~
 89 ~~committed against the United States which is designated a~~
 90 ~~felony, excluding any delinquency disposition;~~

91 ~~(3) During the person's wrongful incarceration, the person~~
 92 ~~was convicted of, or pled guilty or nolo contendere to,~~
 93 ~~regardless of adjudication, any violent felony;~~

94 ~~(4) During the person's wrongful incarceration, the person~~
 95 ~~was convicted of, or pled guilty or nolo contendere to,~~
 96 ~~regardless of adjudication, more than one felony that is not a~~
 97 ~~violent felony; or~~

98 ~~(5) During the person's wrongful incarceration, the person~~
 99 ~~was also serving a concurrent sentence for another felony for~~
 100 ~~which the person was not wrongfully convicted.~~

101 Section 4. Section 961.06, Florida Statutes, is amended to
 102 read:

103 961.06 Compensation for wrongful incarceration.—

104 (1) Except as otherwise provided in this act and subject to
 105 the limitations and procedures prescribed in this section, a
 106 person who is found to be entitled to compensation under ~~the~~
 107 provisions of this act is entitled to all of the following:

108 (a) Monetary compensation for wrongful incarceration, which
 109 shall be calculated at a rate of \$50,000 for each year of
 110 wrongful incarceration, prorated as necessary to account for a
 111 portion of a year. For persons found to be wrongfully
 112 incarcerated after December 31, 2005 ~~2008~~, the Chief Financial
 113 Officer may adjust the annual rate of compensation for inflation
 114 using the change in the December-to-December "Consumer Price
 115 Index for All Urban Consumers" of the Bureau of Labor Statistics
 116 of the Department of Labor. ~~;~~

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117 (b) A waiver of tuition and fees for up to 120 hours of
 118 instruction at any career center established under s. 1001.44,
 119 any Florida College System institution as defined in s.
 120 1000.21(5), or any state university as defined in s. 1000.21(9),
 121 if the wrongfully incarcerated person meets and maintains the
 122 regular admission requirements of such career center, Florida
 123 College System institution, or state university; remains
 124 registered at such educational institution; and makes
 125 satisfactory academic progress as defined by the educational
 126 institution in which the claimant is enrolled.

127 (c) The amount of any fine, penalty, or court costs imposed
 128 and paid by the wrongfully incarcerated person.

129 (d) The amount of any reasonable attorney ~~attorney's~~ fees
 130 and expenses incurred and paid by the wrongfully incarcerated
 131 person in connection with all criminal proceedings and appeals
 132 regarding the wrongful conviction, to be calculated by the
 133 department based upon the supporting documentation submitted as
 134 specified in s. 961.05, ~~and~~

135 (e) Notwithstanding any provision to the contrary in s.
 136 943.0583 or s. 943.0585, immediate administrative expunction of
 137 the person's criminal record resulting from his or her wrongful
 138 arrest, wrongful conviction, and wrongful incarceration. The
 139 Department of Legal Affairs and the Department of Law
 140 Enforcement shall, upon a determination that a claimant is
 141 entitled to compensation, immediately take all action necessary
 142 to administratively expunge the claimant's criminal record
 143 arising from his or her wrongful arrest, wrongful conviction,
 144 and wrongful incarceration. All fees for this process shall be
 145 waived.

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146
 147 The total compensation awarded under paragraphs (a), (c), and
 148 (d) may not exceed \$2 million. No further award for attorney
 149 ~~attorney's~~ fees, lobbying fees, costs, or other similar expenses
 150 shall be made by the state.

151 ~~(2) In calculating monetary compensation under paragraph~~
 152 ~~(1)(a), a wrongfully incarcerated person who is placed on parole~~
 153 ~~or community supervision while serving the sentence resulting~~
 154 ~~from the wrongful conviction and who commits no more than one~~
 155 ~~felony that is not a violent felony which results in revocation~~
 156 ~~of the parole or community supervision is eligible for~~
 157 ~~compensation for the total number of years incarcerated. A~~
 158 ~~wrongfully incarcerated person who commits one violent felony or~~
 159 ~~more than one felony that is not a violent felony that results~~
 160 ~~in revocation of the parole or community supervision is~~
 161 ~~ineligible for any compensation under subsection (1).~~

162 (2)(3) Except as provided in subsection (9), within 15
 163 calendar days after issuing notice to the claimant that his or
 164 her claim satisfies all of the requirements under this act, the
 165 department shall notify the Chief Financial Officer to draw a
 166 warrant from the General Revenue Fund or another source
 167 designated by the Legislature in law for the purchase of an
 168 annuity for the claimant based on the total amount determined by
 169 the department under this act.

170 (3)(4) The Chief Financial Officer shall issue payment in
 171 the amount determined by the department to an insurance company
 172 or other financial institution admitted and authorized to issue
 173 annuity contracts in this state to purchase an annuity or
 174 annuities, selected by the wrongfully incarcerated person, for a

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175 term of not less than 10 years. The Chief Financial Officer is
 176 directed to execute all necessary agreements to implement this
 177 act and to maximize the benefit to the wrongfully incarcerated
 178 person. The terms of the annuity or annuities shall:

179 (a) Provide that the annuity or annuities may not be sold,
 180 discounted, or used as security for a loan or mortgage by the
 181 wrongfully incarcerated person.

182 (b) Contain beneficiary provisions for the continued
 183 disbursement of the annuity or annuities in the event of the
 184 death of the wrongfully incarcerated person.

185 (4) If, when monetary compensation is determined under
 186 paragraph (1) (a), a court has previously entered a monetary
 187 judgment in favor of the claimant in a civil action related to
 188 the claimant's wrongful incarceration, or the claimant has
 189 entered into a settlement agreement with the state or any
 190 political subdivision thereof related to the claimant's wrongful
 191 incarceration, the amount of the damages in the civil action or
 192 settlement agreement, less any sums paid for attorney fees or
 193 costs incurred in litigating the civil action or obtaining the
 194 settlement agreement, shall be deducted from the total monetary
 195 compensation to which the claimant is entitled under this
 196 section.

197 (5) (a) If subsection (4) does not apply and if, after
 198 monetary compensation is determined under paragraph (1) (a):

199 1. The court enters a monetary judgment in favor of the
 200 claimant in a civil action related to the claimant's wrongful
 201 incarceration; or

202 2. The claimant enters into a settlement agreement with the
 203 state or any political subdivision thereof related to the

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204 claimant's wrongful incarceration,

205

206 the claimant shall reimburse the state for the monetary
 207 compensation paid under paragraph (1) (a), less any sums paid for
 208 attorney fees or costs incurred in litigating the civil action
 209 or obtaining the settlement agreement.

210 (b) A reimbursement required under this subsection may not
 211 exceed the amount of the monetary award the claimant received
 212 for damages in a civil action or settlement agreement.

213 (c) In the order of judgment, the court shall award to the
 214 state any amount required to be deducted under this subsection.

215 (6) (a) The claimant shall notify the department upon filing
 216 a civil action against the state or any political subdivision
 217 thereof in which the claimant is seeking monetary damages
 218 related to the claimant's wrongful incarceration for which he or
 219 she previously received or is applying to receive compensation
 220 under paragraph (1) (a).

221 (b) Upon notice of the claimant's civil action, the
 222 department shall file in the case a notice of payment of
 223 monetary compensation to the claimant under paragraph (1) (a).
 224 The notice shall constitute a lien upon any monetary judgment or
 225 settlement recovered under the civil action which is equal to
 226 the sum of monetary compensation paid to the claimant under
 227 paragraph (1) (a), less any attorney fees and costs incurred in
 228 litigating the civil action or obtaining the settlement
 229 agreement

230 ~~(5) Before the department approves the application for~~
 231 ~~compensation, the wrongfully incarcerated person must sign a~~
 232 ~~release and waiver on behalf of the wrongfully incarcerated~~

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 233 person and his or her heirs, successors, and assigns, forever
 234 releasing the state or any agency, instrumentality, or any
 235 political subdivision thereof, or any other entity subject to s.
 236 768.28, from all present or future claims that the wrongfully
 237 incarcerated person or his or her heirs, successors, or assigns
 238 may have against such entities arising out of the facts in
 239 connection with the wrongful conviction for which compensation
 240 is being sought under the act.

~~(6)(a)~~ A wrongfully incarcerated person may not submit an
 241 application for compensation under this act if the person has a
 242 lawsuit pending against the state or any agency,
 243 instrumentality, or any political subdivision thereof, or any
 244 other entity subject to the provisions of s. 768.28, in state or
 245 federal court requesting compensation arising out of the facts
 246 in connection with the claimant's conviction and incarceration.

~~(7)(a)(b)~~ A wrongfully incarcerated person may not submit
 247 an application for compensation under this act if the person is
 248 the subject of a claim bill pending for claims arising out of
 249 the facts in connection with the claimant's conviction and
 250 incarceration.
 251
 252

~~(b)(e)~~ Once an application is filed under this act, a
 253 wrongfully incarcerated person may not pursue recovery under a
 254 claim bill until the final disposition of the application.
 255

~~(c)(d)~~ Any amount awarded under this act is intended to
 256 provide the sole compensation for any and all present and future
 257 claims arising out of the facts in connection with the
 258 claimant's conviction and incarceration. Upon notification by
 259 the department that an application meets the requirements of
 260 this act, a wrongfully incarcerated person may not recover under
 261

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 262 a claim bill.

~~(d)(e)~~ Any compensation awarded under a claim bill shall be
 263 the sole redress for claims arising out of the facts in
 264 connection with the claimant's conviction and incarceration and,
 265 upon any award of compensation to a wrongfully incarcerated
 266 person under a claim bill, the person may not receive
 267 compensation under this act.
 268

~~(8)(7)~~ Any payment made under this act does not constitute
 269 a waiver of any defense of sovereign immunity or an increase in
 270 the limits of liability on behalf of the state or any person
 271 subject to the provisions of s. 768.28 or any other law.
 272

(9)(a) The Chief Financial Officer may not draw a warrant
 273 to purchase an annuity for a claimant who is currently
 274 incarcerated:
 275

1. In a county, city, or federal jail or other correctional
 276 facility or an institution operated by the Department of
 277 Corrections for a felony conviction other than a crime for which
 278 the claimant was wrongfully convicted; or
 279

2. Due to the revocation of parole or probation for a
 280 felony conviction other than a crime for which the claimant was
 281 wrongfully convicted.
 282

(b) After a term of incarceration described in subparagraph
 283 (a)1. or subparagraph (a)2. has concluded, the Chief Financial
 284 Officer shall commence with the drawing of a warrant as
 285 described in this section.
 286

Section 5. Section 961.07, Florida Statutes, is amended to
 287 read:
 288

961.07 Continuing appropriation.—

(1) Beginning in the 2025-2026 ~~2008-2009~~ fiscal year and
 289
 290

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291 continuing each fiscal year thereafter, a sum sufficient to pay
292 the approved payments under s. 961.03(1)(b)1. ~~this act~~ is
293 appropriated from the General Revenue Fund to the Chief
294 Financial Officer, which sum is further appropriated for
295 expenditure pursuant to ~~the provisions of~~ this act.

296 (2) Payments for petitions filed pursuant to s.
297 961.03(1)(b)2. are subject to specific appropriation.

298 Section 6. This act shall take effect July 1, 2025.

The Florida Senate

APPEARANCE RECORD

SB 130

3/5/25

Meeting Date

Bill Number or Topic

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

Approps on Criminal & Civil Justice Committee

Amendment Barcode (if applicable)

Name

Seth Miller

Phone

850-561-6767

Innocence Project of Florida

Address

124 Marriott Dr. Suite 104

Email

smiller@floridainnocence.org

Street

TLH

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.

3/5/25

Meeting Date

The Florida Senate
APPEARANCE RECORD

SB 130

Bill Number or Topic

Appropriations On Criminal & Civil Justice
Committee

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

Amendment Barcode (if applicable)

Name Derick Tabertshofer

Phone 863-220-0138

Address 107 E College Ave.
Street

Email dtabertshofer@alpha.org

Tallahassee
City

FL
State

32301
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:

Americans For Prosperity

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.

March 5, 2025

Meeting Date

Approps Civil & Criminal Justice

Committee

Name Barney Bishop III

Address 1454 Vieux Carre Drive

Street

Tallahassee

City

FL

State

32308

Zip

The Florida Senate

APPEARANCE RECORD

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130

Bill Number or Topic

Amendment Barcode (if applicable)

Phone 850-510-9922

Email Barney@BarneyBishop.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:

Fla. 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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/5/25

Meeting Date

130

Bill Number or Topic

CJ APPROPS

Committee

Amendment Barcode (if applicable)

Name AARON WAYT "WAIT" Phone (407) 435-3194
FL ASSN OF CRIMINAL DEFENSE LAWYERS

Address _____ Email AARON@DONPUMPHREY.COM
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. [2020-2022JointRules.pdf flsenate.gov](#)

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3/5/25
Meeting Date

The Florida Senate
APPEARANCE RECORD

SB 130
Bill Number or Topic

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

Committee
Name Katie Bennett
Address 1173 Seminole Dr
TLH, FL 32301
Street City State Zip

Amendment Barcode (if applicable)
Phone 850 339 9579
Email kbennett@stateandjust.org

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 and 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](#)

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

The Florida Senate
APPEARANCE RECORD

SB130

Meeting Date

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Senate professional staff conducting the meeting

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Alexius Baker

Phone

321-442-4283

Address

39 Tulane Dr
Street

Email

Alexiusbaker@yahoo.com

Avon Park
City

FL
State

33425
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:

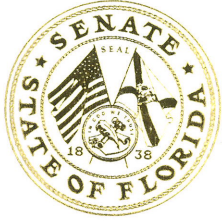


I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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](#)

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

S-001 (08/10/2021)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Regulated Industries, *Chair*
Appropriations Committee on Higher
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Appropriations Committee on Pre-K - 12 Education
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Ethics and Elections
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JOINT COMMITTEES:

Joint Committee on Public Counsel Oversight,
Alternating Chair

SENATOR JENNIFER BRADLEY

6th District

February 12, 2025

Senator Ileana Garcia, Chair
Senate Appropriations Committee on Criminal and Civil Justice
314 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Garcia:

I respectfully request that SB 130 be placed on the committee's agenda at your earliest convenience. This bill relates to compensation of victims of wrongful incarceration.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Jennifer Bradley".

Jennifer Bradley

cc: Marti Harkness, Staff Director
Sheila Knowles, Committee Administrative Assistant

REPLY TO:

- 1845 East West Parkway, Suite 5, Fleming Island, Florida 32003 (904) 278-2085
- 406 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

Senate's Website: www.flsenate.gov

BEN ALBRITTON
President of the Senate

JASON BRODEUR
President Pro Tempore

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 130

INTRODUCER: Senator Bradley

SUBJECT: Compensation of Victims of Wrongful Incarceration

DATE: March 4, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Stokes</u>	<u>CJ</u>	Favorable
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	Favorable
3.	_____	_____	<u>FP</u>	_____

I. Summary:

SB 130 amends the Victims of Wrongful Incarceration Compensation Act by amending s. 961.02, F.S., to remove an unnecessary definition.

The bill amends s. 961.03, F.S., to:

- Prospectively extend the filing deadline for a petition under the Act from 90 days to within two years after an order vacating a conviction and sentence becomes final and the criminal charges against a person are dismissed or the person is retried and acquitted, if the person's conviction and sentence is vacated on or after July 1, 2025.
- Retroactively authorize a person to file a petition for determination of status as a wrongfully incarcerated person and determination of eligibility for compensation by July 1, 2027, under specified circumstances.
- Provide that a deceased person's heirs, successors, or assigns do not have standing to file a petition on the deceased person's behalf.

Section 961.04, F.S., is amended to remove the bar to compensation for a petitioner who has been convicted of a violent felony or multiple nonviolent felonies before or during his or her wrongful conviction and incarceration. A person continues to be ineligible for compensation for any period of wrongful incarceration during which the person was serving a concurrent sentence for which he or she was not wrongfully incarcerated.

Section 961.06, F.S., is amended to prohibit the Chief Financial Officer (CFO) from drawing a warrant to purchase an annuity to pay a claimant for his or her wrongful incarceration if the claimant is currently incarcerated under specified circumstances. The bill also provides for reimbursement arrangements for the state under circumstances relating to the claimant and any successful civil litigation in which he or she may prevail.

Section 961.07, F.S., is amended to provide for funds to be appropriated.

While there are existing limitations on compensation (\$50,000 per year of wrongful incarceration up to a limit of \$2 million) for a qualified claimant, it is not possible to quantify the additional number of people who may be compensable. Therefore, the fiscal impact of the bill is indeterminate, but likely significant. See Section V. Fiscal Impact Statement.

The bill takes effect on July 1, 2025.

II. Present Situation:

Victims of Wrongful Incarceration Act

Since 2000, 23 people in Florida have been exonerated or released from incarceration as a result of post-conviction DNA testing, false or misleading forensic evidence, mistaken identity, perjury, or false accusations.¹ In 2008, the Legislature created The Victims of Wrongful Incarceration Compensation Act (Act).² The Act provides a process by which a person whose conviction and sentence is vacated based upon exonerating evidence may petition the court to seek and obtain compensation as a “wrongfully incarcerated person.”³

A “wrongfully incarcerated person” is a person whose felony conviction and sentence has been vacated by a court and for whom the original sentencing court has issued an order finding that the person neither committed the act nor the offense that served as the basis for the conviction and incarceration and that the person did not aid, abet, or act as an accomplice or accessory to the offense.⁴

As of February 2023, five people have qualified for and been awarded a total of \$6,276,900 as compensation under the Act.⁵

Petition Process

To receive compensation under the Act, an exonerated person must file a petition with the original sentencing court seeking status as a “wrongfully incarcerated person.”

Section 961.03(1)(a), F.S., requires a petitioner to state:

- That verifiable and substantial evidence of actual innocence exists;
- With particularity, the nature and significance of the evidence of actual innocence; and
- That the person is not disqualified under s. 961.04, F.S., from seeking compensation because he or she has specified criminal history.

¹ Frank Lee Smith, Jerry Townsend, Rudolph Holton, Wilton Dedge, Luis Diaz, Orlando Boquete, Alan Crotzer, Larry Bostic, Cody Davis, Chad Heins, William Dillon, James Bain, Anthony Caravella, Derrick Williams, Cheydrick Britt, Narcisse Antoine, Clemente Aguirre-Jarquín, Dean McKee, Ronald Stewart, and Robert Duboise have been released from prison or exonerated in Florida. The National Registry of Exonerations; A *Project of the University of California Irvine Newkirk Center for Science & Society, University of Michigan Law School & Michigan State University College of Law*, available at <https://www.law.umich.edu/special/exoneration/Pages/browse.aspx?View=%7bB8342AE7-6520-4A32-8A06-4B326208BAF8%7d&FilterField1=State&FilterValue1=Florida&FilterField2=DNA&FilterValue2=8%5FDNA> (last visited February 4, 2025).

² Chapter 2008–39, L.O.F.

³ To be eligible for compensation, a person must meet the definition of a “wrongfully incarcerated person” and not be otherwise disqualified from seeking compensation under the Act because of disqualifying criminal history. Section 961.02(4), F.S.

⁴ Section 961.02(7), F.S.

⁵ E-mail from the Department of Legal Affairs dated February 13, 2023, (on file with the Senate Criminal Justice Committee).

A person seeking compensation under the Act must file a petition with the court within 90 days after the order vacating a conviction and sentence becomes final, if the person's conviction and sentence is vacated on or after July 1, 2008.⁶

Although a petitioner must submit proof of actual innocence in his or her petition, in some cases, after a conviction is overturned, the state may choose to retry the person. In these cases, the 90 day filing deadline may require a petitioner to file a petition with proof of actual innocence while he or she is still in custody or facing retrial. According to the Innocence Project, six exonerees in Florida are barred from receiving compensation as a result of missing the 90 day filing deadline.⁷

Once the petition is filed, the prosecuting authority must respond to the petition within 30 days by:

- Certifying to the court that, based upon the petition and verifiable and substantial evidence of the petitioner's actual innocence, no further criminal proceedings can or will be initiated against the petitioner, that no questions of fact remain as to the petitioner's wrongful incarceration, and that the petitioner is not ineligible from seeking compensation under s. 961.04, F.S.; or
- Contesting the evidence of actual innocence, the facts related to the petitioner's alleged wrongful incarceration, or whether the petitioner is ineligible from seeking compensation under s. 961.04, F.S.⁸

If the prosecuting authority certifies the petitioner's innocence and that no further charges can or will be filed and that he or she is otherwise eligible for compensation, the original sentencing court⁹ must certify to the Department of Legal Affairs (DLA) that the petitioner qualifies as a wrongfully incarcerated person and is eligible for compensation under s. 961.04, F.S.¹⁰

If the prosecuting authority contests the petitioner's actual innocence or eligibility for compensation based on his or her prior criminal history:

- The original sentencing court must use the pleadings and supporting documents to determine whether, by a preponderance of the evidence, the petitioner is ineligible for compensation under s. 961.04, F.S., regardless of his or her claim of wrongful incarceration. If the court finds that the petitioner is ineligible under s. 961.04, F.S., it must dismiss the petition.¹¹
- And, the court determines that the petitioner is eligible under s. 961.04, F.S., but the prosecuting authority also contests the nature, significance or effect of the evidence of the petitioner's actual innocence, or the facts related to the petitioner's alleged wrongful

⁶ Or by July 1, 2010, if the person's conviction and sentence was vacated by an order that became final prior to July 1, 2008. Section 961.03(1)(b), F.S.

⁷ Jeffrey Gutman, *Compensation Under the Microscope*, George Washington University Law School, (2022), <https://www.law.umich.edu/special/exoneration/Documents/UTM%20Florida.pdf> (last visited February 6, 2025).

⁸ Section 961.03(2), F.S.

⁹ Based upon the evidence of actual innocence, the prosecuting authority's certification, and upon the court's finding that the petitioner has presented clear and convincing evidence that the petitioner committed neither the act nor the offense that served as the basis for the conviction and incarceration, and that the petitioner did not aid, abet, or act as an accomplice to a person who committed the act or offense. Section 961.03(3), F.S.

¹⁰ Section 961.03(3), F.S.

¹¹ Section 961.03(4)(a), F.S.

incarceration, the court is required to set forth its findings on eligibility and transfer the petition to the Division of Administrative Hearings (DOAH).¹²

When a petition is transferred to the DOAH, a hearing before an administrative law judge (ALJ) must take place within 120 days after the transfer.¹³ At the hearing, the petitioner must establish, by clear and convincing evidence, any questions of fact, the nature, significance or effect of the evidence of actual innocence, and his or her eligibility for compensation under the Act.¹⁴ The prosecuting authority must appear at the hearing to contest any evidence of actual innocence presented by the petitioner.¹⁵ When the hearing concludes, the ALJ is required to file an order with the original sentencing court within 45 days setting forth his or her findings and recommendation as to whether the petitioner established by clear and convincing evidence that he or she qualifies as a wrongfully incarcerated person.¹⁶

Once the ALJ issues his or her findings and recommendation, the original sentencing court must, within 60 days, issue its own order adopting or declining to adopt the ALJ's findings and recommendation.¹⁷ If the original sentencing court concludes that the petitioner qualifies as a wrongfully incarcerated person who is eligible for compensation under the Act, the court must issue an order certifying its findings to the DLA.¹⁸

The "Clean Hands" Provision

When the Act was passed in 2008,¹⁹ a person was ineligible to receive compensation under s. 961.04, F.S., if he or she was previously convicted of any other felony. As such, s. 961.04, F.S., became commonly known as the "clean hands" requirement. The Act was amended in 2017,²⁰ to expand eligibility under the "clean hands" requirement, making a petitioner ineligible to receive compensation if he or she was:

- Convicted of any violent felony, or any crime committed in another jurisdiction the elements of which would constitute a violent felony in Florida, or a federal crime designated a violent felony, excluding any delinquency disposition, before or during his or her wrongful conviction and incarceration;
- Convicted of more than one nonviolent felony, or more than one crime committed in another jurisdiction the elements of which would constitute a felony in Florida, or more than one federal crime designated a felony, excluding any delinquency disposition, before or during his or her wrongful conviction and incarceration; or
- Serving a concurrent sentence for another felony for which he or she was not wrongfully convicted during the period of wrongful incarceration.²¹

¹² Section 961.03(4)(b), F.S.

¹³ Section 961.03(6)(a), F.S.

¹⁴ Section 961.03(5), F.S.

¹⁵ Section 961.03(6)(b), F.S.

¹⁶ Section 961.03(6)(c), F.S.

¹⁷ Section 961.03(6)(d), F.S.

¹⁸ The order must indicate that the ALJ's findings are correct and the petitioner has met his or her burden of proof to establish status as a wrongfully convicted person or if the ALJ findings indicate that the petitioner has not met his or her burden of proof, that the court is declining to adopt the findings of the ALJ. Section 961.03(7), F.S.

¹⁹ Chapter 2008-39, L.O.F.

²⁰ Chapter 2017-120, L.O.F.

²¹ Section. 961.04, F.S.

Additionally, under s. 961.06(2), F.S., a wrongfully incarcerated person who is placed on parole or community supervision as a part of the sentence he or she is serving for his or her wrongful conviction and who commits:

- One violent felony or more than one nonviolent felony that results in revocation of parole or community supervision is ineligible for any compensation under the Act.
- No more than one nonviolent felony which results in revocation of parole or community supervision is eligible for compensation for the total number of years he or she was incarcerated.²²

For the purpose of determining a person's eligibility, s. 961.02(6), F.S., defines a violent felony as any felony listed in:

- Section 755.084(1)(c)1., F.S., which includes: arson; sexual battery; robbery; kidnapping; aggravated child abuse; aggravated abuse of an elderly person or disabled adult; aggravated assault with a deadly weapon; murder; manslaughter; aggravated manslaughter of an elderly person or disabled adult; aggravated manslaughter of a child; unlawful throwing, placing, or discharging of a destructive device or bomb; armed burglary; aggravated battery; aggravated stalking; home invasion robbery; carjacking; or an offense committed in another jurisdiction which has substantially similar elements to a listed crime; or
- Section 948.06(8)(c), F.S., which includes: kidnapping or attempted kidnapping, false imprisonment of a child under 13, or luring or enticing a child; murder or attempted murder, attempted felony murder, or manslaughter; aggravated battery or attempted aggravated battery; sexual battery or attempted sexual battery; lewd or lascivious battery or attempted lewd or lascivious battery; lewd or lascivious molestation, lewd or lascivious conduct, lewd or lascivious exhibition, or lewd or lascivious exhibition on a computer; robbery or attempted robbery, carjacking or attempted carjacking, or home invasion robbery or attempted home invasion robbery; lewd or lascivious offense upon or in the presence of an elderly or disabled person or attempted lewd or lascivious offense upon or in the presence of an elderly or disabled person; sexual performance by a child or attempted sexual performance by a child; computer pornography, transmission of child pornography, or selling or buying of minors; poisoning food or water; abuse of a dead human body; any burglary offense or attempted burglary offense that is a first or second degree felony; arson or attempted arson; aggravated assault; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; treason under s. 876.32, F.S.; or any offense committed in another jurisdiction which would be a listed offense if it were committed in Florida.²³

Currently, the Federal government, District of Columbia, and 38 states have a process to compensate wrongfully incarcerated individuals.²⁴

Florida's wrongful incarceration compensation law is the only one in the country that makes a person ineligible for compensation if he or she was previously convicted of certain unrelated crimes. At least 17 exonerees in Florida are currently ineligible to receive compensation under the Act because of the "clean hands" requirement.²⁵

²² Section 961.06(2), F.S.

²³ Section 961.02(6), F.S.

²⁴ The National Registry of Exonerations; Issues, Compensation, Charts; *Key Provisions in Wrongful Compensation Law*, available at <https://www.law.umich.edu/special/exoneration/Documents/IP%20-%20Key%20Provisions.pdf> (last visited February 6, 2025).

²⁵ Jeffrey Gutman, *Compensation Under the Microscope*, George Washington University Law School,

The Application Process

After the original sentencing court enters an order finding that the claimant meets the definition of a wrongfully incarcerated person who is eligible for compensation, the claimant must submit an application to the DLA for compensation, if he or she is otherwise eligible to apply, within two years.²⁶ Section 961.06, F.S., prohibits a wrongfully incarcerated person from applying for compensation if he or she is the subject of a pending claim bill²⁷ which is based on his or her wrongful conviction and incarceration. Similarly, once a claimant files an application for compensation, he or she may not pursue recovery under a claim bill until the final disposition of his or her application,²⁸ and once the DLA notifies a claimant that his or her application meets the requirements of the Act, he or she is prohibited from seeking additional compensation under a claim bill.^{29, 30}

Only the claimant, not the claimant's estate or its personal representative, may apply for compensation.³¹ Section 961.05(3), F.S., requires, in part, that a claimant's application include:

- A certified copy of the order vacating the conviction and sentence;
- A certified copy of the original sentencing court's order finding the claimant to be a wrongfully incarcerated person who is eligible for compensation under the Act;
- Certified copies of the original judgment and sentence;
- Documentation demonstrating the length of the sentence served, including documentation from the Department of Corrections (DOC) regarding the person's admission into and release from the custody of the DOC;
- Proof of identification demonstrating that the person seeking compensation is the same individual who was wrongfully incarcerated;
- All supporting documentation of any fine, penalty, or court costs imposed and paid by the wrongfully incarcerated person; and
- All supporting documentation of any reasonable attorney's fees and expenses.

The DLA is required to review the application, and within 30 days, notify the claimant of any errors or omissions and request any additional information relevant to the review of the application. The claimant has 15 days after notification of existing errors or omissions to supplement the application. The DLA must process and review each completed application within 90 days.³²

(2022), <https://www.law.umich.edu/special/exoneration/Documents/UTM%20Florida.pdf> (last visited February 6, 2025)

²⁶ Section 961.05(1) and (2), F.S.

²⁷ A claim bill is not an action at law, but rather is a legislative measure that directs the CFO, or if appropriate, a unit of local government, to pay a specific sum of money to a claimant to satisfy an equitable or moral obligation. The amount awarded under a claim bill is based on the Legislature's concept of fair treatment of a person who has been injured or damaged but who is without a complete judicial remedy or who is not otherwise compensable. *Wagner v. Orange Cty.*, 960 So. 2d 785, 788 (Fla. 5th DCA 2007).

²⁸ Section 961.06(6)(c), F.S.

²⁹ Any amount awarded under the Act is intended to provide the sole compensation for any and all present and future claims arising out of the facts in connection with the claimant's wrongful conviction and incarceration. Section 961.06(6)(d), F.S.

³⁰ Since 2008, numerous claim bills have been filed on behalf of wrongfully incarcerated persons who were ineligible for compensation under the Act because of the "clean hands" requirement. At least three such persons have received compensation for wrongful incarceration through the claim bill process: Alan Crotzer (2008), William Dillon (2017), and Clifford Williams (2020).

³¹ Section 961.05(2), F.S.

³² Section 961.05(5), F.S.

Before the DLA approves an application, the wrongfully incarcerated person must sign a release and waiver on behalf of himself or herself and his or her heirs, successors, and assigns, forever releasing the state or any agency, or any political subdivision thereof, from all present or future claims that may arise out of the facts in connection with the wrongful conviction for which compensation is being sought.³³ Once DLA determines whether a claim meets the Act's requirements, it must notify the claimant within five business days of its determination.³⁴ If DLA determines that a claimant meets the Act's requirements, the wrongfully incarcerated person becomes entitled to compensation.³⁵

Compensation

Under s. 961.06, F.S., a wrongfully incarcerated person is entitled to:

- Monetary compensation, at a rate of \$50,000 for each year of wrongful incarceration;
- A waiver of tuition and fees for up to 120 hours of instruction at a public career center, community college, or state university;
- A refund of fines, penalties, and court costs imposed and paid;
- Reasonable attorney's fees and expenses incurred and paid in connection with all criminal proceedings and appeals regarding the wrongful conviction; and
- Immediate administrative expunction of the person's criminal record resulting from the wrongful arrest, conviction, and incarceration.³⁶

Within 15 calendar days after the DLA issues notice to the claimant that his or her claim satisfies all of the requirements under the Act, the DLA must notify the CFO to draw a warrant from the General Revenue Fund or another source designated by the Legislature in law for the purchase of an annuity for the claimant based on the total amount determined by the DLA.³⁷ Section 961.07, F.S., currently provides for a continuing appropriation from the General Revenue Fund to the CFO for payments under the Act.³⁸

The total compensation awarded to a claimant may not exceed \$2 million.³⁹ The CFO is required to issue payment in the amount determined by the DLA to an insurance company or other financial institution admitted and authorized to issue annuity contracts to purchase an annuity or annuities, selected by the claimant, for a term not less than 10 years to distribute such compensation.⁴⁰

III. Effect of Proposed Changes:

The bill amends s. 961.02, F.S., to remove of the definition of the term "violent felony" to conform to changes made by the bill.

³³ Section 961.06(5), F.S.

³⁴ Section 961.05(5), F.S.

³⁵ Section 961.05(6), F.S.

³⁶ Section 961.06(1), F.S.

³⁷ Section 961.06(3), F.S.

³⁸ Section 961.06(1), F.S.

³⁹ *Id.*

⁴⁰ Section 961.06(4), F.S.

The bill amends s. 961.03, F.S., to prospectively extend the filing deadline for a petition under the Act from 90 days to within two years after an order vacating a conviction and sentence becomes final and the criminal charges against a person are dismissed or the person is retried and acquitted, if the person's conviction and sentence is vacated on or after July 1, 2025.

The bill also amends s. 961.03, F.S., to retroactively authorize a person to file a petition for determination of status as a wrongfully incarcerated person and determination of eligibility for compensation by July 1, 2027, if:

- The person's conviction and sentence was vacated and the criminal charges against the person were dismissed, or the person was retried and acquitted, after January 1, 2006, but before July 1, 2025; and
- The person previously filed a petition that was dismissed or did not file a petition, because the:
 - Date when the criminal charges against the person were dismissed or the date the person was acquitted occurred more than 90 days after the date of the final order vacating his or her conviction and sentence; *or*
 - Person was convicted of an unrelated felony before or during his or her wrongful conviction and incarceration and was ineligible to receive compensation under s. 961.04, F.S., the "clean hands" requirement.

Additionally, the bill provides that a deceased person's heirs, successors, or assigns do not have standing to file a petition on the deceased person's behalf.

The bill amends s. 961.04, F.S., to remove the bar to compensation for a petitioner who has been convicted of a violent felony or multiple nonviolent felonies before or during his or her wrongful conviction and incarceration, thereby making such a person eligible to seek compensation under the Act. A person continues to be ineligible for compensation for any period of wrongful incarceration during which the person was serving a concurrent sentence for a felony offense for which he or she was not wrongfully incarcerated.

The bill amends s. 961.06, F.S., to remove the provision stating that a person who is on parole or community supervision from the wrongful incarceration and commits a violent felony or more than one felony that results in the revocation of parole or community supervision is ineligible for any compensation.

The bill amends s. 961.06, F.S., to prohibit the CFO from drawing a warrant to purchase an annuity to pay a claimant for his or her wrongful incarceration if the claimant is currently incarcerated:

- For a felony conviction other than the crime for which the compensation is owed; or
- Due to the revocation of parole or probation for a felony conviction other than a crime for which the compensation is owed.

The CFO must commence with the drawing of a warrant after the term of imprisonment for the wrongful conviction has concluded unless the claimant is incarcerated on a felony, a parole revocation, or a felony probation violation unrelated to the wrongful incarceration. When the claimant's incarceration is concluded, the CFO will commence drawing the warrant.

The bill clarifies that when monetary compensation for the claimant is determined, and if the claimant has previously prevailed in a civil case against the state or another party related to the wrongful incarceration, the amount of the damages will be deducted from the monetary compensation and reimbursed to the state or other party related to the wrongful incarceration. The bill also provides for additional reimbursement arrangements by the claimant determined by the timing of the claimant's civil judgments.

Likewise, the bill addresses the claimant's application for wrongful incarceration compensation as it relates to a claim bill. The claimant may not apply for compensation if he or she is the subject of a pending claim bill. If the application has been filed, the wrongfully incarcerated person may not pursue a claim bill until the final disposition of the compensation application. Upon the award of claim bill compensation to the wrongfully incarcerated person, he or she may not receive compensation under this act.

The bill also amends s. 961.07, F.S., to provide that beginning in Fiscal Year 2025-2026, and continuing each fiscal year thereafter, a sum sufficient to pay the approved payments under s. 961.03(1)(b)1., F.S.,⁴¹ is appropriated from the General Revenue Fund to the Chief Financial Officer, which sum is further appropriated for expenditure pursuant to the Victims of Wrongful Incarceration Act. Petitions filed pursuant to s. 961.03(1)(b)2., F.S.,⁴² are subject to specific appropriation.

The bill takes effect on July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁴¹ Subparagraph 961.03(1)(b)1., F.S., extends the time for filing a petition to within two years after an order vacating a conviction and sentence becomes final and the criminal charges against a person are dismissed or the person is retried and acquitted, if the person's conviction and sentence is vacated on or after July 1, 2025.

⁴² Subparagraph s. 961.03(1)(b)2., F.S., extends the time for filing a petition to July 1, 2025, if the:

- Person's conviction and sentence was vacated and the criminal charges against the person were dismissed, or the person was retried and acquitted, after January 1, 2006, but before July 1, 2025; *and*
- Person previously filed a petition that was dismissed or did not file a petition, because the:
 - Date when the criminal charges against the person were dismissed or the date the person was acquitted occurred more than 90 days after the date of the final order vacating his or her conviction and sentence; *or*
 - Person was convicted of an unrelated felony before or during his or her wrongful conviction and incarceration and was ineligible to receive compensation under s. 961.04, F.S., the "clean hands" requirement (emphasis added).

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 bill will likely expand the number of persons who qualify for compensation from the state due to the extended timelines and parameters for seeking compensation based on a wrongful incarceration claim. While there are existing limitations on compensation (\$50,000 per year of wrongful incarceration up to a limit of \$2 million) for a person, it is not possible to quantify the additional number of people who may be compensable.

The Innocence Project of Florida identified 18 exonerees who were denied compensation under current law but who would likely be eligible if the bill were to be passed. The fiscal impact of those 18 exonerees is estimated to be \$15 million.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 961.03, 961.04, 961.06, and 961.07.

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

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

None.

B. Amendments:

None.

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

By the Committee on Criminal Justice; and Senator Wright

591-01945-25

2025138c1

1 A bill to be entitled
 2 An act relating to driving and boating offenses;
 3 providing a short title; amending s. 316.193, F.S.;
 4 prohibiting a person from driving or being in actual
 5 physical control of a vehicle while under the
 6 influence of any intoxicating substance; providing
 7 enhanced criminal penalties for violation of driving
 8 under the influence if the person has a prior
 9 conviction for a violation of specified provisions;
 10 amending s. 316.1932, F.S.; requiring that a person be
 11 told that his or her failure to submit to a lawful
 12 test of breath or urine is a second degree misdemeanor
 13 or a first degree misdemeanor under certain
 14 circumstances; amending s. 316.1939, F.S.; classifying
 15 a person's refusal to submit to a chemical or physical
 16 test of breath or urine as a second degree misdemeanor
 17 or a first degree misdemeanor under certain
 18 circumstances; creating s. 316.19395, F.S.;
 19 authorizing judicial circuits to create driving under
 20 the influence diversion programs; providing
 21 requirements for such diversion programs; providing
 22 that a person who successfully completes a diversion
 23 program is ineligible for participation in such a
 24 program in the future; amending s. 316.656, F.S.;
 25 prohibiting a court from suspending, deferring, or
 26 withholding adjudication of guilt or imposition of
 27 sentence for a specified violation; amending s.
 28 322.34, F.S.; providing penalties for specified
 29 violations of driving while a license or driving

Page 1 of 19

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

591-01945-25

2025138c1

30 privilege is canceled, suspended, or revoked or under
 31 suspension or revocation equivalent status; amending
 32 s. 327.35, F.S.; prohibiting a person from operating a
 33 vessel while under the influence of any intoxicating
 34 substance; amending s. 933.02, F.S.; permitting the
 35 issuance of a search warrant when a sample of blood of
 36 a person constitutes evidence relevant to proving
 37 specified crimes; amending s. 782.071, F.S.; providing
 38 enhanced criminal penalties for a violation of
 39 vehicular homicide if the person has a prior
 40 conviction for a violation of specified provisions;
 41 providing an effective date.

42
 43 Be It Enacted by the Legislature of the State of Florida:

44
 45 Section 1. This act may be cited as "Trenton's Law."
 46 Section 2. Subsections (1) and (3) of section 316.193,
 47 Florida Statutes, are amended, and subsection (2) of that
 48 section is republished, to read:

49 316.193 Driving under the influence; penalties.—

50 (1) A person commits ~~is guilty of~~ the offense of driving
 51 under the influence and is subject to punishment as provided in
 52 subsection (2) if the person is driving or in actual physical
 53 control of a vehicle within this state and:

54 (a) The person is under the influence of alcoholic
 55 beverages, any chemical substance set forth in s. 877.111, ~~or~~
 56 any substance controlled under chapter 893, or any intoxicating
 57 substance, when affected to the extent that the person's normal
 58 faculties are impaired;

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59 (b) The person has a blood-alcohol level of 0.08 or more
60 grams of alcohol per 100 milliliters of blood; or

61 (c) The person has a breath-alcohol level of 0.08 or more
62 grams of alcohol per 210 liters of breath.

63 (2) (a) Except as provided in paragraph (b), subsection (3),
64 or subsection (4), any person who is convicted of a violation of
65 subsection (1) shall be punished:

66 1. By a fine of:

67 a. Not less than \$500 or more than \$1,000 for a first
68 conviction.

69 b. Not less than \$1,000 or more than \$2,000 for a second
70 conviction; and

71 2. By imprisonment for:

72 a. Not more than 6 months for a first conviction.

73 b. Not more than 9 months for a second conviction.

74 3. For a second conviction, by mandatory placement for a
75 period of at least 1 year, at the convicted person's sole
76 expense, of an ignition interlock device approved by the
77 department in accordance with s. 316.1938 upon all vehicles that
78 are individually or jointly leased or owned and routinely
79 operated by the convicted person, when the convicted person
80 qualifies for a permanent or restricted license.

81
82 The portion of a fine imposed in excess of \$500 pursuant to sub-
83 subparagraph 1.a. and the portion of a fine imposed in excess of
84 \$1,000 pursuant to sub-subparagraph 1.b., shall be remitted by
85 the clerk to the Department of Revenue for deposit into the
86 General Revenue Fund.

87 (b)1. Any person who is convicted of a third violation of

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88 this section for an offense that occurs within 10 years after a
89 prior conviction for a violation of this section commits a
90 felony of the third degree, punishable as provided in s.
91 775.082, s. 775.083, or s. 775.084. In addition, the court shall
92 order the mandatory placement for a period of not less than 2
93 years, at the convicted person's sole expense, of an ignition
94 interlock device approved by the department in accordance with
95 s. 316.1938 upon all vehicles that are individually or jointly
96 leased or owned and routinely operated by the convicted person,
97 when the convicted person qualifies for a permanent or
98 restricted license.

99 2. Any person who is convicted of a third violation of this
100 section for an offense that occurs more than 10 years after the
101 date of a prior conviction for a violation of this section shall
102 be punished by a fine of not less than \$2,000 or more than
103 \$5,000 and by imprisonment for not more than 12 months. The
104 portion of a fine imposed in excess of \$2,500 pursuant to this
105 subparagraph shall be remitted by the clerk to the Department of
106 Revenue for deposit into the General Revenue Fund. In addition,
107 the court shall order the mandatory placement for a period of at
108 least 2 years, at the convicted person's sole expense, of an
109 ignition interlock device approved by the department in
110 accordance with s. 316.1938 upon all vehicles that are
111 individually or jointly leased or owned and routinely operated
112 by the convicted person, when the convicted person qualifies for
113 a permanent or restricted license.

114 3. Any person who is convicted of a fourth or subsequent
115 violation of this section, regardless of when any prior
116 conviction for a violation of this section occurred, commits a

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117 felony of the third degree, punishable as provided in s.
 118 775.082, s. 775.083, or s. 775.084. However, the fine imposed
 119 for such fourth or subsequent violation may be not less than
 120 \$2,000. The portion of a fine imposed in excess of \$1,000
 121 pursuant to this subparagraph shall be remitted by the clerk to
 122 the Department of Revenue for deposit into the General Revenue
 123 Fund.

124 (c) In addition to the penalties in paragraph (a), the
 125 court may order placement, at the convicted person's sole
 126 expense, of an ignition interlock device approved by the
 127 department in accordance with s. 316.1938 for at least 6
 128 continuous months upon all vehicles that are individually or
 129 jointly leased or owned and routinely operated by the convicted
 130 person if, at the time of the offense, the person had a blood-
 131 alcohol level or breath-alcohol level of .08 or higher.

132 (3) Any person:

133 (a) Who is in violation of subsection (1);

134 (b) Who operates a vehicle; and

135 (c) Who, by reason of such operation, causes or contributes
 136 to causing:

137 1. Damage to the property or person of another commits a
 138 misdemeanor of the first degree, punishable as provided in s.
 139 775.082 or s. 775.083.

140 2. Serious bodily injury to another, as defined in s.
 141 316.1933, commits a felony of the third degree, punishable as
 142 provided in s. 775.082, s. 775.083, or s. 775.084.

143 3. The death of any human being or unborn child commits DUI
 144 manslaughter, and commits:

145 a. A felony of the second degree, punishable as provided in

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146 s. 775.082, s. 775.083, or s. 775.084.

147 b. A felony of the first degree, punishable as provided in
 148 s. 775.082, s. 775.083, or s. 775.084, if:

149 (I) At the time of the crash, the person knew, or should
 150 have known, that the crash occurred; and

151 (II) The person failed to give information and render aid
 152 as required by s. 316.062.

153 c. A felony of the first degree, punishable as provided in
 154 s. 775.082, s. 775.083, or s. 775.084, if the person has a prior
 155 conviction for a violation of this subparagraph or s. 782.071.
 156

157 For purposes of this subsection, the term "unborn child" has the
 158 same meaning as provided in s. 775.021(5). A person who is
 159 convicted of DUI manslaughter shall be sentenced to a mandatory
 160 minimum term of imprisonment of 4 years.

161 Section 3. Paragraph (a) of subsection (1) of section
 162 316.1932, Florida Statutes, is amended to read:

163 316.1932 Tests for alcohol, chemical substances, or
 164 controlled substances; implied consent; refusal.-

165 (1)(a)1.a. A person who accepts the privilege extended by
 166 the laws of this state of operating a motor vehicle within this
 167 state is, by operating such vehicle, deemed to have given his or
 168 her consent to submit to an approved chemical test or physical
 169 test including, but not limited to, an infrared light test of
 170 his or her breath for the purpose of determining the alcoholic
 171 content of his or her blood or breath if the person is lawfully
 172 arrested for any offense allegedly committed while the person
 173 was driving or was in actual physical control of a motor vehicle
 174 while under the influence of alcoholic beverages. The chemical

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175 or physical breath test must be incidental to a lawful arrest
 176 and administered at the request of a law enforcement officer who
 177 has reasonable cause to believe such person was driving or was
 178 in actual physical control of the motor vehicle within this
 179 state while under the influence of alcoholic beverages. The
 180 administration of a breath test does not preclude the
 181 administration of another type of test. The person must ~~shall~~ be
 182 told that his or her failure to submit to any lawful test of his
 183 or her breath will result in the suspension of his or her ~~the~~
 184 ~~person's~~ privilege to operate a motor vehicle as provided in s.
 185 322.2615(1)(a) for a period of 1 year for a first refusal, or
 186 for a period of 18 months if the driving privilege of such
 187 person has been previously suspended or if he or she has
 188 previously been fined under s. 327.35215 as a result of a
 189 refusal to submit to a test or tests required under this chapter
 190 or chapter 327, and must ~~shall~~ also be told that if he or she
 191 refuses to submit to a lawful test of his or her breath ~~and his~~
 192 ~~or her driving privilege has been previously suspended or if he~~
 193 ~~or she has previously been fined under s. 327.35215 for a prior~~
 194 ~~refusal to submit to a lawful test of his or her breath, urine,~~
 195 ~~or blood as required under this chapter or chapter 327,~~ he or
 196 she commits a misdemeanor of the second ~~first~~ degree, punishable
 197 as provided in s. 775.082 or s. 775.083, or a misdemeanor of the
 198 first degree, punishable as provided in s. 775.082 or s.
 199 775.083, if his or her driving privilege has been previously
 200 suspended or if he or she has previously been fined under s.
 201 327.35215 for a prior refusal to submit to a lawful test of his
 202 or her breath, urine, or blood as required under this chapter or
 203 chapter 327, in addition to any other penalties provided by law.

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204 The refusal to submit to a chemical or physical breath test upon
 205 the request of a law enforcement officer as provided in this
 206 section is admissible into evidence in any criminal proceeding.
 207 b. A person who accepts the privilege extended by the laws
 208 of this state of operating a motor vehicle within this state is,
 209 by operating such vehicle, deemed to have given his or her
 210 consent to submit to a urine test for the purpose of detecting
 211 the presence of chemical substances as set forth in s. 877.111
 212 or controlled substances if the person is lawfully arrested for
 213 any offense allegedly committed while the person was driving or
 214 was in actual physical control of a motor vehicle while under
 215 the influence of chemical substances or controlled substances.
 216 The urine test must be incidental to a lawful arrest and
 217 administered at a detention facility or any other facility,
 218 mobile or otherwise, which is equipped to administer such tests
 219 at the request of a law enforcement officer who has reasonable
 220 cause to believe such person was driving or was in actual
 221 physical control of a motor vehicle within this state while
 222 under the influence of chemical substances or controlled
 223 substances. The urine test must ~~shall~~ be administered at a
 224 detention facility or any other facility, mobile or otherwise,
 225 which is equipped to administer such test in a reasonable manner
 226 that will ensure the accuracy of the specimen and maintain the
 227 privacy of the individual involved. The administration of a
 228 urine test does not preclude the administration of another type
 229 of test. The person must ~~shall~~ be told that his or her failure
 230 to submit to any lawful test of his or her urine will result in
 231 the suspension of his or her ~~the person's~~ privilege to operate a
 232 motor vehicle for a period of 1 year for the first refusal, or

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233 for a period of 18 months if the driving privilege of such
 234 person has been previously suspended or if he or she has
 235 previously been fined under s. 327.35215 as a result of a
 236 refusal to submit to a test or tests required under this chapter
 237 or chapter 327, and ~~must shall~~ also be told that if he or she
 238 refuses to submit to a lawful test of his or her urine ~~and his~~
 239 ~~or her driving privilege has been previously suspended or if he~~
 240 ~~or she has previously been fined under s. 327.35215 for a prior~~
 241 ~~refusal to submit to a lawful test of his or her breath, urine,~~
 242 ~~or blood as required under this chapter or chapter 327,~~ he or
 243 she commits a misdemeanor of the second ~~first~~ degree, punishable
 244 as provided in s. 775.082 or s. 775.083, or a misdemeanor of the
 245 first degree, punishable as provided in s. 775.082 or s.
 246 775.083, if his or her driving privilege has been previously
 247 suspended or if he or she has previously been fined under s.
 248 327.35215 for a prior refusal to submit to a lawful test of his
 249 or her breath, urine, or blood as required under this chapter or
 250 chapter 327, in addition to any other penalties provided by law.
 251 The refusal to submit to a urine test upon the request of a law
 252 enforcement officer as provided in this section is admissible
 253 into evidence in any criminal proceeding.

254 2. The Alcohol Testing Program within the Department of Law
 255 Enforcement is responsible for the regulation of the operation,
 256 inspection, and registration of breath test instruments utilized
 257 under the driving and boating under the influence provisions and
 258 related provisions located in this chapter and chapters 322 and
 259 327. The program is responsible for the regulation of the
 260 individuals who operate, inspect, and instruct on the breath
 261 test instruments utilized in the driving and boating under the

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262 influence provisions and related provisions located in this
 263 chapter and chapters 322 and 327. The program is further
 264 responsible for the regulation of blood analysts who conduct
 265 blood testing to be utilized under the driving and boating under
 266 the influence provisions and related provisions located in this
 267 chapter and chapters 322 and 327. The program shall:

268 a. Establish uniform criteria for the issuance of permits
 269 to breath test operators, agency inspectors, instructors, blood
 270 analysts, and instruments.

271 b. Have the authority to permit breath test operators,
 272 agency inspectors, instructors, blood analysts, and instruments.

273 c. Have the authority to discipline and suspend, revoke, or
 274 renew the permits of breath test operators, agency inspectors,
 275 instructors, blood analysts, and instruments.

276 d. Establish uniform requirements for instruction and
 277 curricula for the operation and inspection of approved
 278 instruments.

279 e. Have the authority to specify one approved curriculum
 280 for the operation and inspection of approved instruments.

281 f. Establish a procedure for the approval of breath test
 282 operator and agency inspector classes.

283 g. Have the authority to approve or disapprove breath test
 284 instruments and accompanying paraphernalia for use pursuant to
 285 the driving and boating under the influence provisions and
 286 related provisions located in this chapter and chapters 322 and
 287 327.

288 h. With the approval of the executive director of the
 289 Department of Law Enforcement, make and enter into contracts and
 290 agreements with other agencies, organizations, associations,

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291 corporations, individuals, or federal agencies as are necessary,
 292 expedient, or incidental to the performance of duties.

293 i. Issue final orders which include findings of fact and
 294 conclusions of law and which constitute final agency action for
 295 the purpose of chapter 120.

296 j. Enforce compliance with this section through civil or
 297 administrative proceedings.

298 k. Make recommendations concerning any matter within the
 299 purview of this section, this chapter, chapter 322, or chapter
 300 327.

301 l. Adopt ~~Promulgate~~ rules for the administration and
 302 implementation of this section, including definitions of terms.

303 m. Consult and cooperate with other entities for the
 304 purpose of implementing the mandates of this section.

305 n. Have the authority to approve the type of blood test
 306 utilized under the driving and boating under the influence
 307 provisions and related provisions located in this chapter and
 308 chapters 322 and 327.

309 o. Have the authority to specify techniques and methods for
 310 breath alcohol testing and blood testing utilized under the
 311 driving and boating under the influence provisions and related
 312 provisions located in this chapter and chapters 322 and 327.

313 p. Have the authority to approve repair facilities for the
 314 approved breath test instruments, including the authority to set
 315 criteria for approval.

316

317 Nothing in this section shall be construed to supersede
 318 provisions in this chapter and chapters 322 and 327. The
 319 specifications in this section are derived from the power and

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320 authority previously and currently possessed by the Department
 321 of Law Enforcement and are enumerated to conform with the
 322 mandates of chapter 99-379, Laws of Florida.

323 Section 4. Section 316.1939, Florida Statutes, is amended
 324 to read:

325 316.1939 Refusal to submit to testing; penalties.—

326 (1) A person who has refused to submit to a chemical or
 327 physical test of his or her breath or urine, as described in s.
 328 316.1932, commits a misdemeanor of the second degree, punishable
 329 as provided in s. 775.082 or s. 775.083, in addition to any
 330 other penalties provided by law, and such person whose driving
 331 privilege was previously suspended or who was previously fined
 332 under s. 327.35215 for a prior refusal to submit to a lawful
 333 test of his or her breath, urine, or blood required under this
 334 chapter or chapter 327 commits a misdemeanor of the first
 335 degree, punishable as provided in s. 775.082 or s. 775.083, in
 336 addition to any other penalties provided by law if all of the
 337 following apply, and:

338 (a) ~~Who~~ The arresting law enforcement officer had probable
 339 cause to believe that the person was driving or in actual
 340 physical control of a motor vehicle in this state while under
 341 the influence of alcoholic beverages, chemical substances, or
 342 controlled substances. ~~+~~

343 (b) The person ~~who~~ was placed under lawful arrest for a
 344 violation of s. 316.193, unless such test was requested pursuant
 345 to s. 316.1932(1)(c). ~~+~~

346 (c) The person ~~who~~ was informed that, if he or she refused
 347 to submit to such test, his or her privilege to operate a motor
 348 vehicle would be suspended for a period of 1 year or, in the

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349 case of a second or subsequent refusal, for a period of 18
350 months.

351 (d) The person, after having been informed as required in
352 paragraph (c), still refuses ~~Who was informed that a refusal to~~
353 submit to a lawful test of his or her breath or urine as
354 ~~described in s. 316.1932, if his or her driving privilege has~~
355 ~~been previously suspended or if he or she has previously been~~
356 ~~fined under s. 327.35215 for a prior refusal to submit to a~~
357 ~~lawful test of his or her breath, urine, or blood as required~~
358 ~~under this chapter or chapter 327, is a misdemeanor of the first~~
359 ~~degree, punishable as provided in s. 775.082 or s. 775.083, in~~
360 ~~addition to any other penalties provided by law; and~~

361 ~~(e) Who, after having been so informed, refused to submit~~
362 ~~to any such test when requested to do so by a law enforcement~~
363 ~~officer or correctional officer~~
364 ~~commits a misdemeanor of the first degree and is subject to~~
365 ~~punishment as provided in s. 775.082 or s. 775.083.~~

367 (2) The disposition of any administrative proceeding that
368 relates to the suspension of a person's driving privilege does
369 not affect a criminal action under this section.

370 (3) The disposition of a criminal action under this section
371 does not affect any administrative proceeding that relates to
372 the suspension of a person's driving privilege. The department's
373 records showing that a person's license has been previously
374 suspended for a prior refusal to submit to a lawful test of his
375 or her breath, urine, or blood are shall be admissible and
376 create shall create a rebuttable presumption of such suspension.

377 Section 5. Section 316.19395, Florida Statutes, is created

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378 to read:

379 316.19395 Driving under the influence diversion programs.-

380 (1) Any judicial circuit may create a driving under the
381 influence diversion program. A judicial circuit that creates
382 such a diversion program shall publish the terms and conditions
383 of the program on the website of the office of the state
384 attorney for that circuit.

385 (2) Each judicial circuit that offers a diversion program
386 under this section shall notify the department of each person
387 who successfully completes the program. The department shall
388 notate the successful completion of the diversion program on the
389 driving record of each such person.

390 (3) A person who successfully completes a diversion program
391 offered under this section is ineligible for future
392 participation in such a program.

393 Section 6. Subsection (1) of section 316.656, Florida
394 Statutes, is amended to read:

395 316.656 Mandatory adjudication; prohibition against
396 accepting plea to lesser included offense.-

397 (1) Notwithstanding ~~the provisions of~~ s. 948.01, a court
398 may not no court may suspend, defer, or withhold adjudication of
399 guilt or imposition of sentence for any violation of s. 316.193
400 or s. 316.1939, for manslaughter resulting from the operation of
401 a motor vehicle, or for vehicular homicide.

402 Section 7. Subsection (2) of section 322.34, Florida
403 Statutes, is amended to read:

404 322.34 Driving while license suspended, revoked, canceled,
405 or disqualified.-

406 (2) Any person whose driver license or driving privilege

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407 has been canceled, suspended, or revoked as provided by law, or
 408 who does not have a driver license or driving privilege but is
 409 under suspension or revocation equivalent status as defined in
 410 s. 322.01(43), except persons defined in s. 322.264, who,
 411 knowing of such cancellation, suspension, revocation, or
 412 suspension or revocation equivalent status, drives any motor
 413 vehicle upon the highways of this state while such license or
 414 privilege is canceled, suspended, or revoked, or while under
 415 suspension or revocation equivalent status, commits:

416 (a) A misdemeanor of the second degree, punishable as
 417 provided in s. 775.082 or s. 775.083.

418 (b)~~1~~ A misdemeanor of the first degree, punishable as
 419 provided in s. 775.082 or s. 775.083, upon a second or
 420 subsequent conviction, except as provided in paragraph (c).

421 ~~2~~ A person convicted of a third or subsequent conviction,
 422 except as provided in paragraph (c), must serve a minimum of 10
 423 days in jail.

424 (c) A felony of the third degree, punishable as provided in
 425 s. 775.082, s. 775.083, or s. 775.084, upon a third or
 426 subsequent conviction if the current violation of this section
 427 or the most recent prior violation of the section is related to
 428 driving while license canceled, suspended, revoked, or
 429 suspension or revocation equivalent status resulting from a
 430 violation of:

431 1. Driving under the influence. A person to whom this
 432 subparagraph applies must serve a minimum of 30 days in jail
 433 upon a first conviction, a minimum of 60 days in jail upon a
 434 second conviction, and a minimum of 90 days in jail upon a third
 435 or subsequent conviction;

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436 2. Refusal to submit to a urine, breath-alcohol, or blood
 437 alcohol test. A person to whom this subparagraph applies must
 438 serve a minimum of 30 days in jail upon a first conviction, a
 439 minimum of 60 days in jail upon a second conviction, and a
 440 minimum of 90 days in jail upon a third or subsequent
 441 conviction;

442 3. A traffic offense causing death or serious bodily
 443 injury; or

444 4. Fleeing or eluding.

445

446 The element of knowledge is satisfied if the person has been
 447 previously cited as provided in subsection (1); or the person
 448 admits to knowledge of the cancellation, suspension, or
 449 revocation, or suspension or revocation equivalent status; or
 450 the person received notice as provided in subsection (4). There
 451 ~~is shall be~~ a rebuttable presumption that the knowledge
 452 requirement is satisfied if a judgment or an order as provided
 453 in subsection (4) appears in the department's records for any
 454 case except for one involving a suspension by the department for
 455 failure to pay a traffic fine or for a financial responsibility
 456 violation.

457 Section 8. Subsection (1) of section 327.35, Florida
 458 Statutes, is amended to read:

459 327.35 Boating under the influence; penalties; "designated
 460 drivers."-

461 (1) A person ~~commits is guilty of~~ the offense of boating
 462 under the influence and is subject to punishment as provided in
 463 subsection (2) if the person is operating a vessel within this
 464 state and:

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465 (a) The person is under the influence of alcoholic
 466 beverages, any chemical substance set forth in s. 877.111, ~~or~~
 467 any substance controlled under chapter 893, or any intoxicating
 468 substance when affected to the extent that the person's normal
 469 faculties are impaired;

470 (b) The person has a blood-alcohol level of 0.08 or more
 471 grams of alcohol per 100 milliliters of blood; or

472 (c) The person has a breath-alcohol level of 0.08 or more
 473 grams of alcohol per 210 liters of breath.

474 Section 9. Section 933.02, Florida Statutes, is amended to
 475 read:

476 933.02 Grounds for issuance of search warrant.—Upon proper
 477 affidavits being made, a search warrant may be issued under ~~the~~
 478 ~~provisions of~~ this chapter upon any of the following grounds:

479 (1) When the property shall have been stolen or embezzled
 480 in violation of law;

481 (2) When any property shall have been used:

482 (a) As a means to commit any crime;

483 (b) In connection with gambling, gambling implements and
 484 appliances; or

485 (c) In violation of s. 847.011 or other laws in reference
 486 to obscene prints and literature;

487 (3) When any property constitutes evidence relevant to
 488 proving that a felony has been committed;

489 (4) When any property is being held or possessed:

490 (a) In violation of any of the laws prohibiting the
 491 manufacture, sale, and transportation of intoxicating liquors;

492 (b) In violation of the fish and game laws;

493 (c) In violation of the laws relative to food and drug; or

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494 (d) In violation of the laws relative to citrus disease
 495 pursuant to s. 581.184; ~~or~~

496 (5) When the laws in relation to cruelty to animals, as
 497 provided in chapter 828, have been or are violated in any
 498 particular building or place; or

499 (6) When a sample of the blood of a person constitutes
 500 evidence relevant to proving that a violation of s. 316.193 or
 501 s. 327.35 has been committed.

502

503 This section also applies to any papers or documents used as a
 504 means of or in aid of the commission of any offense against the
 505 laws of the state.

506 Section 10. Section 782.071, Florida Statutes, is amended
 507 to read:

508 782.071 Vehicular homicide.—“Vehicular homicide” is the
 509 killing of a human being, or the killing of an unborn child by
 510 any injury to the mother, caused by the operation of a motor
 511 vehicle by another in a reckless manner likely to cause the
 512 death of, or great bodily harm to, another.

513 (1) Vehicular homicide is:

514 (a) A felony of the second degree, punishable as provided
 515 in s. 775.082, s. 775.083, or s. 775.084.

516 (b) A felony of the first degree, punishable as provided in
 517 s. 775.082, s. 775.083, or s. 775.084, if:

518 1. At the time of the accident, the person knew, or should
 519 have known, that the accident occurred; and

520 2. The person failed to give information and render aid as
 521 required by s. 316.062.

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523 This paragraph does not require that the person knew that the
524 accident resulted in injury or death.

525 (c) A felony of the first degree, punishable as provided in
526 s. 775.082, s. 775.083, or s. 775.084, if the person has a prior
527 conviction for a violation of this section or s. 316.193(3)(c)3.

528 Section 11. This act shall take effect October 1, 2025.

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Appropriations Committee on Criminal and Civil Justice
ITEM: CS/SB 138
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Wednesday, March 5, 2025
TIME: 11:00 a.m.—1:00 p.m.
PLACE: 37 Senate Building

FINAL VOTE		SENATORS	3/05/2025 Amendment 369714					
			Yea	Nay	Yea	Nay	Yea	Nay
X		Ingoglia						
X		Osgood						
	X	Polsky						
	X	Rouson						
X		Simon						
X		Wright						
X		Yarborough						
X		Martin, VICE CHAIR						
		Garcia, CHAIR						
6	2	TOTALS	RCS	-				
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

The Florida Senate

APPEARANCE RECORD

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

3/5/25

Meeting Date

CS/BB 138

Bill Number or Topic

APPROPS

Committee

Amendment Barcode (if applicable)

Name

Melissa Villar

Phone

(850) 354-1436

Address

PO BOX 11259

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Street

JM

FL

32302

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:

NORM Tallahassee

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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The Florida Senate

APPEARANCE RECORD

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3/5/25

Meeting Date

138

Bill Number or Topic

CJ APPROP

Committee

Amendment Barcode (if applicable)

Name AARON WAYT "WAIT"

Phone (407) 435-3194

FL ASSN OF CRIMINAL DEF LAWYERS

Address _____

Email AARON@DONPUMPHREY.COM

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](https://www.flsenate.gov). [pdf.flsenate.gov](https://www.flsenate.gov)

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

S-001 (08/10/2021)

3/5/2025

Meeting Date

The Florida Senate APPEARANCE RECORD

SB 138

Bill Number or Topic

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Appx. Committee on Criminal & Civil Justice
Committee

Amendment Barcode (if applicable)

Name

Molly Hudson for Volusia Sheriff's Office

Phone

(386) 214-5536

Address

123 W. Indiana

Email

mohudson@volusia-sheriff.gov

Street

Deland fl. 32720

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](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

3/5/25

Meeting Date

SB138

Bill Number or Topic

Appr. on CJ

Committee

Amendment Barcode (if applicable)

Name

Lt Abby Hilley

Phone

321-229-7054

Address

Street

Email

abby.hilley@csosofl.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:
Orange Co Sheriff's Office

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)

March 5, 2025

Meeting Date

Approps Civil & Criminal Justice

Committee

Name **Barney Bishop III**

Address **1454 Vieux Carre Drive**

Street

Tallahassee

City

FL

State

32308

Zip

The Florida Senate

APPEARANCE RECORD

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

138

Bill Number or Topic

Amendment Barcode (if applicable)

Phone **850-510-9922**

Email **Barney@BarneyBishop.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:

Fla. 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

Committee Agenda Request

To: Senator Ileana Garcia, Chair
Appropriations Committee on Criminal and Civil Justice

Subject: Committee Agenda Request

Date: February 12, 2025

I respectfully request that **Senate Bill 138**, relating to Driving Under the Influence, be placed on the:

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

Thank you for your consideration.

A handwritten signature in cursive script that reads "Tom A. Wright".

Senator Tom A. Wright
Florida Senate, District 8

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 138

INTRODUCER: Appropriations Committee on Criminal and Civil Justice; Criminal Justice Committee;
and Senator Wright

SUBJECT: Driving and Boating Offenses

DATE: March 7, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Parker</u>	<u>Stokes</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Kolich</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 138 makes multiple changes to strengthen and enhance crimes related to driving and boating offenses.

The bill amends ss. 316.193 and 327.35, F.S., to prohibit a person from driving, operating or being in actual physical control of a vehicle or vessel while under the influence of alcoholic beverages, any chemical substances set forth in s. 877.111, F.S., any substances controlled under ch. 893, F.S., or *any intoxicating substance* when affected to the extent that the person's normal faculties are impaired.

The bill provides enhanced criminal penalties for a violation of driving under the influence (DUI) with death, if the person has a prior conviction for a violation of specified provisions.

The bill amends s. 782.071, F.S., to provide enhanced criminal penalties for a violation of vehicular homicide if the person has a prior conviction for a violation of specified provisions.

Currently, a first time conviction for DUI with death¹ or vehicular homicide² is a felony in the second degree.³

The bill amends s. 316.1939, F.S., to provide that a person's first refusal to submit to a chemical or physical test of breath or urine is a second degree misdemeanor or a first degree misdemeanor under certain circumstances. Current law provides that a first refusal is not a crime.

Additionally, s. 316.1932, F.S., is amended to require that a person be told that his or her first failure to submit to a lawful test of breath or urine is a second degree misdemeanor⁴ or a first degree misdemeanor⁵ under certain circumstances.

The bill creates s. 316.19395, F.S., to authorize judicial circuits to create DUI diversion programs.

Section 316.656, F.S., is amended to prohibit the court from suspending, deferring, or withholding adjudication of guilt or imposition of sentence for such a refusal to submit to testing.

Current law provides that a person commits a third degree felony offense of driving on license suspended upon a third or subsequent violation, if the suspension was related to DUI or refusal to submit to testing.

Section 322.34, F.S., is amended to provide mandatory minimum penalties for this crime.

The bill amends s. 933.02, F.S., to permit the issuance of a search warrant when a sample of blood of a person constitutes evidence relevant to proving specified crimes.

The bill has an indeterminate state prison bed impact. See Section V. Fiscal Impact Statement.

The bill takes effect on October 1, 2025.

II. Present Situation:

Driving Under the Influence

A person is guilty of a DUI if a person drives or is in actual physical control of a vehicle and the person:

- Is under the influence of alcoholic beverages, any controlled substance set forth in s. 877.111, F.S., or any substance controlled under ch. 893, F.S., to the extent that the person's normal faculties are impaired;⁶

¹ Section 316.193(3)(c)3., F.S.

² Section 782.071, F.S.

³ A second degree felony is punishable by a term of imprisonment not exceeding 15 years and a fine up to \$10,000, as provided in ss. 775.082, 775.083, or 775.084, F.S.

⁴ A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days, as provided in ss. 775.082 or 775.083, F.S.

⁵ A first degree misdemeanor is punishable by a definite term of imprisonment not exceeding 1 year and a \$1,000 fine, as provided in ss. 775.082 or 775.083, F.S.

⁶ Section 316.193(1)(a), F.S.

- Has a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood;⁷ or
- Has a breath-alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.⁸

The criminal penalties for DUI vary depending on numerous factors such as the number of prior convictions, the length of time between convictions, and the defendant's blood alcohol level.⁹

The penalties for a first time DUI offense are:

- A period of probation not exceeding one year;
- A fine of not less than \$500 or more than \$2,000;
- Imprisonment for not more than nine months;
- A mandatory minimum of 50 hours of community service; and
- A mandatory ten-day vehicle impoundment.¹⁰

Boating Under the Influence

A person is guilty of boating under the influence if the person is operating a vessel under the influence of an alcoholic beverage, any chemical substance set forth in s. 877.111, F.S., or any substance controlled under ch. 893, F.S., when affected to the extent that the person's normal faculties are impaired.¹¹

The criminal penalties for boating under the influence varies depending on numerous factors such as the number of prior convictions, the length of time between convictions, and the defendant's blood alcohol level.¹² The penalties for a first time boating under the influence offense are:

- A fine of not less than \$500 or more than \$2,000 for a first conviction.
- Imprisonment for not more than nine months;
- A period of probation not exceeding one year;
- A mandatory minimum of 50 hours of community service; and a mandatory 10-day vessel impoundment or immobilization.¹³

Implied Consent-Refusal

Section 316.1932, F.S., sets forth what is commonly known as the implied consent law. Specifically, s. 316.1932(1)(a)1., F.S., provides that anyone who operates a motor vehicle or vessel in the state is, by operating such a vehicle or vessel, deemed to have given his or her consent to submit to an approved chemical or physical test of his or her breath to determine the alcoholic content of his or her blood or breath or a urine test to detect the presence of chemical substances or controlled substances.¹⁴

⁷ Section 316.193(1)(b), F.S.

⁸ Section 316.193(1)(c), F.S.

⁹ Section 316.193, F.S.

¹⁰ *Id.*

¹¹ Section 327.35

¹² *Id.*

¹³ *Id.*

¹⁴ Sections 316.1932 (1)(a)1.a., and 327.352(1)(a)1., F.S.

The chemical or physical breath test must be incidental to a lawful arrest and administered at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of the motor vehicle within this state while under the influence of alcoholic beverages. The administration of a breath test does not preclude the administration of another type of test.¹⁵

The person must be told that his or her failure to submit to any lawful test of his or her breath will result in the suspension of the person's privilege to operate a motor vehicle for a period of one year for a first refusal, or for a period of 18 months if the driving privilege of such person has been previously suspended or if he or she has previously been fined under s. 327.35215, F.S.¹⁶ Additionally, a person operating a vessel must be told that his or her failure to submit to a lawful test of his or her breath will result in a civil penalty of \$500.¹⁷

As a result of a refusal to submit to a test or tests required under ch. 316, F.S., or ch. 327, F.S., the person shall also be told that if he or she refuses to submit to a lawful test of his or her breath and his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215, F.S., for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under ch. 327, F.S., he or she commits a first degree misdemeanor.¹⁸

These tests may be performed if the person is lawfully arrested for any offense allegedly committed while the person was driving or in actual physical control of a motor vehicle, or operating a vessel, while under the influence of any alcoholic beverage or chemical substance, or any other controlled substances.¹⁹

Vehicular Homicide

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.²⁰ Vehicular homicide is a second degree felony.²¹

The degree of culpability required for vehicular homicide is less than that necessary to prove manslaughter, but it is more than a mere failure to use ordinary care.²²

¹⁵ *Id.*

¹⁶ Section 327.35215(2), F.S., provides when a person refuses to submit to a blood test, breath test, or urine test pursuant to s. 327.352, F.S., (Implied consent), a law enforcement officer authorized to make arrests for violations of this ch. 327, F.S., shall file with the clerk of the court, on a form provided by the commission, a certified statement that probable cause existed to arrest the person for a violation of s. 327.35, F.S., (Boating under the influence), and that the person refused to submit to a test as required by s. 327.352, F.S. Along with the statement, the officer shall also submit a sworn statement on a form provided by the commission that the person has been advised of both the penalties for failure to submit to the blood, breath, or urine test and the procedure for requesting a hearing.

¹⁷ Section 327.352, F.S.

¹⁸ A first degree misdemeanor is punishable by a definite term of imprisonment not exceeding 1 year and a \$1,000 fine, as provided in ss. 775.082 and 775.083, F.S.

¹⁹ Section 316.1932(1)(a)b., F.S.

²⁰ Section 782.071, F.S.

²¹ Section 782.071 (1)(a), F.S.

²² *McCreary v. State*, 371 So.2d 1024, 1026 (Fla.1979)

To prove the offense, the state must also prove the elements of reckless driving, which itself requires proof of a “willful or wanton disregard for the safety of persons or property.”²³

The term “willful” means “intentional, knowing, and purposeful,” and the term “wanton” means with a “conscious and intentional indifference to consequences and with knowledge that damage is likely to be done to persons or property.”²⁴

The court has stated “[i]n determining whether a defendant was driving recklessly, the essential inquiry is whether the defendant knowingly drove the vehicle in such a manner and under such conditions as was likely to cause death or great bodily harm.”²⁵

Search Warrants

Upon proper affidavits being made, a search warrant may be issued under the following grounds:

- When property has been stolen or embezzled in violation of law;²⁶
- When any property has been used:
 - As a means to commit any crime;²⁷
 - In connection with gambling, gambling implements and appliances;²⁸ or
 - In violation of s. 847.11, F.S., or other laws in reference to obscene prints and literature;²⁹
- When any property constitutes evidence relevant to proving that a felony has been committed;³⁰
- When property is being held or possessed:
 - In violation of any laws prohibiting the manufacture, sale, and transportation of intoxicating liquors;³¹
 - In violation of the fish and game laws;³²
 - In violation of the laws relative to food and drug;³³ or
 - In violation of the laws relative to citrus disease pursuant to s. 581.184, F.S.;³⁴ or
- When the laws in relation to cruelty to animals, as provided in ch. 828, F.S., have been or are violated in any particular building or place.³⁵

²³ *Santisteban v. State*, 72 So.3d 187, 195 (Fla. 4th DCA 2011); *Berube v. State*, 6 So.3d 624, 625 (Fla. 5th DCA 2008); see also § 316.192(1), Fla. Stat. (2010).

²⁴ *Lewek v. State*, 702 So.2d 527, 530–31 (Fla. 4th DCA 1997) (quoting Fla. Std. Jury. Instr. (Misd.) (**reckless** driving)).

²⁵ *Santisteban*, 72 So.3d at 195 (citing *D.E. v. State*, 904 So.2d 558, 562 (Fla. 5th DCA 2005)).

²⁶ Section 933.02(1), F.S.

²⁷ Section 933.02(2)(a), F.S.

²⁸ Section 933.02(2)(b), F.S.

²⁹ Section 933.02(2)(c), F.S.

³⁰ Section 933.02(3), F.S.

³¹ Section 933.02(4)(a), F.S.

³² Section 933.02(4)(b), F.S.

³³ Section 933.02(4)(c), F.S.

³⁴ Section 933.02(4)(d), F.S.

³⁵ Section 933.02(5), F.S.

Existing language in s. 933.02, F.S., allows the state to secure a warrant to seize property used *as a means to commit* a felony or misdemeanor.³⁶ Under the existing language, property *constituting relevant evidence* may be seized only if the suspected crime is a *felony*.^{37 38}

III. Effect of Proposed Changes:

The bill names the Act “Trenton’s Law.”

The bill amends ss. 316.193, and 327.35, F.S., to prohibit a person from driving, operating or being in actual physical control of a vehicle or vessel while under the influence of alcoholic beverages, any chemical substances set forth in s. 877.111, F.S., any substances controlled under ch. 893, F.S., or *any intoxicating substance* when affected to the extent that the person’s normal faculties are impaired.

The bill amends s. 319.193(3)(c)3., F.S., to provide an enhanced criminal penalty of a first degree felony for a violation of DUI with death if the person has a prior conviction for a violation of DUI with death or a prior conviction for vehicular homicide.

The bill amends s. 782.071, F.S., to provide an enhanced criminal penalty of a first degree felony for a violation of vehicular homicide if the person has a prior conviction for DUI causing death or a prior conviction for vehicular homicide. Currently, a first-time conviction for DUI with death³⁹ or vehicular homicide is a felony in the second degree.

The bill amends s. 316.1939, F.S., to provide a person’s first refusal to submit to a chemical or physical test of breath or urine as a second degree misdemeanor or a first degree misdemeanor if the person after having been informed as required still refuses to submit to a lawful test of his or her breath or urine.

Additionally, s. 316.1932, F.S., is amended to require that a person be told that his or her first failure to submit to a lawful test of breath or urine is a second degree misdemeanor⁴⁰ or a first degree misdemeanor⁴¹ if his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215, F.S., for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter.

Section 316.656, F.S., is amended to prohibit the court from suspending, deferring, or withholding adjudication of guilt or imposition of sentence for such a refusal to submit to testing.

³⁶ Section 933.02(2)(a), F.S.

³⁷ Section 933.02(3), F.S.

³⁸ *Bordo v. State*, 627 So.2d 561 (Fla. 4th DCA 1993) (“Property used to commit a any crime whether felony or misdemeanor may be sized under a warrant; while property merely constituting relevant evidence of a crime may be seized only if the suspected crime is a felony.”); *See also*, *State v. Geiss*, 70 So.3d 642 (Fla. 5th DCA 2011).

³⁹ Section 316.193(3)(c)3., F.S.

⁴⁰ A second-degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days, as provided in ss. 775.082 or 775.083, F.S.

⁴¹ A first-degree misdemeanor is punishable by a definite term of imprisonment not exceeding 1 year and a \$1,000 fine, as provided in ss. 775.082 or 775.083, F.S.

Current law provides that a person commits a third degree felony offense of driving on license suspended upon a third or subsequent violation, if the suspension was related to DUI or refusal to submit to testing. Section 322.34, F.S., is amended to provide mandatory minimum penalties for this crime. The mandatory minimum penalties include:

- A minimum of 30 days in jail for a first conviction;
- A minimum of 60 days in jail upon a second conviction; and
- A minimum of 90 days in jail upon a third or subsequent conviction.

The bill creates s. 316.19395, F.S., to authorize judicial circuits to create a DUI diversion program. A judicial circuit that creates such a diversion program must publish the terms and conditions of the program on the website of the office of the state attorney for that circuit.

Each judicial circuit that offers a diversion program under this section must notify the Department of Highway Safety and Motor Vehicles (DSHBMV) of each person who successfully completes the program. The DSHBMV must notate the successful completion of the diversion program on the driving record of each such person. A person who successfully completes a diversion program offered under this section is ineligible for future participation in such a program.

The bill amends s. 933.02, F.S., to permit the issuance of a search warrant when a sample of blood of a person constitutes evidence relevant to proving that a violation of s. 316.193, F.S., relating to DUI or s. 327.35, F.S., relating to boating under the influence, has been committed.

The bill takes effect October 1, 2025.

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.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Office of Economic and Demographic Research (EDR) issued a preliminary estimate of the bill and cited a positive indeterminate impact on prison beds due to the enhancement of criminal penalties and the expansion of the criteria for impairment.⁴² Additionally, the bill creates a new misdemeanor charge for refusal to submit to a breath test which may create additional revenue through court fines and fees and, therefore, the bill may have a positive indeterminate impact on state and local revenue.

The bill may have an indeterminate impact on the anticipated judicial or court workload. Provisions prohibiting suspension of guilt or sentencing for refusal to submit to testing as well as reporting requirements for DUI diversion programs are not likely to have a significant impact on judicial workload; however, the bill may encourage judicial circuits to implement a DUI Court which could reduce workload. The effect on judicial workload from establishing a new misdemeanor offense for first refusals to submit to testing, and authorizing search warrants to obtain a blood sample as evidence of DUI or BUI, is too speculative to quantify. To the extent arrests for first refusals and warrant requests increase, judicial workload may also increase.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.193, 316.1932, 316.1939, 316.656, 322.34, 327.35, 782.071, and 933.02.

This bill creates section 316.19395 of the Florida Statutes.

⁴² Office of Economic and Demographic Research, *SB 138 Preliminary Estimate*, (on file with the Senate Committee on Criminal Justice).

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 March 5, 2025:

The committee substitute [insert text]

CS by Criminal Justice on February 11, 2025:

The committee substitute:

- Provides that it is a first degree felony if a person commits a DUI with death and has a prior conviction for DUI with death or a prior conviction for vehicular homicide.
- Provides that this Act shall be designated as “Trenton’s Law”.
- Provides that it is a first degree felony if a person commits vehicular homicide and has a prior conviction for DUI with death or a prior conviction for vehicular homicide.

- B. **Amendments:**

None.



369714

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/06/2025	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 56 - 473

and insert:

any substance controlled under chapter 893, or any impairing substance, when affected to the extent that the person's normal faculties are impaired;

(b) The person has a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood; or

(c) The person has a breath-alcohol level of 0.08 or more



369714

11 grams of alcohol per 210 liters of breath.

12 (2) (a) Except as provided in paragraph (b), subsection (3),
13 or subsection (4), any person who is convicted of a violation of
14 subsection (1) shall be punished:

15 1. By a fine of:

16 a. Not less than \$500 or more than \$1,000 for a first
17 conviction.

18 b. Not less than \$1,000 or more than \$2,000 for a second
19 conviction; and

20 2. By imprisonment for:

21 a. Not more than 6 months for a first conviction.

22 b. Not more than 9 months for a second conviction.

23 3. For a second conviction, by mandatory placement for a
24 period of at least 1 year, at the convicted person's sole
25 expense, of an ignition interlock device approved by the
26 department in accordance with s. 316.1938 upon all vehicles that
27 are individually or jointly leased or owned and routinely
28 operated by the convicted person, when the convicted person
29 qualifies for a permanent or restricted license.

30

31 The portion of a fine imposed in excess of \$500 pursuant to sub-
32 subparagraph 1.a. and the portion of a fine imposed in excess of
33 \$1,000 pursuant to sub-subparagraph 1.b., shall be remitted by
34 the clerk to the Department of Revenue for deposit into the
35 General Revenue Fund.

36 (b)1. Any person who is convicted of a third violation of
37 this section for an offense that occurs within 10 years after a
38 prior conviction for a violation of this section commits a
39 felony of the third degree, punishable as provided in s.



369714

40 775.082, s. 775.083, or s. 775.084. In addition, the court shall
41 order the mandatory placement for a period of not less than 2
42 years, at the convicted person's sole expense, of an ignition
43 interlock device approved by the department in accordance with
44 s. 316.1938 upon all vehicles that are individually or jointly
45 leased or owned and routinely operated by the convicted person,
46 when the convicted person qualifies for a permanent or
47 restricted license.

48 2. Any person who is convicted of a third violation of this
49 section for an offense that occurs more than 10 years after the
50 date of a prior conviction for a violation of this section shall
51 be punished by a fine of not less than \$2,000 or more than
52 \$5,000 and by imprisonment for not more than 12 months. The
53 portion of a fine imposed in excess of \$2,500 pursuant to this
54 subparagraph shall be remitted by the clerk to the Department of
55 Revenue for deposit into the General Revenue Fund. In addition,
56 the court shall order the mandatory placement for a period of at
57 least 2 years, at the convicted person's sole expense, of an
58 ignition interlock device approved by the department in
59 accordance with s. 316.1938 upon all vehicles that are
60 individually or jointly leased or owned and routinely operated
61 by the convicted person, when the convicted person qualifies for
62 a permanent or restricted license.

63 3. Any person who is convicted of a fourth or subsequent
64 violation of this section, regardless of when any prior
65 conviction for a violation of this section occurred, commits a
66 felony of the third degree, punishable as provided in s.
67 775.082, s. 775.083, or s. 775.084. However, the fine imposed
68 for such fourth or subsequent violation may be not less than



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69 \$2,000. The portion of a fine imposed in excess of \$1,000
70 pursuant to this subparagraph shall be remitted by the clerk to
71 the Department of Revenue for deposit into the General Revenue
72 Fund.

73 (c) In addition to the penalties in paragraph (a), the
74 court may order placement, at the convicted person's sole
75 expense, of an ignition interlock device approved by the
76 department in accordance with s. 316.1938 for at least 6
77 continuous months upon all vehicles that are individually or
78 jointly leased or owned and routinely operated by the convicted
79 person if, at the time of the offense, the person had a blood-
80 alcohol level or breath-alcohol level of .08 or higher.

81 (3) Any person:

82 (a) Who is in violation of subsection (1);

83 (b) Who operates a vehicle; and

84 (c) Who, by reason of such operation, causes or contributes
85 to causing:

86 1. Damage to the property or person of another commits a
87 misdemeanor of the first degree, punishable as provided in s.
88 775.082 or s. 775.083.

89 2. Serious bodily injury to another, as defined in s.
90 316.1933, commits a felony of the third degree, punishable as
91 provided in s. 775.082, s. 775.083, or s. 775.084.

92 3. The death of any human being or unborn child commits DUI
93 manslaughter, and commits:

94 a. A felony of the second degree, punishable as provided in
95 s. 775.082, s. 775.083, or s. 775.084.

96 b. A felony of the first degree, punishable as provided in
97 s. 775.082, s. 775.083, or s. 775.084, if:



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98 (I) At the time of the crash, the person knew, or should
99 have known, that the crash occurred; and

100 (II) The person failed to give information and render aid
101 as required by s. 316.062.

102 c. A felony of the first degree, punishable as provided in
103 s. 775.082, s. 775.083, or s. 775.084, if the person has a prior
104 conviction for a violation of this subparagraph or s. 782.071.

105

106 For purposes of this subsection, the term "unborn child" has the
107 same meaning as provided in s. 775.021(5). A person who is
108 convicted of DUI manslaughter shall be sentenced to a mandatory
109 minimum term of imprisonment of 4 years.

110 Section 3. Paragraphs (a) and (c) of subsection (1) of
111 section 316.1932, Florida Statutes, are amended to read:

112 316.1932 Tests for alcohol, chemical substances, ~~or~~
113 controlled substances, or impairing substances; implied consent;
114 refusal.-

115 (1)(a)1.a. A person who accepts the privilege extended by
116 the laws of this state of operating a motor vehicle within this
117 state is, by operating such vehicle, deemed to have given his or
118 her consent to submit to an approved chemical test or physical
119 test including, but not limited to, an infrared light test of
120 his or her breath for the purpose of determining the alcoholic
121 content of his or her blood or breath if the person is lawfully
122 arrested for any offense allegedly committed while the person
123 was driving or was in actual physical control of a motor vehicle
124 while under the influence of alcoholic beverages. The chemical
125 or physical breath test must be incidental to a lawful arrest
126 and administered at the request of a law enforcement officer who



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127 has reasonable cause to believe such person was driving or was
128 in actual physical control of the motor vehicle within this
129 state while under the influence of alcoholic beverages. The
130 administration of a breath test does not preclude the
131 administration of another type of test. The person must ~~shall~~ be
132 told that his or her failure to submit to any lawful test of his
133 or her breath will result in the suspension of his or her ~~the~~
134 ~~person's~~ privilege to operate a motor vehicle as provided in s.
135 322.2615(1)(a) for a period of 1 year for a first refusal, or
136 for a period of 18 months if the driving privilege of such
137 person has been previously suspended or if he or she has
138 previously been fined under s. 327.35215 as a result of a
139 refusal to submit to a test or tests required under this chapter
140 or chapter 327, and must ~~shall~~ also be told that if he or she
141 refuses to submit to a lawful test of his or her breath ~~and his~~
142 ~~or her driving privilege has been previously suspended or if he~~
143 ~~or she has previously been fined under s. 327.35215 for a prior~~
144 ~~refusal to submit to a lawful test of his or her breath, urine,~~
145 ~~or blood as required under this chapter or chapter 327,~~ he or
146 she commits a misdemeanor of the second ~~first~~ degree, punishable
147 as provided in s. 775.082 or s. 775.083, or a misdemeanor of the
148 first degree, punishable as provided in s. 775.082 or s.
149 775.083, if his or her driving privilege has been previously
150 suspended or if he or she has previously been fined under s.
151 327.35215 for a prior refusal to submit to a lawful test of his
152 or her breath, urine, or blood as required under this chapter or
153 chapter 327, in addition to any other penalties provided by law.
154 The refusal to submit to a chemical or physical breath test upon
155 the request of a law enforcement officer as provided in this



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156 section is admissible into evidence in any criminal proceeding.
157 b. A person who accepts the privilege extended by the laws
158 of this state of operating a motor vehicle within this state is,
159 by operating such vehicle, deemed to have given his or her
160 consent to submit to a urine test for the purpose of detecting
161 the presence of chemical substances as set forth in s. 877.111,
162 ~~or~~ controlled substances, or impairing substances if the person
163 is lawfully arrested for any offense allegedly committed while
164 the person was driving or was in actual physical control of a
165 motor vehicle while under the influence of chemical substances,
166 ~~or~~ controlled substances, or impairing substances. The urine
167 test must be incidental to a lawful arrest and administered at a
168 detention facility or any other facility, mobile or otherwise,
169 which is equipped to administer such tests at the request of a
170 law enforcement officer who has reasonable cause to believe such
171 person was driving or was in actual physical control of a motor
172 vehicle within this state while under the influence of chemical
173 substances, ~~or~~ controlled substances, or impairing substances.
174 The urine test must ~~shall~~ be administered at a detention
175 facility or any other facility, mobile or otherwise, which is
176 equipped to administer such test in a reasonable manner that
177 will ensure the accuracy of the specimen and maintain the
178 privacy of the individual involved. The administration of a
179 urine test does not preclude the administration of another type
180 of test. The person must ~~shall~~ be told that his or her failure
181 to submit to any lawful test of his or her urine will result in
182 the suspension of his or her ~~the person's~~ privilege to operate a
183 motor vehicle for a period of 1 year for the first refusal, or
184 for a period of 18 months if the driving privilege of such



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185 person has been previously suspended or if he or she has
186 previously been fined under s. 327.35215 as a result of a
187 refusal to submit to a test or tests required under this chapter
188 or chapter 327, and must ~~shall~~ also be told that if he or she
189 refuses to submit to a lawful test of his or her urine ~~and his~~
190 ~~or her driving privilege has been previously suspended or if he~~
191 ~~or she has previously been fined under s. 327.35215 for a prior~~
192 ~~refusal to submit to a lawful test of his or her breath, urine,~~
193 ~~or blood as required under this chapter or chapter 327,~~ he or
194 she commits a misdemeanor of the second ~~first~~ degree, punishable
195 as provided in s. 775.082 or s. 775.083, or a misdemeanor of the
196 first degree, punishable as provided in s. 775.082 or s.
197 775.083, if his or her driving privilege has been previously
198 suspended or if he or she has previously been fined under s.
199 327.35215 for a prior refusal to submit to a lawful test of his
200 or her breath, urine, or blood as required under this chapter or
201 chapter 327, in addition to any other penalties provided by law.
202 The refusal to submit to a urine test upon the request of a law
203 enforcement officer as provided in this section is admissible
204 into evidence in any criminal proceeding.

205 2. The Alcohol Testing Program within the Department of Law
206 Enforcement is responsible for the regulation of the operation,
207 inspection, and registration of breath test instruments utilized
208 under the driving and boating under the influence provisions and
209 related provisions located in this chapter and chapters 322 and
210 327. The program is responsible for the regulation of the
211 individuals who operate, inspect, and instruct on the breath
212 test instruments utilized in the driving and boating under the
213 influence provisions and related provisions located in this



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214 chapter and chapters 322 and 327. The program is further
215 responsible for the regulation of blood analysts who conduct
216 blood testing to be utilized under the driving and boating under
217 the influence provisions and related provisions located in this
218 chapter and chapters 322 and 327. The program shall:

219 a. Establish uniform criteria for the issuance of permits
220 to breath test operators, agency inspectors, instructors, blood
221 analysts, and instruments.

222 b. Have the authority to permit breath test operators,
223 agency inspectors, instructors, blood analysts, and instruments.

224 c. Have the authority to discipline and suspend, revoke, or
225 renew the permits of breath test operators, agency inspectors,
226 instructors, blood analysts, and instruments.

227 d. Establish uniform requirements for instruction and
228 curricula for the operation and inspection of approved
229 instruments.

230 e. Have the authority to specify one approved curriculum
231 for the operation and inspection of approved instruments.

232 f. Establish a procedure for the approval of breath test
233 operator and agency inspector classes.

234 g. Have the authority to approve or disapprove breath test
235 instruments and accompanying paraphernalia for use pursuant to
236 the driving and boating under the influence provisions and
237 related provisions located in this chapter and chapters 322 and
238 327.

239 h. With the approval of the executive director of the
240 Department of Law Enforcement, make and enter into contracts and
241 agreements with other agencies, organizations, associations,
242 corporations, individuals, or federal agencies as are necessary,



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243 expedient, or incidental to the performance of duties.

244 i. Issue final orders which include findings of fact and
245 conclusions of law and which constitute final agency action for
246 the purpose of chapter 120.

247 j. Enforce compliance with this section through civil or
248 administrative proceedings.

249 k. Make recommendations concerning any matter within the
250 purview of this section, this chapter, chapter 322, or chapter
251 327.

252 l. Adopt ~~Promulgate~~ rules for the administration and
253 implementation of this section, including definitions of terms.

254 m. Consult and cooperate with other entities for the
255 purpose of implementing the mandates of this section.

256 n. Have the authority to approve the type of blood test
257 utilized under the driving and boating under the influence
258 provisions and related provisions located in this chapter and
259 chapters 322 and 327.

260 o. Have the authority to specify techniques and methods for
261 breath alcohol testing and blood testing utilized under the
262 driving and boating under the influence provisions and related
263 provisions located in this chapter and chapters 322 and 327.

264 p. Have the authority to approve repair facilities for the
265 approved breath test instruments, including the authority to set
266 criteria for approval.

267
268 Nothing in this section shall be construed to supersede
269 provisions in this chapter and chapters 322 and 327. The
270 specifications in this section are derived from the power and
271 authority previously and currently possessed by the Department



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272 of Law Enforcement and are enumerated to conform with the
273 mandates of chapter 99-379, Laws of Florida.

274 (c) A person who accepts the privilege extended by the laws
275 of this state of operating a motor vehicle within this state is,
276 by operating such vehicle, deemed to have given his or her
277 consent to submit to an approved blood test for the purpose of
278 determining the alcoholic content of the blood or a blood test
279 for the purpose of determining the presence of chemical
280 substances, ~~or~~ controlled substances, or impairing substances as
281 provided in this section if there is reasonable cause to believe
282 the person was driving or in actual physical control of a motor
283 vehicle while under the influence of alcoholic beverages, ~~or~~
284 chemical substances, ~~or~~ controlled substances, or impairing
285 substances and the person appears for treatment at a hospital,
286 clinic, or other medical facility and the administration of a
287 breath or urine test is impractical or impossible. As used in
288 this paragraph, the term "other medical facility" includes an
289 ambulance or other medical emergency vehicle. The blood test
290 shall be performed in a reasonable manner. A person who is
291 incapable of refusal by reason of unconsciousness or other
292 mental or physical condition is deemed not to have withdrawn his
293 or her consent to such test. A blood test may be administered
294 whether or not the person is told that his or her failure to
295 submit to such a blood test will result in the suspension of the
296 person's privilege to operate a motor vehicle upon the public
297 highways of this state and that a refusal to submit to a lawful
298 test of his or her blood, if his or her driving privilege has
299 been previously suspended for refusal to submit to a lawful test
300 of his or her breath, urine, or blood, is a misdemeanor. A



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301 person who is capable of refusal shall be told that his or her
302 failure to submit to such a blood test will result in the
303 suspension of the person's privilege to operate a motor vehicle
304 for a period of 1 year for a first refusal, or for a period of
305 18 months if the driving privilege of the person has been
306 suspended previously or if he or she has previously been fined
307 under s. 327.35215 as a result of a refusal to submit to a test
308 or tests required under this chapter or chapter 327. The refusal
309 to submit to a blood test upon the request of a law enforcement
310 officer is admissible in evidence in any criminal proceeding.

311 Section 4. Paragraph (a) of subsection (1), paragraph (a)
312 of subsection (2), paragraph (b) of subsection (3), and
313 subsection (4) of section 316.1933, Florida Statutes, are
314 amended to read:

315 316.1933 Blood test for impairment or intoxication in cases
316 of death or serious bodily injury; right to use reasonable
317 force.—

318 (1)(a) If a law enforcement officer has probable cause to
319 believe that a motor vehicle driven by or in the actual physical
320 control of a person under the influence of alcoholic beverages,
321 any chemical substances, ~~or~~ any controlled substances, or any
322 impairing substances has caused the death or serious bodily
323 injury of a human being, a law enforcement officer shall require
324 the person driving or in actual physical control of the motor
325 vehicle to submit to a test of the person's blood for the
326 purpose of determining the alcoholic content thereof or the
327 presence of chemical substances as set forth in s. 877.111, ~~or~~
328 any substances ~~substance~~ controlled under chapter 893, or any
329 impairing substances. The law enforcement officer may use



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330 reasonable force if necessary to require such person to submit
331 to the administration of the blood test. The blood test shall be
332 performed in a reasonable manner. Notwithstanding s. 316.1932,
333 the testing required by this paragraph need not be incidental to
334 a lawful arrest of the person.

335 (2) (a) Only a physician, certified paramedic, registered
336 nurse, licensed practical nurse, other personnel authorized by a
337 hospital to draw blood, or duly licensed clinical laboratory
338 director, supervisor, technologist, or technician, acting at the
339 request of a law enforcement officer, may withdraw blood for the
340 purpose of determining the alcoholic content thereof or the
341 presence of chemical substances, ~~or~~ controlled substances, or
342 impairing substances therein. However, the failure of a law
343 enforcement officer to request the withdrawal of blood does
344 ~~shall~~ not affect the admissibility of a test of blood withdrawn
345 for medical purposes.

346 1. Notwithstanding any provision of law pertaining to the
347 confidentiality of hospital records or other medical records, if
348 a health care provider, who is providing medical care in a
349 health care facility to a person injured in a motor vehicle
350 crash, becomes aware, as a result of any blood test performed in
351 the course of that medical treatment, that the person's blood-
352 alcohol level meets or exceeds the blood-alcohol level specified
353 in s. 316.193(1)(b), the health care provider may notify any law
354 enforcement officer or law enforcement agency. Any such notice
355 must be given within a reasonable time after the health care
356 provider receives the test result. Any such notice shall be used
357 only for the purpose of providing the law enforcement officer
358 with reasonable cause to request the withdrawal of a blood



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359 sample pursuant to this section.

360 2. The notice shall consist only of the name of the person
361 being treated, the name of the person who drew the blood, the
362 blood-alcohol level indicated by the test, and the date and time
363 of the administration of the test.

364 3. Nothing contained in s. 395.3025(4), s. 456.057, or any
365 applicable practice act affects the authority to provide notice
366 under this section, and the health care provider is not
367 considered to have breached any duty owed to the person under s.
368 395.3025(4), s. 456.057, or any applicable practice act by
369 providing notice or failing to provide notice. It is ~~shall~~ not
370 ~~be~~ a breach of any ethical, moral, or legal duty for a health
371 care provider to provide notice or fail to provide notice.

372 4. A civil, criminal, or administrative action may not be
373 brought against any person or health care provider participating
374 in good faith in the provision of notice or failure to provide
375 notice as provided in this section. Any person or health care
376 provider participating in the provision of notice or failure to
377 provide notice as provided in this section shall be immune from
378 any civil or criminal liability and from any professional
379 disciplinary action with respect to the provision of notice or
380 failure to provide notice under this section. Any such
381 participant has the same immunity with respect to participating
382 in any judicial proceedings resulting from the notice or failure
383 to provide notice.

384 (3)

385 (b) The results of any test administered pursuant to this
386 section for the purpose of detecting the presence of any
387 controlled substance or impairing substance are ~~shall~~ not ~~be~~



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388 admissible as evidence in a criminal prosecution for the
389 possession of a controlled substance or impairing substance.

390 (4) Notwithstanding any provision of law pertaining to the
391 confidentiality of hospital records or other medical records,
392 information relating to the alcoholic content of the blood or
393 the presence of chemical substances, or ~~or~~ controlled substances,
394 or impairing substances in the blood obtained pursuant to this
395 section shall be released to a court, prosecuting attorney,
396 defense attorney, or law enforcement officer in connection with
397 an alleged violation of s. 316.193 upon request for such
398 information.

399 Section 5. Subsections (1) and (2) of section 316.1934,
400 Florida Statutes, are amended to read:

401 316.1934 Presumption of impairment; testing methods.—

402 (1) It is unlawful and punishable as provided in chapter
403 322 and in s. 316.193 for any person who is under the influence
404 of alcoholic beverages, or ~~or~~ controlled substances, or impairing
405 substances, when affected to the extent that the person's normal
406 faculties are impaired or to the extent that the person is
407 deprived of full possession of normal faculties, to drive or be
408 in actual physical control of any motor vehicle within this
409 state. Such normal faculties include, but are not limited to,
410 the ability to see, hear, walk, talk, judge distances, drive an
411 automobile, make judgments, act in emergencies, and, in general,
412 normally perform the many mental and physical acts of daily
413 life.

414 (2) At the trial of any civil or criminal action or
415 proceeding arising out of acts alleged to have been committed by
416 any person while driving, or in actual physical control of, a



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417 vehicle while under the influence of alcoholic beverages, ~~or~~
418 controlled substances, or impairing substances, when affected to
419 the extent that the person's normal faculties were impaired or
420 to the extent that he or she was deprived of full possession of
421 his or her normal faculties, the results of any test
422 administered in accordance with s. 316.1932 or s. 316.1933 and
423 this section are admissible into evidence when otherwise
424 admissible, and the amount of alcohol in the person's blood or
425 breath at the time alleged, as shown by chemical analysis of the
426 person's blood, or by chemical or physical test of the person's
427 breath, gives rise to the following presumptions:

428 (a) If there was at that time a blood-alcohol level or
429 breath-alcohol level of 0.05 or less, it is presumed that the
430 person was not under the influence of alcoholic beverages to the
431 extent that his or her normal faculties were impaired.

432 (b) If there was at that time a blood-alcohol level or
433 breath-alcohol level in excess of 0.05 but less than 0.08, that
434 fact does not give rise to any presumption that the person was
435 or was not under the influence of alcoholic beverages to the
436 extent that his or her normal faculties were impaired but may be
437 considered with other competent evidence in determining whether
438 the person was under the influence of alcoholic beverages to the
439 extent that his or her normal faculties were impaired.

440 (c) If there was at that time a blood-alcohol level or
441 breath-alcohol level of 0.08 or higher, that fact is prima facie
442 evidence that the person was under the influence of alcoholic
443 beverages to the extent that his or her normal faculties were
444 impaired. Moreover, such person who has a blood-alcohol level or
445 breath-alcohol level of 0.08 or higher is guilty of driving, or



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446 being in actual physical control of, a motor vehicle, with an
447 unlawful blood-alcohol level or breath-alcohol level.

448

449 The presumptions provided in this subsection do not limit the
450 introduction of any other competent evidence bearing upon the
451 question of whether the person was under the influence of
452 alcoholic beverages to the extent that his or her normal
453 faculties were impaired.

454 Section 6. Section 316.1939, Florida Statutes, is amended
455 to read:

456 316.1939 Refusal to submit to testing; penalties.-

457 (1) A person who has refused to submit to a chemical or
458 physical test of his or her breath or urine, as described in s.
459 316.1932, commits a misdemeanor of the second degree, punishable
460 as provided in s. 775.082 or s. 775.083, in addition to any
461 other penalties provided by law, and such person whose driving
462 privilege was previously suspended or who was previously fined
463 under s. 327.35215 for a prior refusal to submit to a lawful
464 test of his or her breath, urine, or blood required under this
465 chapter or chapter 327 commits a misdemeanor of the first
466 degree, punishable as provided in s. 775.082 or s. 775.083, in
467 addition to any other penalties provided by law if all of the
468 following apply, and:

469 (a) ~~Who~~ The arresting law enforcement officer had probable
470 cause to believe that the person was driving or in actual
471 physical control of a motor vehicle in this state while under
472 the influence of alcoholic beverages, chemical substances, ~~or~~
473 controlled substances, or impairing substances.

474 (b) The person ~~who~~ was placed under lawful arrest for a



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475 violation of s. 316.193, unless such test was requested pursuant
476 to s. 316.1932(1)(c).~~†~~

477 (c) The person ~~who~~ was informed that, if he or she refused
478 to submit to such test, his or her privilege to operate a motor
479 vehicle would be suspended for a period of 1 year or, in the
480 case of a second or subsequent refusal, for a period of 18
481 months.~~†~~

482 (d) The person, after having been informed as required in
483 paragraph (c), still refuses ~~who was informed that a refusal to~~
484 ~~submit to a lawful test of his or her breath or urine as~~
485 ~~described in s. 316.1932, if his or her driving privilege has~~
486 ~~been previously suspended or if he or she has previously been~~
487 ~~fined under s. 327.35215 for a prior refusal to submit to a~~
488 ~~lawful test of his or her breath, urine, or blood as required~~
489 ~~under this chapter or chapter 327, is a misdemeanor of the first~~
490 ~~degree, punishable as provided in s. 775.082 or s. 775.083, in~~
491 ~~addition to any other penalties provided by law; and~~

492 ~~(e) Who, after having been so informed, refused to submit~~
493 ~~to any such test when requested to do so by a law enforcement~~
494 ~~officer or correctional officer~~

495
496 ~~commits a misdemeanor of the first degree and is subject to~~
497 ~~punishment as provided in s. 775.082 or s. 775.083.~~

498 (2) The disposition of any administrative proceeding that
499 relates to the suspension of a person's driving privilege does
500 not affect a criminal action under this section.

501 (3) The disposition of a criminal action under this section
502 does not affect any administrative proceeding that relates to
503 the suspension of a person's driving privilege. The department's



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504 records showing that a person's license has been previously
505 suspended for a prior refusal to submit to a lawful test of his
506 or her breath, urine, or blood are ~~shall be~~ admissible and
507 create ~~shall create~~ a rebuttable presumption of such suspension.

508 Section 7. Section 316.19395, Florida Statutes, is created
509 to read:

510 316.19395 Driving under the influence diversion programs.-

511 (1) Any state attorney may create a driving under the
512 influence diversion program. A state attorney that creates such
513 a diversion program shall publish the terms and conditions of
514 the program on the website of the office of the state attorney.

515 (2) Each state attorney that offers a diversion program
516 under this section shall notify the department of each person
517 who successfully completes the program. The department shall
518 notate the successful completion of the diversion program on the
519 driving record of each such person.

520 (3) A person who successfully completes a diversion program
521 offered under this section is ineligible for future
522 participation in such a program.

523 Section 8. Subsection (1) of section 316.656, Florida
524 Statutes, is amended to read:

525 316.656 Mandatory adjudication; prohibition against
526 accepting plea to lesser included offense.-

527 (1) Notwithstanding ~~the provisions of~~ s. 948.01, a court
528 may not ~~no court may~~ suspend, defer, or withhold adjudication of
529 guilt or imposition of sentence for any violation of s. 316.193
530 or s. 316.1939, for manslaughter resulting from the operation of
531 a motor vehicle, or for vehicular homicide.

532 Section 9. Subsection (2) of section 322.34, Florida



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533 Statutes, is amended to read:

534 322.34 Driving while license suspended, revoked, canceled,
535 or disqualified.—

536 (2) Any person whose driver license or driving privilege
537 has been canceled, suspended, or revoked as provided by law, or
538 who does not have a driver license or driving privilege but is
539 under suspension or revocation equivalent status as defined in
540 s. 322.01(43), except persons defined in s. 322.264, who,
541 knowing of such cancellation, suspension, revocation, or
542 suspension or revocation equivalent status, drives any motor
543 vehicle upon the highways of this state while such license or
544 privilege is canceled, suspended, or revoked, or while under
545 suspension or revocation equivalent status, commits:

546 (a) A misdemeanor of the second degree, punishable as
547 provided in s. 775.082 or s. 775.083.

548 (b)~~1~~. A misdemeanor of the first degree, punishable as
549 provided in s. 775.082 or s. 775.083, upon a second or
550 subsequent conviction, except as provided in paragraph (c).

551 ~~2~~. A person convicted of a third or subsequent conviction,
552 except as provided in paragraph (c), must serve a minimum of 10
553 days in jail.

554 (c) A felony of the third degree, punishable as provided in
555 s. 775.082, s. 775.083, or s. 775.084, upon a third or
556 subsequent conviction if the current violation of this section
557 or the most recent prior violation of the section is related to
558 driving while license canceled, suspended, revoked, or
559 suspension or revocation equivalent status resulting from a
560 violation of:

561 1. Driving under the influence. A person to whom this



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562 subparagraph applies must serve a minimum of 30 days in jail
563 upon a first conviction, a minimum of 60 days in jail upon a
564 second conviction, and a minimum of 90 days in jail upon a third
565 or subsequent conviction;

566 2. Refusal to submit to a urine, breath-alcohol, or blood
567 alcohol test. A person to whom this subparagraph applies must
568 serve a minimum of 30 days in jail upon a first conviction, a
569 minimum of 60 days in jail upon a second conviction, and a
570 minimum of 90 days in jail upon a third or subsequent
571 conviction;

572 3. A traffic offense causing death or serious bodily
573 injury; or

574 4. Fleeing or eluding.

575
576 The element of knowledge is satisfied if the person has been
577 previously cited as provided in subsection (1); or the person
578 admits to knowledge of the cancellation, suspension, or
579 revocation, or suspension or revocation equivalent status; or
580 the person received notice as provided in subsection (4). There
581 is shall be a rebuttable presumption that the knowledge
582 requirement is satisfied if a judgment or an order as provided
583 in subsection (4) appears in the department's records for any
584 case except for one involving a suspension by the department for
585 failure to pay a traffic fine or for a financial responsibility
586 violation.

587 Section 10. Subsections (1) and (8) of section 327.35,
588 Florida Statutes, are amended to read:

589 327.35 Boating under the influence; penalties; "designated
590 drivers."—



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591 (1) A person commits ~~is guilty of~~ the offense of boating
592 under the influence and is subject to punishment as provided in
593 subsection (2) if the person is operating a vessel within this
594 state and:

595 (a) The person is under the influence of alcoholic
596 beverages, any chemical substance set forth in s. 877.111, ~~or~~
597 any substance controlled under chapter 893, or any impairing
598 substance, when affected to the extent that the person's normal
599 faculties are impaired;

600 (b) The person has a blood-alcohol level of 0.08 or more
601 grams of alcohol per 100 milliliters of blood; or

602 (c) The person has a breath-alcohol level of 0.08 or more
603 grams of alcohol per 210 liters of breath.

604 (8) A person who is arrested for a violation of this
605 section may not be released from custody:

606 (a) Until the person is no longer under the influence of
607 alcoholic beverages, any chemical substance set forth in s.
608 877.111, ~~or~~ any substance controlled under chapter 893, or any
609 impairing substance and affected to the extent that his or her
610 normal faculties are impaired;

611 (b) Until the person's blood-alcohol level or breath-
612 alcohol level is less than 0.05; or

613 (c) Until 8 hours have elapsed from the time the person was
614 arrested.

615 Section 11. Paragraphs (a), (c), (d), and (e) of subsection
616 (1) and subsection (3) of section 327.352, Florida Statutes, are
617 amended to read:

618 327.352 Tests for alcohol and other, ~~chemical substances,~~
619 ~~or controlled substances~~; implied consent; refusal.-



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620 (1)(a)1. The Legislature declares that the operation of a
621 vessel is a privilege that must be exercised in a reasonable
622 manner. In order to protect the public health and safety, it is
623 essential that a lawful and effective means of reducing the
624 incidence of boating while impaired or intoxicated be
625 established. Therefore, a person who accepts the privilege
626 extended by the laws of this state of operating a vessel within
627 this state is, by operating such vessel, deemed to have given
628 his or her consent to submit to an approved chemical test or
629 physical test including, but not limited to, an infrared light
630 test of his or her breath for the purpose of determining the
631 alcoholic content of his or her blood or breath if the person is
632 lawfully arrested for any offense allegedly committed while the
633 person was operating a vessel while under the influence of
634 alcoholic beverages. The chemical or physical breath test must
635 be incidental to a lawful arrest and administered at the request
636 of a law enforcement officer who has reasonable cause to believe
637 such person was operating the vessel within this state while
638 under the influence of alcoholic beverages. The administration
639 of a breath test does not preclude the administration of another
640 type of test. The person shall be told that his or her failure
641 to submit to any lawful test of his or her breath under this
642 chapter will result in a civil penalty of \$500, and that if he
643 or she refuses to submit to a lawful test of his or her breath
644 and he or she has been previously fined under s. 327.35215 or
645 his or her driving privilege has been previously suspended for
646 refusal to submit to any lawful test of his or her breath,
647 urine, or blood, he or she commits a misdemeanor of the first
648 degree, punishable as provided in s. 775.082 or s. 775.083, in



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649 addition to any other penalties provided by law. The refusal to
650 submit to a chemical or physical breath test upon the request of
651 a law enforcement officer as provided in this section is
652 admissible into evidence in any criminal proceeding.

653 2. A person who accepts the privilege extended by the laws
654 of this state of operating a vessel within this state is, by
655 operating such vessel, deemed to have given his or her consent
656 to submit to a urine test for the purpose of detecting the
657 presence of chemical substances as set forth in s. 877.111, ~~or~~
658 controlled substances, or impairing substances if the person is
659 lawfully arrested for any offense allegedly committed while the
660 person was operating a vessel while under the influence of
661 chemical substances, ~~or~~ controlled substances, or impairing
662 substances. The urine test must be incidental to a lawful arrest
663 and administered at a detention facility or any other facility,
664 mobile or otherwise, which is equipped to administer such tests
665 at the request of a law enforcement officer who has reasonable
666 cause to believe such person was operating a vessel within this
667 state while under the influence of chemical substances, ~~or~~
668 controlled substances, or impairing substances. The urine test
669 must be administered at a detention facility or any other
670 facility, mobile or otherwise, which is equipped to administer
671 such test in a reasonable manner that will ensure the accuracy
672 of the specimen and maintain the privacy of the individual
673 involved. The administration of a urine test does not preclude
674 the administration of another type of test. The person shall be
675 told that his or her failure to submit to any lawful test of his
676 or her urine under this chapter will result in a civil penalty
677 of \$500, and that if he or she refuses to submit to a lawful



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678 test of his or her urine and he or she has been previously fined
679 under s. 327.35215 or his or her driving privilege has been
680 previously suspended for refusal to submit to any lawful test of
681 his or her breath, urine, or blood, he or she commits a
682 misdemeanor of the first degree, punishable as provided in s.
683 775.082 or s. 775.083, in addition to any other penalties
684 provided by law. The refusal to submit to a urine test upon the
685 request of a law enforcement officer as provided in this section
686 is admissible into evidence in any criminal proceeding.

687 (c) A person who accepts the privilege extended by the laws
688 of this state of operating a vessel within this state is, by
689 operating such vessel, deemed to have given his or her consent
690 to submit to an approved blood test for the purpose of
691 determining the alcoholic content of the blood or a blood test
692 for the purpose of determining the presence of chemical
693 substances, ~~or~~ controlled substances, or impairing substances as
694 provided in this section if there is reasonable cause to believe
695 the person was operating a vessel while under the influence of
696 alcoholic beverages or chemical, ~~or~~ controlled, or impairing
697 substances and the person appears for treatment at a hospital,
698 clinic, or other medical facility and the administration of a
699 breath or urine test is impractical or impossible. As used in
700 this paragraph, the term "other medical facility" includes an
701 ambulance or other medical emergency vehicle. The blood test
702 must be performed in a reasonable manner. A person who is
703 incapable of refusal by reason of unconsciousness or other
704 mental or physical condition is deemed not to have withdrawn his
705 or her consent to such test. A person who is capable of refusal
706 shall be told that his or her failure to submit to such a blood



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707 test will result in a civil penalty of \$500. The refusal to
708 submit to a blood test upon the request of a law enforcement
709 officer is admissible in evidence in any criminal proceeding.

710 (d) If the arresting officer does not request a chemical or
711 physical breath test of the person arrested for any offense
712 allegedly committed while the person was operating a vessel
713 while under the influence of alcoholic beverages, ~~or~~ controlled
714 substances, or impairing substances, the person may request the
715 arresting officer to have a chemical or physical test made of
716 the arrested person's breath or a test of the urine or blood for
717 the purpose of determining the alcoholic content of the person's
718 blood or breath or the presence of chemical substances, ~~or~~
719 controlled substances, or impairing substances; and, if so
720 requested, the arresting officer shall have the test performed.

721 (e)1. The tests determining the weight of alcohol in the
722 defendant's blood or breath shall be administered at the request
723 of a law enforcement officer substantially in accordance with
724 rules of the Department of Law Enforcement. However, the failure
725 of a law enforcement officer to request the withdrawal of blood
726 does not affect the admissibility of a test of blood withdrawn
727 for medical purposes.

728 2. Only a physician, certified paramedic, registered nurse,
729 licensed practical nurse, other personnel authorized by a
730 hospital to draw blood, or duly licensed clinical laboratory
731 director, supervisor, technologist, or technician, acting at the
732 request of a law enforcement officer, may withdraw blood for the
733 purpose of determining its alcoholic content or the presence of
734 chemical substances, ~~or~~ controlled substances, or impairing
735 substances therein. However, the failure of a law enforcement



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736 officer to request the withdrawal of blood does not affect the
737 admissibility of a test of blood withdrawn for medical purposes.

738 3. The person tested may, at his or her own expense, have a
739 physician, registered nurse, other personnel authorized by a
740 hospital to draw blood, or duly licensed clinical laboratory
741 director, supervisor, technologist, or technician, or other
742 person of his or her own choosing administer an independent test
743 in addition to the test administered at the direction of the law
744 enforcement officer for the purpose of determining the amount of
745 alcohol in the person's blood or breath or the presence of
746 chemical substances, ~~or~~ controlled substances, or impairing
747 substances at the time alleged, as shown by chemical analysis of
748 his or her blood or urine, or by chemical or physical test of
749 his or her breath. The failure or inability to obtain an
750 independent test by a person does not preclude the admissibility
751 in evidence of the test taken at the direction of the law
752 enforcement officer. The law enforcement officer may ~~shall~~ not
753 interfere with the person's opportunity to obtain the
754 independent test and shall provide the person with timely
755 telephone access to secure the test, but the burden is on the
756 person to arrange and secure the test at the person's own
757 expense.

758 4. Upon the request of the person tested, full information
759 concerning the results of the test taken at the direction of the
760 law enforcement officer shall be made available to the person or
761 his or her attorney. Full information is limited to the
762 following:

763 a. The type of test administered and the procedures
764 followed.



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765 b. The time of the collection of the blood or breath sample
766 analyzed.

767 c. The numerical results of the test indicating the alcohol
768 content of the blood and breath.

769 d. The type and status of any permit issued by the
770 Department of Law Enforcement which was held by the person who
771 performed the test.

772 e. If the test was administered by means of a breath
773 testing instrument, the date of performance of the most recent
774 required inspection of such instrument.

775
776 Full information does not include manuals, schematics, or
777 software of the instrument used to test the person or any other
778 material that is not in the actual possession of the state.
779 Additionally, full information does not include information in
780 the possession of the manufacturer of the test instrument.

781 5. A hospital, clinical laboratory, medical clinic, or
782 similar medical institution or physician, certified paramedic,
783 registered nurse, licensed practical nurse, other personnel
784 authorized by a hospital to draw blood, or duly licensed
785 clinical laboratory director, supervisor, technologist, or
786 technician, or other person assisting a law enforcement officer
787 does not incur any civil or criminal liability as a result of
788 the withdrawal or analysis of a blood or urine specimen, or the
789 chemical or physical test of a person's breath pursuant to
790 accepted medical standards when requested by a law enforcement
791 officer, regardless of whether or not the subject resisted
792 administration of the test.

793 (3) Notwithstanding any provision of law pertaining to the



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794 confidentiality of hospital records or other medical records,
795 information relating to the alcoholic content of the blood or
796 breath or the presence of chemical substances, ~~or~~ controlled
797 substances, or impairing substances in the blood obtained
798 pursuant to this section shall be released to a court,
799 prosecuting attorney, defense attorney, or law enforcement
800 officer in connection with an alleged violation of s. 327.35
801 upon request for such information.

802 Section 12. Paragraph (a) of subsection (1), paragraph (a)
803 of subsection (2), paragraph (b) of subsection (3), and
804 subsection (4) of section 327.353, Florida Statutes, are amended
805 to read:

806 327.353 Blood test for impairment or intoxication in cases
807 of death or serious bodily injury; right to use reasonable
808 force.—

809 (1)(a) If a law enforcement officer has probable cause to
810 believe that a vessel operated by a person under the influence
811 of alcoholic beverages, any chemical substances, ~~or~~ any
812 controlled substances, or any impairing substances has caused
813 the death or serious bodily injury of a human being, a law
814 enforcement officer shall require the person operating or in
815 actual physical control of the vessel to submit to a test of the
816 person's blood for the purpose of determining the alcoholic
817 content thereof or the presence of chemical substances as set
818 forth in s. 877.111, ~~or~~ any substance controlled under chapter
819 893, or any impairing substance. The law enforcement officer may
820 use reasonable force if necessary to require the person to
821 submit to the administration of the blood test. The blood test
822 shall be performed in a reasonable manner. Notwithstanding s.



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823 327.352, the testing required by this paragraph need not be
824 incidental to a lawful arrest of the person.

825 (2) (a) Only a physician, certified paramedic, registered
826 nurse, licensed practical nurse, other personnel authorized by a
827 hospital to draw blood, or duly licensed clinical laboratory
828 director, supervisor, technologist, or technician, acting at the
829 request of a law enforcement officer, may withdraw blood for the
830 purpose of determining the alcoholic content thereof or the
831 presence of chemical substances, ~~or~~ controlled substances, or
832 impairing substances therein. However, the failure of a law
833 enforcement officer to request the withdrawal of blood does
834 ~~shall~~ not affect the admissibility of a test of blood withdrawn
835 for medical purposes.

836 (3)

837 (b) The results of any test administered pursuant to this
838 section for the purpose of detecting the presence of any
839 controlled substance or impairing substance are not admissible
840 as evidence in a criminal prosecution for the possession of a
841 controlled substance.

842 (4) Notwithstanding any provision of law pertaining to the
843 confidentiality of hospital records or other medical records,
844 information relating to the alcoholic content of the blood or
845 the presence of chemical substances, ~~or~~ controlled substances,
846 or impairing substances in the blood obtained pursuant to this
847 section shall be released to a court, prosecuting attorney,
848 defense attorney, or law enforcement officer in connection with
849 an alleged violation of s. 327.35 upon request for such
850 information.

851 Section 13. Subsections (1) and (2) of section 327.354,



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852 Florida Statutes, are amended to read:

853 327.354 Presumption of impairment; testing methods.—

854 (1) It is unlawful and punishable as provided in s. 327.35
855 for any person who is under the influence of alcoholic
856 beverages, ~~or~~ controlled substances, or impairing substances,
857 when affected to the extent that the person's normal faculties
858 are impaired or to the extent that the person is deprived of
859 full possession of normal faculties, to operate any vessel
860 within this state. Such normal faculties include, but are not
861 limited to, the ability to see, hear, walk, talk, judge
862 distances, drive an automobile, make judgments, act in
863 emergencies, and, in general, normally perform the many mental
864 and physical acts of daily life.

865 (2) At the trial of any civil or criminal action or
866 proceeding arising out of acts alleged to have been committed by
867 any person while operating a vessel while under the influence of
868 alcoholic beverages, ~~or~~ controlled substances, or impairing
869 substances, when affected to the extent that the person's normal
870 faculties were impaired or to the extent that he or she was
871 deprived of full possession of his or her normal faculties, the
872 results of any test administered in accordance with s. 327.352
873 or s. 327.353 and this section are admissible into evidence when
874 otherwise admissible, and the amount of alcohol in the person's
875 blood or breath at the time alleged, as shown by chemical
876 analysis of the person's blood, or by chemical or physical test
877 of the person's breath, gives rise to the following
878 presumptions:

879 (a) If there was at that time a blood-alcohol level or
880 breath-alcohol level of 0.05 or less, it is presumed that the



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881 person was not under the influence of alcoholic beverages to the
882 extent that his or her normal faculties were impaired.

883 (b) If there was at that time a blood-alcohol level or
884 breath-alcohol level in excess of 0.05 but less than 0.08, that
885 fact does not give rise to any presumption that the person was
886 or was not under the influence of alcoholic beverages to the
887 extent that his or her normal faculties were impaired but may be
888 considered with other competent evidence in determining whether
889 the person was under the influence of alcoholic beverages to the
890 extent that his or her normal faculties were impaired.

891 (c) If there was at that time a blood-alcohol level or
892 breath-alcohol level of 0.08 or higher, that fact is prima facie
893 evidence that the person was under the influence of alcoholic
894 beverages to the extent that his or her normal faculties were
895 impaired. Any person who operates a vessel and who has a blood-
896 alcohol level or breath-alcohol level of 0.08 or higher is
897 guilty of operating a vessel with an unlawful blood-alcohol
898 level or breath-alcohol level.

899
900 The presumptions provided in this subsection do not limit the
901 introduction of any other competent evidence bearing upon the
902 question of whether the person was under the influence of
903 alcoholic beverages to the extent that his or her normal
904 faculties were impaired.

905 Section 14. Section 327.359, Florida Statutes, is amended
906 to read:

907 327.359 Refusal to submit to testing; penalties.—A person
908 who has refused to submit to a chemical or physical test of his
909 or her breath or urine, as described in s. 327.352, and who has



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910 been previously fined under s. 327.35215 or has previously had
911 his or her driver license suspended for refusal to submit to a
912 lawful test of his or her breath, urine, or blood, and:

913 (1) Who the arresting law enforcement officer had probable
914 cause to believe was operating or in actual physical control of
915 a vessel in this state while under the influence of alcoholic
916 beverages, chemical substances, ~~or~~ controlled substances, or
917 impairing substances;

918 (2) Who was placed under lawful arrest for a violation of
919 s. 327.35 unless such test was requested pursuant to s.
920 327.352(1)(c);

921 (3) Who was informed that if he or she refused to submit to
922 such test, he or she is subject to a fine of \$500;

923 (4) Who was informed that a refusal to submit to a lawful
924 test of his or her breath or urine, if he or she has been
925 previously fined under s. 327.35215 or has previously had his or
926 her driver license suspended for refusal to submit to a lawful
927 test of his or her breath, urine, or blood, is a misdemeanor of
928 the first degree, punishable as provided in s. 775.082 or s.
929 775.083; and

930 (5) Who, after having been so informed, refused to submit
931 to any such test when requested to do so by a law enforcement
932 officer or correctional officer

933
934 commits a misdemeanor of the first degree, punishable as
935 provided in s. 775.082 or s. 775.083.

936
937 ===== T I T L E A M E N D M E N T =====

938 And the title is amended as follows:



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939 Delete lines 6 - 34
940 and insert:
941 influence of any impairing substance; providing
942 enhanced criminal penalties for violation of driving
943 under the influence if the person has a prior
944 conviction for a violation of specified provisions;
945 amending s. 316.1932, F.S.; requiring that a person be
946 told that his or her failure to submit to a lawful
947 test of breath or urine is a second degree misdemeanor
948 or a first degree misdemeanor under certain
949 circumstances; conforming provisions to changes made
950 by the act; amending ss. 316.1933 and 316.1934, F.S.;
951 conforming provisions to changes made by the act;
952 amending s. 316.1939, F.S.; classifying a person's
953 refusal to submit to a chemical or physical test of
954 breath or urine as a second degree misdemeanor or a
955 first degree misdemeanor under certain circumstances;
956 conforming a provision to changes made by the act;
957 creating s. 316.19395, F.S.; authorizing state
958 attorneys to create driving under the influence
959 diversion programs; providing requirements for such
960 diversion programs; providing that a person who
961 successfully completes a diversion program is
962 ineligible for participation in such a program in the
963 future; amending s. 316.656, F.S.; prohibiting a court
964 from suspending, deferring, or withholding
965 adjudication of guilt or imposition of sentence for a
966 specified violation; amending s. 322.34, F.S.;
967 providing penalties for specified violations of



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968 driving while a license or driving privilege is
969 canceled, suspended, or revoked or under suspension or
970 revocation equivalent status; amending s. 327.35,
971 F.S.; prohibiting a person from operating a vessel
972 while under the influence of any impairing substance;
973 conforming a provision to changes made by the act;
974 amending ss. 327.352, 327.353, 327.354, and 327.359,
975 F.S.; conforming provisions to changes made by the
976 act; amending s. 933.02, F.S.; permitting the

By Senator Leek

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A bill to be entitled

An act relating to criminal offenses against law enforcement officers and other personnel; providing a short title; amending s. 776.051, F.S.; revising a prohibition on the use or threatened use of force to resist arrest or detention; amending s. 782.065, F.S.; providing for enhanced punishment for manslaughter when committed against specified officers; revising applicability; amending s. 784.07, F.S.; revising the definition of the term "law enforcement officer"; revising provisions concerning assault or battery upon specified officers and other personnel; amending s. 843.01, F.S.; revising a provision concerning resisting, obstructing, or opposing specified officers or legally authorized persons; providing an effective date.

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

Section 1. This act may be cited as the "Officer Jason Raynor Act."

Section 2. Section 776.051, Florida Statutes, is amended to read:

776.051 Use or threatened use of force in resisting arrest or detention ~~making an arrest or in the execution of a legal duty~~; prohibition.-

~~(1)~~ A person is not justified in the use or threatened use of force to resist a lawful or an unlawful ~~an~~ arrest or detention by a law enforcement officer, or to resist a law

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enforcement officer acting in the performance of his or her official duties as described in s. 943.10(1), ~~if who is engaged in the execution of a legal duty, if the law enforcement officer was acting in good faith and~~ he or she is known, or reasonably appears, to be a law enforcement officer.

~~(2) A law enforcement officer, or any person whom the officer has summoned or directed to assist him or her, is not justified in the use of force if the arrest or execution of a legal duty is unlawful and known by him or her to be unlawful.~~

Section 3. Section 782.065, Florida Statutes, is amended to read:

782.065 Murder; law enforcement officer, correctional officer, correctional probation officer.-Notwithstanding ss. 775.082, 775.0823, 782.04, 782.051, and chapter 921, a defendant must shall be sentenced to life imprisonment without eligibility for release upon findings by the trier of fact that, beyond a reasonable doubt:

(1) The defendant committed murder in the first degree in violation of s. 782.04(1) and a death sentence was not imposed; murder in the second or third degree in violation of s. 782.04(2), (3), or (4); attempted murder in the first or second degree in violation of s. 782.04(1)(a)1. or (2); ~~or~~ attempted felony murder in violation of s. 782.051; or manslaughter in violation of s. 782.07(1); and

(2) The victim of any offense described in subsection (1) was a law enforcement officer, part-time law enforcement officer, auxiliary law enforcement officer, correctional officer, part-time correctional officer, auxiliary correctional officer, correctional probation officer, part-time correctional

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59 probation officer, or auxiliary correctional probation officer,
60 as those terms are defined in s. 943.10, who was acting in the
61 performance of his or her official duties as described in s.
62 943.10 engaged in the lawful performance of a legal duty.

63 Section 4. Paragraph (e) of subsection (1) and subsection
64 (2) of section 784.07, Florida Statutes, are amended to read:

65 784.07 Assault or battery of law enforcement officers and
66 other specified personnel; reclassification of offenses; minimum
67 sentences.-

68 (1) As used in this section, the term:

69 (e) "Law enforcement officer" includes a law enforcement
70 officer, a correctional officer, a correctional probation
71 officer, a part-time law enforcement officer, a part-time
72 correctional officer, an auxiliary law enforcement officer, and
73 an auxiliary correctional officer, as those terms are
74 respectively defined in s. 943.10, and any county probation
75 officer; an employee or agent of the Department of Corrections
76 who supervises or provides services to inmates; an officer of
77 the Florida Commission on Offender Review; a federal law
78 enforcement officer as defined in s. 901.1505; and law
79 enforcement personnel of the Fish and Wildlife Conservation
80 Commission, the Department of Environmental Protection, or the
81 Department of Law Enforcement. The duties and responsibilities
82 of these respective positions are described in s. 943.10.

83 (2) Whenever any person is charged with knowingly
84 committing an assault or battery upon a law enforcement officer,
85 a firefighter, an emergency medical care provider, hospital
86 personnel, a railroad special officer, a traffic accident
87 investigation officer as described in s. 316.640, a nonsworn law

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88 enforcement agency employee who is certified as an agency
89 inspector, a blood alcohol analyst, or a breath test operator
90 while such employee is in uniform and engaged in processing,
91 testing, evaluating, analyzing, or transporting a person who is
92 detained or under arrest for DUI, a law enforcement explorer, a
93 traffic infraction enforcement officer as described in s.
94 316.640, a parking enforcement specialist as defined in s.
95 316.640, a person licensed as a security officer as defined in
96 s. 493.6101 and wearing a uniform that bears at least one patch
97 or emblem that is visible at all times that clearly identifies
98 the employing agency and that clearly identifies the person as a
99 licensed security officer, or a security officer employed by the
100 board of trustees of a community college, while the officer,
101 firefighter, emergency medical care provider, hospital
102 personnel, railroad special officer, traffic accident
103 investigation officer, traffic infraction enforcement officer,
104 inspector, analyst, operator, law enforcement explorer, parking
105 enforcement specialist, public transit employee or agent, or
106 security officer who is acting in the performance of his or her
107 official duties ~~is engaged in the lawful performance of his or~~
108 ~~her duties,~~ the offense for which the person is charged shall be
109 reclassified as follows:

110 (a) In the case of assault, from a misdemeanor of the
111 second degree to a misdemeanor of the first degree.

112 (b) In the case of battery, from a misdemeanor of the first
113 degree to a felony of the third degree. Notwithstanding any
114 other provision of law, a person convicted of battery upon a law
115 enforcement officer committed in furtherance of a riot or an
116 aggravated riot prohibited under s. 870.01 shall be sentenced to

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117 a minimum term of imprisonment of 6 months.

118 (c) In the case of aggravated assault, from a felony of the
 119 third degree to a felony of the second degree. Notwithstanding
 120 any other provision of law, any person convicted of aggravated
 121 assault upon a law enforcement officer shall be sentenced to a
 122 minimum term of imprisonment of 3 years.

123 (d) In the case of aggravated battery, from a felony of the
 124 second degree to a felony of the first degree. Notwithstanding
 125 any other provision of law, any person convicted of aggravated
 126 battery of a law enforcement officer shall be sentenced to a
 127 minimum term of imprisonment of 5 years.

128 Section 5. Subsection (1) of section 843.01, Florida
 129 Statutes, is amended to read:

130 843.01 Resisting, obstructing, or opposing by offering or
 131 doing violence to legally authorized person, police canine, or
 132 police horse.-

133 (1) Whoever knowingly and willfully resists, obstructs, or
 134 opposes any officer as defined in s. 943.10(1), (2), (3), (6),
 135 (7), (8), or (9); member of the Florida Commission on Offender
 136 Review or any administrative aide or supervisor employed by the
 137 commission; parole and probation supervisor; county probation
 138 officer; personnel or representative of the Department of Law
 139 Enforcement; or other person legally authorized to execute
 140 process in the execution of legal process or acting in the
 141 performance of his or her official duties as described in s.
 142 943.10 in the lawful execution of any legal duty, by offering or
 143 doing violence to the person of such officer or legally
 144 authorized person, commits a felony of the third degree,
 145 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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146 Section 6. This act shall take effect October 1, 2025.

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The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Appropriations Committee on Criminal and Civil Justice
ITEM: SB 234
FINAL ACTION: Favorable
MEETING DATE: Wednesday, March 5, 2025
TIME: 11:00 a.m.—1:00 p.m.
PLACE: 37 Senate Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Ingoglia						
X		Osgood						
X		Polsky						
X		Rouson						
X		Simon						
X		Wright						
X		Yarborough						
X		Martin, VICE CHAIR						
		Garcia, CHAIR						
8	0	TOTALS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

The Florida Senate

APPEARANCE RECORD

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

3/5/25

Meeting Date

234

Bill Number or Topic

CJ APPROPS

Committee

Amendment Barcode (if applicable)

Name

AARON WAYT "WAIT"

Phone

(407) 435-3194

FL ASSN OF CRIMINAL DEFENSE LAWYERS

Address

Email

AARON@DONPUMPHREY.COM

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](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

0234

March 5 2025

Meeting Date

CJ Appropriations

Committee

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Senate professional staff conducting the meeting

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Jennifer Cook Pritt**

Phone **850-219-3631**

Address **2636 Mitcham Drive**

Email **jpritt@fpca.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 Police Chiefs Association
Executive Director**

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

APPEARANCE RECORD

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3/5/25 Meeting Date

SB234 Bill Number or Topic

Appro. on CJ Committee

Amendment Barcode (if applicable)

Name Lt Aday Hilleg Phone 321-229-7054

Address Email aday.hilleg@ocsofi.com

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: Orange Co Sheriff's Office [] 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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The Florida Senate

APPEARANCE RECORD

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3/5/25

Meeting Date

SB234

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Jonathan Vazquez

Phone

727-742-7724

Address

14141 46 ST N STE 1205

Email

Jonathan@suncoastpba.com

Street

Clearwater, FL

State

33762

Zip

#Florida PBA#

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:

Florida PBA

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The Florida Senate

APPEARANCE RECORD

Mar 5 2025

Meeting Date

SB 234

Bill Number or Topic

APPROP CRIM JUSTICE

Committee

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Amendment Barcode (if applicable)

Name Jim SNIFFEN - FRATERNAL ORDER OF POLICE

Phone 813 964 7122

Address Do Box 11299

Email SNIFFENC@WPSPOR.ORG

West Palm Beach FL

33416

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[x] 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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3/4/25

Meeting Date

The Florida Senate APPEARANCE RECORD

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SB 234

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name WARD, Michael S.

Phone 727-204-9494

Address 6164 51 St. S.
Street

Email Mike@Suncoastpba.com

St. Pete, FL. 33715
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:

Suncoast PBA

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)

March 5, 2025

Meeting Date

Approps Civil & Criminal Justice

Committee

Name Barney Bishop III

The Florida Senate

APPEARANCE RECORD

234

Bill Number or Topic

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Amendment Barcode (if applicable)

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:

Fla. 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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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The Florida Senate

APPEARANCE RECORD

SB 234

Bill Number or Topic

3/5/2025

Meeting Date

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ACT

Committee

Amendment Barcode (if applicable)

Name

Molly Hudson for Volusia Sheriff's Office

Phone

(386) 214-5536

Address

123 W. Indiana Ave

Email

m.hudson@volusia-sheriff.gov

Street

Deland fl. 32720

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:

Volusia Sheriff's Office

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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The Florida Senate

Committee Agenda Request

To: Senator Ileana Garcia, Chair
Appropriations Committee on Criminal and Civil Justice

Subject: Committee Agenda Request

Date: February 14, 2025

I respectfully request that **Senate Bill #234**, relating to Criminal Offenses Against Law Enforcement Officers and Other Personnel, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Tom Leek", written over a horizontal line.

Senator Tom Leek
Florida Senate, District 7

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 234

INTRODUCER: Senator Leek

SUBJECT: Criminal Offenses Against Law Enforcement Officers and Other Personnel

DATE: March 4, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vaughan</u>	<u>Stokes</u>	<u>CJ</u>	Favorable
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	Favorable
3.	_____	_____	<u>FP</u>	_____

I. Summary:

SB 234 amends s. 776.051, F.S., to revise language to expand law enforcement officers' protection from citizens' use or threatened use of force during an arrest or detention. The bill prohibits a person from using or threatening to use force to resist *a lawful or an unlawful arrest or detention*, or resisting an officer *acting in the performance of his or her legal duties as described in s. 943.10(1)*, F.S., if he or she is known, or reasonably appears, to be a law enforcement officer.

The language requiring that an officer must *be engaged in the execution of a legal duty, if the law enforcement officer was acting in good faith* is removed.

Additionally, the bill removes provisions stating that a law enforcement officer, or any person whom the officer has summoned or directed to assist him or her, is not justified in the use of force if the arrest or execution of a legal duty is unlawful and known to be unlawful.

The bill amends s. 782.065, F.S., to add manslaughter to the list of crimes that a person must be sentenced to life imprisonment without the eligibility of release upon conviction, if such offense was committed against specified officers¹ *who were acting in the performance of their official duties as described in s. 943.10, F.S.*

The bill also amends s. 784.07(2), F.S., relating to assault or battery on an officer, to specify that such *officer is acting in the performance of his or her official duties*. The bill removes language requiring the officer be engaged in the lawful performance of his or her duties.

¹ Specified officers include law enforcement officers, part-time law enforcement officers, auxiliary law enforcement officers, correctional officers, part-time correctional officers, auxiliary correctional officers, correctional probation officers, part-time correctional probation officers, or auxiliary correctional probation officers, as those terms are defined in ss. 782.065 and 943.10, F.S.

Additionally, the bill provides the duties and responsibilities of such positions are described in s. 943.10, F.S.

The bill amends s. 843.01(1), F.S., relating to resisting, obstructing, or opposing an officer with violence, to specify that such officer is acting in the performance of his or her official duties as described in s. 943.10, F.S. The bill removes language requiring an officer be engaged in the lawful performance of his or her duties.

The bill may have a positive indeterminate prison bed impact (unquantifiable increase in prison beds) on the Department of Corrections. See Section V. Fiscal Impact Statement.

The bill takes effect on October 1, 2025.

II. Present Situation:

Officer Jason Raynor was a dedicated member of the Daytona Beach Police Officer who was shot by Othal Wallace during questioning on June 23, 2021, and succumbed to his injuries on August 21, 2021.² Officer Raynor joined the Daytona Beach police Department in February 2019 after previously serving with the Port Orange Police Department. While employed at the Port Orange Police Department, he received an award of achievement in December 2018 for heroically rescuing a citizen attempting to jump from a bridge.³

A “Law enforcement officer” is any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The term includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency. The term also includes a special officer employed by a Class I, Class II, or Class III railroad pursuant to s. 354.01, F.S.⁴

Use of Force or Threatened Use of Force

Section 776.012, F.S., provides that a person is justified in using or threatening to use force, except deadly force, against another when and to the extent that the person reasonably believes that such conduct is necessary to defend himself or herself or another against the other’s imminent use of unlawful force. A person who uses or threatens to use force in accordance with this subsection does not have a duty to retreat before using or threatening to use such force.⁵

² The Daytona Beach News-Journal, *Daytona Beach Police Officer Jason Raynor dies 55 days after he was shot while on patrol*, Frank Fernandez, August 19, 2021, available at <https://www.news-journalonline.com/story/news/2021/08/17/daytona-beach-police-officer-jayson-raynor-dies-othal-wallace/8174227002/> (last visited February 6, 2025).

³ [WFTV9, Heart of gold’: Who is Jason Raynor, the Daytona Beach police officer shot in the head?](https://www.wftv.com/news/local/volusia-county/heart-gold-who-is-jason-raynor-daytona-beach-police-officer-shot-head/XUDRYZFUDDCBFVLNZR4SAYD24/), available at <https://www.wftv.com/news/local/volusia-county/heart-gold-who-is-jason-raynor-daytona-beach-police-officer-shot-head/XUDRYZFUDDCBFVLNZR4SAYD24/> (last visited February 6, 2025).

⁴ Section 943.10(1), F.S.

⁵ Section 776.012(1), F.S.

Additionally, a person is justified in using or threatening to use deadly force if he or she reasonably believes that using or threatening to use such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony. A person who uses or threatens to use deadly force in accordance with this subsection does not have a duty to retreat and has the right to stand his or her ground if the person using or threatening to use the deadly force is not engaged in a criminal activity and is in a place where he or she has a right to be.⁶

Section 776.051, F.S., provides that a person is not justified in the use or threatened use of force to resist an arrest by a law enforcement officer, or to resist a law enforcement officer who is engaged in the execution of a legal duty, if the law enforcement officer was acting in good faith and he or she is known, or reasonably appears, to be a law enforcement officer.⁷

A law enforcement officer, or any person whom the officer has summoned or directed to assist him or her, is not justified in the use of force if the arrest or execution of a legal duty is unlawful and known by him or her to be unlawful.⁸

Courts have found that ss. 776.012 and 776.051, F.S. (1974), were both enacted as a part of the same act.⁹ Statutes that are a part of a single act must be read in *pari materia*.¹⁰ The effect of reading these statutes in *pari materia* is to permit an individual to defend himself against unlawful or excessive force, even when being arrested.¹¹ This view is consistent with the position taken by other jurisdictions that have been confronted with questions relating to statutes similar to ss. 776.012, 776.051 and 843.01, F.S.¹²

Chapter 776, Florida Statutes, recognizes principles set forth in the case law of other jurisdictions in that the right of self-defense against the use of excessive force by a police officer is a concept entirely different from resistance to an arrest, lawful or unlawful, by methods of self-help. [citations omitted] The former concept is grounded on the view that a citizen should be able to exercise reasonable resistance to protect life and limb; which cannot be repaired in the courtroom. The latter view is based on the principle that a self-help form of resistance promotes intolerable disorder. Any damage done by an improper arrest can be repaired through the legal processes.

Therefore, self-defense is not “irrelevant” to a prosecution for resisting arrest with violence.¹³

⁶ Section 776.012(2), F.S.

⁷ Section 776.051(1), F.S.

⁸ Section 776.051(2), F.S.

⁹ See ch. 74-383 L.O.F.

¹⁰ *Ivester v. State*, 398 So. 2d 926 (Fla. 1st DCA 1981), citing *Major v. State*, 180 So.2d 335, 337 (Fla.1965).

¹¹ *Ivester v. State*, 398 So.2d 926 (Fla. 1981).

¹² *Id.*

¹³ *Ivester v. State*, 398 So.2d 926 (Fla. 1981).

Assault or Battery on Law Enforcement

Under s. 784.07(2), F.S., a person charged with of an assault or battery, or the attempt to commit such offense upon a law enforcement officer, or other specified persons, must have the offense reclassified as follows:

- In the case of assault, from a second degree misdemeanor¹⁴ to a first degree misdemeanor.¹⁵
- In the case of battery, from a first degree misdemeanor to a third degree felony. A person convicted of battery upon a law enforcement officer committed in furtherance of a riot or an aggravated riot prohibited under s. 870.01, F.S., must be sentenced to a minimum term of imprisonment of 6 months.
- In the case of aggravated assault, from a third degree felony¹⁶ to a second degree felony. Any person convicted of aggravated assault upon a law enforcement officer must be sentenced to a minimum term of imprisonment of three years.
- In the case of aggravated battery, from a second degree felony¹⁷ to a first degree felony. Any person convicted of aggravated battery of a law enforcement officer must be sentenced to a minimum term of imprisonment of five years.

The Florida Bar's Florida Standard Criminal Jury Instructions for Assault, Battery, Stalking, Culpable Negligence, And Violation of Injunctions include specific instructions for assault on a law enforcement officer and battery on a law enforcement officer or other specified personnel. The instructions require the *victim* to have been engaged in the lawful performance of his or her duty.¹⁸

Murder of a Law Enforcement Officer, Correctional Officer, or Probation Officer

Under s. 782.065, F.S., a person convicted of a murder offense upon a law enforcement officer¹⁹ engaged in the performance of a legal duty, must be sentenced to life imprisonment without eligibility for release. Such murder offenses include:

- Murder in the first degree in violation of s. 782.04(1), F.S., when a death sentence was not imposed;
- Murder in the second or third degree in violation of s. 782.04(2), (3), or (4), F.S.;
- Attempted murder in the first or second degree in violation of s. 782.04(1)(a)1. or (2), F.S.; or
- Attempted felony murder in violation of s. 782.051, F.S.

¹⁴ A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days, as provided in s. 775.082 or s. 775.083, F.S.

¹⁵ A first degree misdemeanor is punishable by a definite term of imprisonment not exceeding 1 year. Sections 775.082 and 775.083, F.S.

¹⁶ A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

¹⁷ A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine; A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

¹⁸ Florida Standard Jury Instruction 8.10 and 8.11 (Crim).

¹⁹ Section 782.065(2), F.S., includes a law enforcement officer, part-time law enforcement officer, auxiliary law enforcement officer, correctional officer, part-time correctional officer, auxiliary correctional officer, correctional probation officer, part-time correctional probation officer, or auxiliary correctional probation officer, as those terms are defined in s. 943.10, F.S., engaged in the lawful performance of a legal duty.

Resisting Arrest

Under s. 843.01, F.S., a person who knowingly and willfully resists, obstructs, or opposes specified officers or other persons legally authorized to execute process in the execution of legal process or in the lawful execution of any legal duty, by offering or doing violence to the person of such officer or legally authorized person, commits a third degree felony.²⁰

Officers specified in s. 843.01, F.S., include:

- Law enforcement officer, correctional officer, correctional probation officer, part-time law enforcement officer, part-time correctional officer or auxiliary law enforcement officer;²¹
- Members of the Florida Commission on Offender Review or any administrative aide or supervisor employed by the commission;
- Parole and probation supervisors;
- County probation officers; or
- Personnel or representatives of the Department of Law Enforcement.

The Florida Bar's Florida Standard Criminal Jury Instructions for Obstruction of Justice, resisting an officer with violence provides a special instruction incorporating s. 776.051(1), F.S. should be given when the defendant is charged with resisting an arrest by a law enforcement officer or with resisting a law enforcement officer and the defense claims the officer was acting unlawfully.²² A special instruction for juries incorporating instructions for justifiable use of deadly force should be given when the defense claims that the defendant was justified in using or threatening to use deadly force if he or she reasonably believed that such force was necessary to prevent imminent death or bodily harm.²³

III. Effect of Proposed Changes:

The bill is named the Jason Raynor Act and is named after Officer Jason Raynor of the Daytona Beach Police Department who was shot during a confrontation in 2021 and later succumbed to his injuries.

The bill amends s. 776.051, F.S., to revise language to expand law enforcement officers' protection from citizens' use or threatened use of force during an arrest or detention. The bill prohibits a person from using or threatening to use force to resist *a lawful or an unlawful arrest or detention*, or resisting an officer *acting in the performance of his or her legal duties as described in s. 943.10(1)*, F.S., if he or she is known, or reasonably appears, to be a law enforcement officer.

Language requiring that an officer must *be engaged in the execution of a legal duty, if the law enforcement officer was acting in good faith*, is removed.

²⁰ Section 843.01, F.S.

²¹ Section 943.10(1), (2), (3), (6), (7), (8), or (9), F.S.

²² Florida Standard Jury Instruction 8.13 (Crim).

²³ Florida Standard Jury Instruction 3.6f (Crim).

Additionally the bill removes provisions stating that a law enforcement officer, or any person whom the officer has summoned or directed to assist him or her, is not justified in the use of force if the arrest or execution of a legal duty is unlawful and known to be unlawful.

The bill amends s. 782.065, F.S., to add manslaughter to the list of crimes that a person must be sentenced to life imprisonment without the eligibility of release upon conviction, if such offense was committed against specified officers²⁴ *who were acting in the performance of their official duties as described in s. 943.10, F.S.*

The bill also amends s. 784.07(2), F.S., relating to assault or battery on an officer, to specify that such *officer is acting in the performance of his or her official duties*. The bill removes language requiring the officer be engaged in the lawful performance of his or her duties.

Additionally, the bill provides the duties and responsibilities of such positions are described in s. 943.10, F.S.

The bill amends s. 843.01(1), F.S., relating to resisting, obstructing, or opposing an officer with violence, to specify that such officer is acting in the performance of his or her official duties as described in s. 943.10, F.S. The bill removes language requiring an officer be engaged in the lawful performance of his or her duties.

The bill takes effect on October 1, 2025.

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.

²⁴ Specified officers include law enforcement officers, part-time law enforcement officers, auxiliary law enforcement officers, correctional officers, part-time correctional officers, auxiliary correctional officers, correctional probation officers, part-time correctional probation officers, or auxiliary correctional probation officers, as those terms are defined in ss. 782.065. and 943.10, F.S.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Legislature's Office of Economic and Demographic Research (EDR) and the Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined that the bill may have a positive indeterminate prison bed impact (unquantifiable increase in prison beds) on the Department of Corrections (DOC). The EDR provides the following additional information regarding its estimate:

Per the DOC, in FY 23-24, there were 5 new commitments to prison under s. 782.065, F.S., 389 new commitments to prison under s. 784.07, F.S., and 189 new commitments to prison under s. 843.01, F.S. There were two new commitments to prison for manslaughter of law enforcement officers, correctional officers, correctional probation officers, or other first responders (s. 782.07, F.S.). Both ss. 782.07, F.S. and 784.07, F.S. include other specified personnel, so it is not known how many of these offenses involve the respective positions listed under s. 943.10, F.S. Furthermore, it is not known how the removal of police acting lawfully would impact the prison population.²⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill language specifies that the duties of a law enforcement officer are provided in s. 943.10(1), F.S., however that reference provides a definition only and may not be inclusive of all duties.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 776.051, 782.065, 784.07, and 843.01.

²⁵ Office of Economic and Demographic Research, *SB 234 - Criminal Offenses Against Law Enforcement Officers and Other Personnel*, (on file with the Senate Committee on Criminal Justice).

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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

By the Committee on Judiciary; and Senator Rodriguez

590-02003A-25

2025322c1

1 A bill to be entitled
 2 An act relating to property rights; amending s.
 3 82.036, F.S.; specifying a requirement for a complaint
 4 to remove an unauthorized person from residential
 5 property; correcting a cross-reference in the
 6 complaint; creating s. 82.037, F.S.; authorizing a
 7 property owner or his or her authorized agent to
 8 request the sheriff in the county in which the owner's
 9 commercial real property is located to immediately
 10 remove persons unlawfully occupying the owner's
 11 commercial real property if specified conditions are
 12 met; requiring such owners or agents to submit a
 13 specified completed and verified complaint; specifying
 14 requirements for the complaint; specifying
 15 requirements for the sheriff upon receipt of the
 16 complaint; authorizing the sheriff to arrest an
 17 unauthorized person for legal cause; providing that
 18 sheriffs are entitled to a specified fee for service
 19 of the notice to vacate immediately; authorizing the
 20 owner or agent to request that the sheriff stand by
 21 while the owner or agent takes possession of the
 22 commercial real property; authorizing the sheriff to
 23 charge a reasonable hourly rate; providing that the
 24 sheriff is not liable to any party for loss,
 25 destruction, or damage to certain personal property;
 26 providing that the property owner or agent is not
 27 liable to any party for the loss or destruction of, or
 28 damage to, personal property unless it was wrongfully
 29 removed; providing civil remedies; providing

Page 1 of 14

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

590-02003A-25

2025322c1

30 construction; amending s. 806.13, F.S.; prohibiting
 31 unlawfully detaining or occupying or trespassing upon
 32 commercial real property and intentionally causing a
 33 specified amount of damage; providing criminal
 34 penalties; amending s. 817.0311, F.S.; prohibiting
 35 listing or advertising for sale, or renting or
 36 leasing, real property under certain circumstances;
 37 providing criminal penalties; reenacting ss.
 38 775.0837(1)(c) and 895.02(8)(a), F.S., relating to
 39 habitual misdemeanor offenders and definitions,
 40 respectively, to incorporate the amendments made to
 41 ss. 806.13 and 817.0311, F.S., in references thereto;
 42 providing an effective date.
 43
 44 Be It Enacted by the Legislature of the State of Florida:
 45
 46 Section 1. Subsection (3) of section 82.036, Florida
 47 Statutes, is amended to read:
 48 82.036 Limited alternative remedy to remove unauthorized
 49 persons from residential real property.—
 50 (3) To request the immediate removal of an unlawful
 51 occupant of a residential dwelling, the property owner or his or
 52 her authorized agent must submit a complaint by presenting a
 53 completed and verified Complaint to Remove Persons Unlawfully
 54 Occupying Residential Real Property to the sheriff of the county
 55 in which the real property is located. The submitted complaint
 56 must be in substantially the following form:
 57
 58 COMPLAINT TO REMOVE PERSONS UNLAWFULLY

Page 2 of 14

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590-02003A-25

2025322c1

OCCUPYING RESIDENTIAL REAL PROPERTY

I, the owner or authorized agent of the owner of the real property located at, declare under the penalty of perjury that (initial each box):

1. I am the owner of the real property or the authorized agent of the owner of the real property.
2. I purchased the property on
3. The real property is a residential dwelling.
4. An unauthorized person or persons have unlawfully entered and are remaining or residing unlawfully on the real property.
5. The real property was not open to members of the public at the time the unauthorized person or persons entered.
6. I have directed the unauthorized person or persons to leave the real property, but they have not done so.
7. The person or persons are not current or former tenants pursuant to any valid lease authorized by the property owner, and any lease that may be produced by an occupant is fraudulent.
8. The unauthorized person or persons sought to be removed are not an owner or a co-owner of the property and have not been listed on the title to the property unless the person or persons have engaged in title fraud.
9. The unauthorized person or persons are not immediate family members of the property owner.
10. There is no litigation related to the real property pending between the property owner and any person sought to be removed.

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11. I understand that a person or persons removed from the property pursuant to this procedure may bring a cause of action against me for any false statements made in this complaint, or for wrongfully using this procedure, and that as a result of such action I may be held liable for actual damages, penalties, costs, and reasonable attorney fees.

12. I am requesting the sheriff to immediately remove the unauthorized person or persons from the residential property. I authorize the sheriff to enter the property using reasonably necessary force, to search the property, and to remove any unauthorized person or persons.

13. A copy of my valid government-issued identification is attached, or I am an agent of the property owner, and documents evidencing my authority to act on the property owner's behalf are attached.

I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE STATEMENTS MADE IN THIS PETITION ARE BEING MADE UNDER PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN SECTION 92.525 ~~837.02~~, FLORIDA STATUTES.

...(Signature of Property Owner or Agent of Owner)...

Section 2. Section 82.037, Florida Statutes, is created to read:

82.037 Limited alternative remedy to remove unauthorized persons from commercial real property.-

(1) A property owner or his or her authorized agent may request from the sheriff of the county in which the owner's

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117 commercial real property is located the immediate removal of any
 118 person or persons unlawfully occupying the commercial real
 119 property pursuant to this section if all of the following
 120 conditions are met:

121 (a) The requesting person is the property owner or
 122 authorized agent of the property owner.

123 (b) The real property that is being occupied includes
 124 commercial property.

125 (c) An unauthorized person or persons have unlawfully
 126 entered and remain in or continue to occupy the property owner's
 127 commercial real property.

128 (d) The commercial real property was not open to members of
 129 the public at the time the unauthorized person or persons
 130 entered.

131 (e) The property owner has directed the unauthorized person
 132 or persons to leave the commercial real property.

133 (f) The unauthorized person or persons are not current or
 134 former tenants pursuant to a written or oral rental agreement
 135 authorized by the property owner.

136 (g) There is no litigation related to the commercial real
 137 property pending between the property owner and any known
 138 unauthorized person.

139 (2) To request the immediate removal of an unlawful
 140 occupant of commercial real property, the property owner or his
 141 or her authorized agent must submit a complaint by presenting a
 142 completed and verified Complaint to Remove Persons Unlawfully
 143 Occupying Commercial Real Property to the sheriff of the county
 144 in which the real property is located. The submitted complaint
 145 must be in substantially the following form:

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146
 147 COMPLAINT TO REMOVE PERSONS UNLAWFULLY OCCUPYING
 148 COMMERCIAL REAL PROPERTY
 149

150 I, the owner or authorized agent of the owner of the
 151 commercial real property located at ... address of property ...,
 152 declare under penalty of perjury that (initial each box):

153 1. ...I am the owner of the commercial real property or
 154 the authorized agent of the owner of the commercial real
 155 property.

156 2. ...I purchased the commercial real property on ... date
 157 of purchase

158 3. ...An unauthorized person or persons have unlawfully
 159 entered and remain on the commercial real property.

160 4. ...The commercial real property was not open to members
 161 of the public at the time the unauthorized person or persons
 162 entered.

163 5. ...I have directed the unauthorized person or persons
 164 to leave the commercial real property, but they have not done
 165 so.

166 6. ...The unauthorized person or persons are not current
 167 or former tenants pursuant to any valid lease authorized by me
 168 or one of my agents, and any lease that may be produced by an
 169 occupant is fraudulent.

170 7. ...The unauthorized person or persons sought to be
 171 removed are not an owner or co-owner of the commercial real
 172 property and have not been listed on the title to the commercial
 173 real property unless the person or persons have engaged in title
 174 fraud.

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175 8. ...There is no litigation related to the commercial
 176 real property pending between any person sought to be removed
 177 and myself or my agent.

178 9. ...I understand that any person removed from the
 179 commercial real property pursuant to this procedure may bring a
 180 cause of action against me for any false statements made in this
 181 complaint, or for wrongfully using this procedure, and that as a
 182 result of such action I may be held liable for actual damages,
 183 penalties, costs, and reasonable attorney fees.

184 10. ...I request that the sheriff immediately remove the
 185 unauthorized person or persons from the commercial real
 186 property. I authorize the sheriff to enter the property using
 187 reasonably necessary force, to search the property, and to
 188 remove any unauthorized person or persons.

189 11. ...A copy of my valid government-issued identification
 190 is attached, or I am an agent of the property owner, and
 191 documents evidencing my authority to act on the property owner's
 192 behalf are attached.

193
 194 I HAVE READ EVERY STATEMENT MADE IN THIS COMPLAINT, AND EACH
 195 STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE STATEMENTS
 196 MADE IN THIS COMPLAINT ARE BEING MADE UNDER PENALTY OF PERJURY,
 197 PUNISHABLE AS PROVIDED IN SECTION 92.525, FLORIDA STATUTES.

198 ...(Signature of the Property Owner or Agent of Owner...)
 200

201 (3) Upon receipt of the complaint, the sheriff shall verify
 202 that the person submitting the complaint is the record owner of
 203 the commercial real property or the authorized agent of the

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204 owner and appears otherwise entitled to relief under this
 205 section. If verified, the sheriff must, without delay, serve a
 206 notice to vacate immediately on any unlawful occupant or
 207 occupants and must put the owner in possession of the commercial
 208 real property. Service of the notice may be accomplished by hand
 209 delivery to an unlawful occupant or occupants or by posting the
 210 notice on the front door or entrance of the commercial real
 211 property. The sheriff shall also attempt to verify the
 212 identities of all persons occupying the commercial real property
 213 and note their identities on the return of service. If
 214 appropriate, the sheriff may arrest any person found in the
 215 commercial real property for trespass, outstanding warrants, or
 216 any other legal cause.

217 (4) The sheriff is entitled to the same fee for service of
 218 the notice to vacate immediately as if the sheriff were serving
 219 a writ of possession under s. 30.231. After the sheriff serves
 220 the notice to vacate immediately, the property owner or
 221 authorized agent may request that the sheriff stand by to keep
 222 the peace while the property owner or agent of the owner changes
 223 the locks and removes the personal property of the unauthorized
 224 person or persons to or near the property line. When such a
 225 request is made, the sheriff may charge a reasonable hourly
 226 rate, and the person requesting the sheriff is responsible for
 227 paying such hourly rate. The sheriff is not liable to the
 228 unauthorized person or persons or any other party for loss,
 229 destruction, or damage to their personal property. The property
 230 owner or his or her authorized agent is not liable to an
 231 unauthorized person or persons or any other party for the loss,
 232 destruction, or damage to their personal property unless the

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233 removal was not in accordance with this section.

234 (5) A person may bring a civil cause of action for wrongful
 235 removal under this section. A person harmed by a wrongful
 236 removal under this section may be restored to possession of the
 237 commercial real property and may recover actual costs and
 238 damages incurred, statutory damages equal to triple the fair
 239 market rent of the commercial real property, court costs, and
 240 reasonable attorney fees. The court shall advance the cause on
 241 the calendar.

242 (6) This section does not limit the rights of a property
 243 owner or limit the authority of a law enforcement officer to
 244 arrest any unauthorized person for trespassing, vandalism,
 245 theft, or other crimes.

246 Section 3. Subsection (4) of section 806.13, Florida
 247 Statutes, is amended to read:

248 806.13 Criminal mischief; penalties; penalty for minor.—

249 (4) A person who unlawfully detains or occupies or
 250 trespasses upon a residential dwelling or commercial real
 251 property and who intentionally damages the dwelling or the
 252 commercial real property causing \$1,000 or more in damages
 253 commits a felony of the second degree, punishable as provided in
 254 s. 775.082, s. 775.083, or s. 775.084.

255 Section 4. Section 817.0311, Florida Statutes, is amended
 256 to read:

257 817.0311 Fraudulent sale or lease of ~~residential~~ real
 258 property.—A person who lists or advertises ~~residential~~ real
 259 property for sale knowing that the purported seller has no legal
 260 title or authority to sell the property, or rents or leases the
 261 property to another person knowing that he or she has no lawful

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262 ownership in the property or leasehold interest in the property,
 263 commits a felony of the first degree, punishable as provided in
 264 s. 775.082, s. 775.083, or s. 775.084.

265 Section 5. For the purpose of incorporating the amendments
 266 made by this act to sections 806.13 and 817.0311, Florida
 267 Statutes, in references thereto, paragraph (c) of subsection (1)
 268 of section 775.0837, Florida Statutes, is reenacted to read:

269 775.0837 Habitual misdemeanor offenders.—

270 (1) As used in this section, the term:

271 (c) "Specified misdemeanor offense" means those misdemeanor
 272 offenses described in chapter 741, chapter 784, chapter 790,
 273 chapter 796, chapter 800, chapter 806, chapter 810, chapter 812,
 274 chapter 817, chapter 831, chapter 832, chapter 843, chapter 856,
 275 chapter 893, or chapter 901.

276 Section 6. For the purpose of incorporating the amendment
 277 made by this act to sections 806.13 and 817.0311, Florida
 278 Statutes, in references thereto, paragraph (a) of subsection (8)
 279 of section 895.02, Florida Statutes, is reenacted to read:

280 895.02 Definitions.—As used in ss. 895.01-895.08, the term:

281 (8) "Racketeering activity" means to commit, to attempt to
 282 commit, to conspire to commit, or to solicit, coerce, or
 283 intimidate another person to commit:

284 (a) Any crime that is chargeable by petition, indictment,
 285 or information under the following provisions of the Florida
 286 Statutes:

287 1. Section 210.18, relating to evasion of payment of
 288 cigarette taxes.

289 2. Section 316.1935, relating to fleeing or attempting to
 290 elude a law enforcement officer and aggravated fleeing or

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291 eluding.

292 3. Chapter 379, relating to the illegal sale, purchase,

293 collection, harvest, capture, or possession of wild animal life,

294 freshwater aquatic life, or marine life, and related crimes.

295 4. Section 403.727(3)(b), relating to environmental

296 control.

297 5. Section 409.920 or s. 409.9201, relating to Medicaid

298 fraud.

299 6. Section 414.39, relating to public assistance fraud.

300 7. Section 440.105 or s. 440.106, relating to workers'

301 compensation.

302 8. Section 443.071(4), relating to creation of a fictitious

303 employer scheme to commit reemployment assistance fraud.

304 9. Section 465.0161, relating to distribution of medicinal

305 drugs without a permit as an Internet pharmacy.

306 10. Section 499.0051, relating to crimes involving

307 contraband, adulterated, or misbranded drugs.

308 11. Part IV of chapter 501, relating to telemarketing.

309 12. Chapter 517, relating to sale of securities and

310 investor protection.

311 13. Section 550.235 or s. 550.3551, relating to dogracing

312 and horseracing.

313 14. Chapter 550, relating to jai alai frontons.

314 15. Section 551.109, relating to slot machine gaming.

315 16. Chapter 552, relating to the manufacture, distribution,

316 and use of explosives.

317 17. Chapter 560, relating to money transmitters, if the

318 violation is punishable as a felony.

319 18. Chapter 562, relating to beverage law enforcement.

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320 19. Section 624.401, relating to transacting insurance

321 without a certificate of authority, s. 624.437(4)(c)1., relating

322 to operating an unauthorized multiple-employer welfare

323 arrangement, or s. 626.902(1)(b), relating to representing or

324 aiding an unauthorized insurer.

325 20. Section 655.50, relating to reports of currency

326 transactions, when such violation is punishable as a felony.

327 21. Chapter 687, relating to interest and usurious

328 practices.

329 22. Section 721.08, s. 721.09, or s. 721.13, relating to

330 real estate timeshare plans.

331 23. Section 775.13(5)(b), relating to registration of

332 persons found to have committed any offense for the purpose of

333 benefiting, promoting, or furthering the interests of a criminal

334 gang.

335 24. Section 777.03, relating to commission of crimes by

336 accessories after the fact.

337 25. Chapter 782, relating to homicide.

338 26. Chapter 784, relating to assault and battery.

339 27. Chapter 787, relating to kidnapping, human smuggling,

340 or human trafficking.

341 28. Chapter 790, relating to weapons and firearms.

342 29. Chapter 794, relating to sexual battery, but only if

343 such crime was committed with the intent to benefit, promote, or

344 further the interests of a criminal gang, or for the purpose of

345 increasing a criminal gang member's own standing or position

346 within a criminal gang.

347 30. Former s. 796.03, former s. 796.035, s. 796.04, s.

348 796.05, or s. 796.07, relating to prostitution.

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- 349 31. Chapter 806, relating to arson and criminal mischief.
 350 32. Chapter 810, relating to burglary and trespass.
 351 33. Chapter 812, relating to theft, robbery, and related
 352 crimes.
 353 34. Chapter 815, relating to computer-related crimes.
 354 35. Chapter 817, relating to fraudulent practices, false
 355 pretenses, fraud generally, credit card crimes, and patient
 356 brokering.
 357 36. Chapter 825, relating to abuse, neglect, or
 358 exploitation of an elderly person or disabled adult.
 359 37. Section 827.071, relating to commercial sexual
 360 exploitation of children.
 361 38. Section 828.122, relating to fighting or baiting
 362 animals.
 363 39. Chapter 831, relating to forgery and counterfeiting.
 364 40. Chapter 832, relating to issuance of worthless checks
 365 and drafts.
 366 41. Section 836.05, relating to extortion.
 367 42. Chapter 837, relating to perjury.
 368 43. Chapter 838, relating to bribery and misuse of public
 369 office.
 370 44. Chapter 843, relating to obstruction of justice.
 371 45. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
 372 s. 847.07, relating to obscene literature and profanity.
 373 46. Chapter 849, relating to gambling, lottery, gambling or
 374 gaming devices, slot machines, or any of the provisions within
 375 that chapter.
 376 47. Chapter 874, relating to criminal gangs.
 377 48. Chapter 893, relating to drug abuse prevention and

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- 378 control.
 379 49. Chapter 896, relating to offenses related to financial
 380 transactions.
 381 50. Sections 914.22 and 914.23, relating to tampering with
 382 or harassing a witness, victim, or informant, and retaliation
 383 against a witness, victim, or informant.
 384 51. Sections 918.12 and 918.13, relating to tampering with
 385 jurors and evidence.
 386 Section 7. This act shall take effect July 1, 2025.

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March 5, 2025

Meeting Date

Approps Civil & Criminal Justice

Committee

Name Barney Bishop III

The Florida Senate

APPEARANCE RECORD

322

Bill Number or Topic

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

Amendment Barcode (if applicable)

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:

Fla. 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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

3/5/25

Meeting Date

The Florida Senate
APPEARANCE RECORD

SB 322

Bill Number or Topic

Appropriations on Criminal & Civil Justice

Committee

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

Amendment Barcode (if applicable)

Name Derick Tabertshofer

Phone 863-220-0138

Address 107 E College Ave

Email dtabertshofer@afphq.org

Street

Tallahassee

City

FL

State

32301

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:

Americans For Prosperity

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)

3/5/2025

Meeting Date

Criminal and Civil Justice Approps

Committee

Name Andrew Rutledge

The Florida Senate

APPEARANCE RECORD

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

322

Bill Number or Topic

Amendment Barcode (if applicable)

Phone 8506816788

Address 119 South Monroe

Email andrew@rutledge-ecenia.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 Realtors

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](https://www.flsenate.gov/2020-2022/JointRules.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: Senator Ileana Garcia, Chair
Appropriations Committee on Criminal and Civil Justice

Subject: Committee Agenda Request

Date: February 21, 2025

I respectfully request that **CS/SB 322**, relating to Property Rights, be placed on the:

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

A handwritten signature in cursive script, appearing to read "AmR", positioned above a horizontal line.

Senator Ana Maria Rodriguez
Florida Senate, District 40

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 322

INTRODUCER: Judiciary Committee and Senator Rodriguez

SUBJECT: Property Rights

DATE: March 4, 2025 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>	Favorable
3.	_____	_____	<u>RC</u>	_____

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

I. Summary:

CS/SB 322 creates a nonjudicial procedure for a property owner to request that the county sheriff remove an unauthorized person from commercial real property. This procedure is similar to procedures in existing law for the removal of an unauthorized person from a residential property. It provides that an owner of commercial property may request that the sheriff immediately remove an unauthorized person from the owner’s property. An unauthorized person is someone not authorized to occupy the property who is not a current or former tenant.

An owner must contact the sheriff and file a complaint under penalty of perjury listing the relevant facts that show eligibility for relief. The complaint form is in the bill. If the complaint shows that the owner is eligible for relief and the sheriff can verify ownership of the property, the sheriff must remove the unauthorized person. The property owner must pay the sheriff the civil eviction fee plus an hourly rate if a deputy must stand by and keep the peace while the unauthorized person is removed.

A person wrongfully removed pursuant to this procedure has a cause of action against the owner for three times the fair market rent, damages, costs, and attorney fees.

Additionally, the bill expands crimes relating to unlawfully occupying a residential dwelling or fraudulently advertising residential property for sale or lease to include commercial properties.

The procedures in the bill are similar to procedures enacted during the 2024 Legislative Session for the removal of an unauthorized person from a residential dwelling. The bill also amends that 2024 enactment to add an express grant of authority to a sheriff to use reasonably necessary force to enter a property and corrects a cross-reference.

The bill may have an indeterminate positive impact on state prison beds. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2025.

II. Present Situation:

The Founders of this country recognized that the protection of private property is indispensable to the promotion of individual freedom.¹ John Adams said that “[p]roperty must be secured, or liberty cannot exist.”² The right to exclude others is “one of the most treasured” rights of property ownership.³ The right to exclude is “universally held to be a fundamental element of the property right,” and is “one of the most essential sticks in the bundle of rights that are commonly characterized as property.”⁴

A squatter is a person who unlawfully occupies real property and refuses to leave when asked. By refusing to leave, the squatter violates the landowner’s right to exclude and the landowner’s freedom to enjoy the property as he or she wants.

Legal Remedies to Remove a Squatter

The existing legal remedies to remove a squatter are:

Criminal Trespass

Section 810.08, F.S., provides that a person commits the criminal offense of trespass in a structure or conveyance if the person:

without being authorized, licensed, or invited, willfully enters or remains in any structure or conveyance, or, having been authorized, licensed, or invited, is warned by the owner or lessee of the premises, or by a person authorized by the owner or lessee, to depart and refuses to do so.⁵

Where a criminal trespass is occurring, a law enforcement officer arrests the trespasser and immediately restores the real property owner to possession of the real property, without cost.

However, where the criminal trespass offense is not readily observable because the trespasser claims ownership or lease rights, a law enforcement officer may decline to arrest or remove the person from the property and view the dispute as a “civil matter.” In that situation, the law

¹ *Cedar Point Nursery v. Hassid*, 141 S. Ct. 2063, 2071, 210 L. Ed. 2d 369 (2021).

² *Id.*, citing *Discourses on Davila*, in 6 Works of John Adams 280 (C. Adams ed. 1851).

³ *Cedar Point Nursery*, citing *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 435 (1982).

⁴ *Cedar Point Nursery* at 2072; citing *Kaiser Aetna v. United States*, 444 U.S. 164, 176, 179–180 (1979).

⁵ Section 810.08(1), F.S.

enforcement officer will not force the unwanted person to surrender possession of the property without a court order.

Civil Action for Unlawful Detainer

“Unlawful detention” means possessing real property, even if the possession is temporary or applies only to a portion of the real property, without the consent of a person entitled to possession of the real property or after the withdrawal of consent by such person.⁶

Where an unlawful detention occurs, the person entitled to possession may bring a civil action for unlawful detainer. An unlawful detainer action is filed in county court⁷ and is entitled to the summary procedure of s. 51.011, F.S., for expedited review by the court.⁸ If the person to be served is not found at the usual place of residence, the process server may serve a summons by posting a copy in a conspicuous place on the property.⁹

If the owner or rightful resident prevails in the action, the clerk of court will issue a writ of possession to the sheriff describing the premises and commanding the Sheriff to put him or her in possession of the property.¹⁰ In addition to the delay caused by the time it takes to obtain and serve a writ of possession, the property owner or rightful resident must pay a number of fees and costs.

Civil Action for Landlord-Tenant Eviction

Some landowners looking to remove a squatter treat the person like a tenant and use the existing landlord-tenant eviction process. Eviction of a tenant can be for violation of lease terms, expiration of the lease, or nonpayment of rent. First, the landlord must deliver or post a notice to vacate by a date certain (3 days for non-payment of rent, 7 days for any other cause). If the tenant does not vacate (or cure the problem), the landlord may file a civil action for eviction.

An eviction action is filed in county court¹¹ and is entitled to the summary procedure of s. 51.011, F.S., for expedited review by the court. At this point forward, the court procedure for eviction is the same as an action for unlawful detainer (see previous section).

Transient Occupant Law (nonjudicial remedy)

In 2015, the Legislature addressed squatters by creating a nonjudicial civil remedy for removal by law enforcement officers of a transient occupant to address squatters.¹² It was amended in

⁶ Section 82.01(4), F.S.

⁷ Section 34.011(2), F.S.

⁸ Section 82.03(4), F.S. Under the summary procedure of s. 51.011, F.S., all defenses of law or fact are required to be contained in the defendant’s answer which must be filed within five days after service of process of the plaintiff’s complaint. If the answer incorporates a counterclaim, the plaintiff must include all defenses of law or fact in his or her answer to the counterclaim and serve it within five days after service of the counterclaim. No other pleadings are permitted, and all defensive motions, including motions to quash, are heard by the court prior to trial. Postponements are not permitted for discovery, and the procedure also provides for an immediate trial, if requested.

⁹ Section 82.05, F.S.

¹⁰ Section 82.091, F.S.

¹¹ Section 34.011(2), F.S.

¹² Chapter 2015-89, Laws of Fla.; codified as s. 82.035, F.S.

2018.¹³ A transient occupant is “a person whose residency in real property intended for residential use has occurred for a brief length of time, is not pursuant to a lease, and whose occupancy was intended as transient in nature.” The statute lists the following factors for consideration of whether an occupancy was intended as transient:

- The person does not have an ownership interest, financial interest, or leasehold interest in the property entitling him or her to occupancy of the property.
- The person does not have any property utility subscriptions.
- The person cannot produce documentation, correspondence, or identification cards sent or issued by a government agency, including, but not limited to, the Department of Highway Safety and Motor Vehicles or the supervisor of elections, which show that the person used the property address as an address of record with the agency within the previous 12 months.
- The person pays minimal or no rent for his or her stay at the property.
- The person does not have a designated space of his or her own, such as a room, at the property.
- The person has minimal, if any, personal belongings at the property.
- The person has an apparent permanent residence elsewhere.¹⁴

If the property owner is able to convince the law enforcement officer that an occupant of the property qualifies as a transient occupant, and if the owner has asked the transient occupant to leave, the law enforcement officer may direct the transient occupant to immediately leave.¹⁵

The property owner initiates the process by contacting a law enforcement agency. The property owner must file an affidavit that sets forth the facts and addresses each of the factors listed above.¹⁶ No fees are required.

A person wrongfully removed pursuant to this statute has a cause of action for wrongful removal against the person who requested the removal and may recover injunctive relief and compensatory damages. However, a wrongfully removed person does not have a cause of action against the law enforcement officer or the agency employing the law enforcement officer absent a showing of bad faith by the law enforcement officer.¹⁷ The statute includes process and procedure regarding the personal property of the transient occupant.¹⁸

2024 New Process for Removal of Unauthorized Person from Residential Property

Legislation enacted during the 2024 Legislative Session provides that an owner of residential property finding an unauthorized person residing on his or her property may request the sheriff to immediately remove the unauthorized person. The owner must show entitlement to relief in a sworn application. The legislation addressed the perceived ineffectiveness of other legal remedies, but only applies to residential property.¹⁹

¹³ Chapters 2018-83 and 2018-94, Laws of Fla.

¹⁴ Section 82.035(1)(a), F.S.

¹⁵ Section 82.035(3), F.S.

¹⁶ *Id.*

¹⁷ Section 82.035(3)(b), F.S.

¹⁸ Section 82.035(5), F.S.

¹⁹ Chapter 2024-44, Laws of Fla.

Criminal Laws That May Apply to Squatters

Florida criminalizes various behaviors related to fraudulently obtaining or damaging property that a person does not own. In addition to criminal trespass (discussed above), criminal laws that may apply to a squatter include:

Criminal Mischief

Section 806.13, F.S., provides criminal penalties for acts of criminal mischief.

A person commits criminal mischief if he or she willfully and maliciously injures or damages by any means any real or personal property belonging to another, including, but not limited to, the placement of graffiti thereon or other acts of vandalism thereto. If the damage to the property is:

- Two-hundred dollars or less, it is a second degree misdemeanor.²⁰
- Greater than \$200 but less than \$1,000, it is a first degree misdemeanor.
- One thousand dollars or greater, or if there is interruption or impairment of a business operation or public communications, transportation, supply of water, gas or power, or other public service which costs \$1,000 or more in labor and supplies to restore, it is a third degree felony.²¹

The 2024 squatters legislation created a new criminal offense providing that a person who unlawfully detains or occupies or trespasses upon a residential dwelling and who intentionally damages the dwelling causing \$1,000 or more in damages commits a felony of the second degree.²²

False Statements

The 2024 squatters legislation created a new criminal offense providing that a person who, with the intent to detain or remain upon real property, knowingly and willfully presents to another person a false document purporting to be a valid lease agreement, deed, or other instrument conveying real property rights commits a misdemeanor of the first degree.²³

Fraudulent Sale or Lease of Real Property

The 2024 squatters legislation created the criminal offense of Fraudulent Sale or Lease of Residential Real Property. A person who lists or advertises residential real property for sale knowing that he or she has no legal title or authority to sell the property or rents or leases the property to another person knowing that he or she has no lawful ownership in the property or leasehold interest in the property, commits a felony of the first degree.²⁴

²⁰ *Id.* A second degree misdemeanor is punishable by up to 60 days in the county jail and a \$500 fine. Sections 775.082 and 775.083, F.S.

²¹ A third degree felony is punishable by up to 5 years' incarceration and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

²² Section 806.13(4), F.S. A second degree felony is punishable by up to 15 years' incarceration and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

²³ Section 817.03(2), F.S.

²⁴ Section 817.0311, F.S. A first degree felony is punishable by up to 30 years' incarceration and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

Ineffectiveness of Existing Remedies to Address Unauthorized Persons

Existing legal remedies to remove a squatter are considered ineffective by some members of the public.²⁵ The 2024 squatters legislation only applies to residential property, effectively excluding commercial real property. Squatters go so far as to publish videos on how to avoid law enforcement officers and how to destroy a home while squatting.²⁶ A squatter confronted by a law enforcement officer may present a false deed, false lease, or other false or fraudulent document to avoid summary removal under the transient occupant law or arrest on a trespass charge. Some people thought to be unlawful squatters have been victims of a scam artist who falsely leased or sold the property after falsely claiming to be the owner or an authorized agent of the property owner.²⁷ Some landowners have resorted to dangerous self-help eviction because they believed current law inadequate.²⁸ Squatters have caused significant damage to properties.²⁹

III. Effect of Proposed Changes:

Civil Remedy to Remove Unauthorized Persons from Commercial Property

The bill creates s. 82.037, F.S., to provide a limited alternative remedy to remove unauthorized persons from commercial real property. The remedy is a nonjudicial process that closely follows the 2024 law limited to residential real property.

A property owner or his or her authorized agent may request the sheriff of the county in which the property is located to immediately remove a person or persons unlawfully occupying a commercial property if all of the following are met:

- The person requesting relief is the property owner or authorized agent of the property owner;
- The real property that is being occupied includes commercial real property;
- An unauthorized person or persons have unlawfully entered and remain or continue to reside on the property owner's commercial real property;
- The real property was not open to members of the public at the time the unauthorized person or persons entered;
- The owner has directed the unauthorized person or persons to leave the real property;
- The unauthorized person or persons are not current or former tenants pursuant to a written or oral rental agreement authorized by the property owner;

²⁵ Andrew Mark Miller, *Squatters torment homeowners across US with no resolution in sight: 'It's a problem,'* FOX NEWS (Mar. 21, 2023), <https://www.foxnews.com/us/squatters-torment-homeowners-across-u-s-with-no-resolution-sight-problem>.

²⁶ Your Homeless Friend Kai, *How to squat. How to live rent free,* YOUTUBE, <https://www.youtube.com/watch?v=6qZxirdaBFs> [warning - foul language] (last visited Feb. 14, 2025).

²⁷ Testimony by representatives of the Seminole County Sheriff before the Senate Judiciary Committee, February 11, 2025.

²⁸ Outside the Box with Flash, *How I removed squatters in less than a day* YOUTUBE <https://www.youtube.com/watch?v=uhz5r1JKwjs> (last visited Jan. 31, 2024); Emma Colton, *Armed Florida man confronts squatter who took over house while he was overseas: police,* FOX NEWS (Jan 15, 2023), <https://www.foxnews.com/us/armed-florida-man-confronts-squatter-who-took-over-house-while-he-was-overseas-police>.

²⁹ Kassy Dillon, *Army reservist battles squatter living in home after she was called up for active duty,* FOX NEWS (Sept. 17, 2023), <https://www.foxnews.com/media/army-reservist-battles-squatter-renting-home-called-active-duty>; Andrew Mark Miller, *Squatters torment homeowners across US with no resolution in sight: 'It's a problem,'* FOX NEWS (Mar. 21, 2023), <https://www.foxnews.com/us/squatters-torment-homeowners-across-u-s-with-no-resolution-sight-problem>.

- There is no pending litigation related to the real property between the property owner and any known unauthorized person.

The bill creates a complaint form for use in requesting relief. Upon receipt of the complaint, the bill requires the sheriff to verify the identity of the person submitting the complaint and verify that the person is the record owner of the real property or the authorized agent of the owner and appears otherwise entitled to relief.

If verified, the sheriff must serve on the unlawful occupants a notice to immediately vacate and must then put the owner in possession of the real property. Service may be accomplished by hand delivery of the notice to an occupant or by posting the notice on the front door or entrance of the dwelling. The sheriff must also attempt to verify the identities of all persons occupying the dwelling and note the identities on the return of service. If appropriate, the sheriff may arrest any person found in the dwelling for trespass, outstanding warrants, or any other legal cause. The owner of the property expressly grants the sheriff the authority to enter the property using reasonably necessary force, search the property, and remove any unauthorized person.

The sheriff is entitled to the same fee for service of the notice to immediately vacate as if the sheriff were serving a writ of possession under s. 30.231, F.S. Currently, that fee is \$90. After the sheriff serves the notice to immediately vacate, the property owner or authorized agent may request that the sheriff stand by to keep the peace while the property owner or agent of the owner changes the locks and removes the personal property of the unlawful occupants from the premises to or near the property line. When such a request is made, the sheriff may charge a reasonable hourly rate, and the person requesting the sheriff to stand by to keep the peace is responsible for paying the reasonable hourly rate set by the sheriff. This rate varies by county. The sheriff is not liable to the unlawful occupant or any other party for loss, destruction, or damage. The property owner or his or her authorized agent is not liable to an unlawful occupant or any other party for the loss, destruction, or damage to the personal property unless the removal was wrongful.

A person may bring a civil cause of action for wrongful removal under this section. A person harmed by a wrongful removal pursuant to this section may be restored to possession of the real property and may recover actual costs and damages incurred, statutory damages equal to triple the fair market rent of the dwelling, court costs, and reasonable attorney fees. The court must advance the cause on the calendar.

The bill provides that it does not limit the rights of a property owner or limit the authority of a law enforcement officer to arrest an unlawful occupant for trespassing, vandalism, theft, or other crimes.

Criminal Offenses Related to Commercial Real Property

The bill expands the second degree felony offense at s. 806.13(4), F.S., of detaining, occupying or trespassing on a residential property causing damage in excess of \$1,000, to include commercial property.

The bill expands the first degree felony offense at s. 817.0311, F.S., of fraudulently advertising, selling or leasing residential real property while knowing that he or she has no lawful real estate interest to sell or lease the property, by deleting the word “residential” to make the offense apply to the fraudulent advertising, sale or lease of any form of real property.

Amendment to 2024 Act Regarding Residential Properties

The bill also amends the complaint form created by the similar 2024 act regarding residential properties to expressly authorize a sheriff to use reasonable force to enter a property. In addition, the cross-reference to the penalty for perjury in the form is corrected from referencing s. 837.02, F.S. (perjury in an official proceeding) to s. 92.525, F.S. (perjury by false written declaration).

Effective Date

The bill is effective July 1, 2025.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may reduce costs that the private sector would otherwise incur to remove squatters from commercial properties.

C. **Government Sector Impact:**

The bill expands the crime for damaging or fraudulently advertising, selling or leasing residential real property to include commercial property, and, therefore, may have a positive indeterminate prison bed impact on the Department of Corrections.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 82.036, 806.13 and 817.0311.

This bill creates section 82.037 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes: 775.0837 and 895.02.

IX. **Additional Information:**

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

CS by Judiciary on February 18, 2025:

The committee substitute added express authority in the complaint form for the sheriff to use reasonable force to enter a property and corrected a cross-reference. The committee substitute also made these changes to existing law related to the removal of an unauthorized person from a residential property.

B. **Amendments:**

None.

CourtSmart Tag Report

Room: SB 37

Case No.:

Type:

Caption: Senate Appropriations Committee on Criminal and Civil Justice

Judge:

Started: 3/5/2025 11:03:01 AM

Ends: 3/5/2025 12:22:33 PM

Length: 01:19:33

11:03:01 AM Sen. Garcia (Chair)
11:03:30 AM Sen. Martin (Chair)
11:04:01 AM S 7014
11:04:08 AM Sen. Garcia
11:04:30 AM Sen. Martin
11:04:36 AM Sean Burnfin Office of the State Courts Administrator (waives in support)
11:04:48 AM Sen. Martin
11:05:19 AM S 48
11:05:24 AM Sen. Garcia
11:07:56 AM Am. 323662
11:08:57 AM Sen. Garcia
11:09:19 AM Sen. Martin
11:09:23 AM Ray Contreras (waives in support)
11:09:32 AM Sen. Martin
11:09:38 AM Sen. Garcia
11:09:40 AM Sen. Martin
11:09:50 AM Sen. Osgood
11:10:16 AM Sen. Garcia
11:10:50 AM Sen. Ingoglia
11:11:16 AM Sen. Garcia
11:13:09 AM Sen. Ingoglia
11:13:58 AM Sen. Garcia
11:15:40 AM Sen. Ingoglia
11:16:09 AM Sen. Garcia
11:16:36 AM Sen. Rouson
11:17:00 AM Sen. Garcia
11:17:13 AM Sen. Martin
11:17:19 AM Ray Contreras
11:22:36 AM Sen. Ingoglia
11:22:58 AM R. Contreras
11:23:07 AM Sen. Ingoglia
11:23:50 AM R. Contreras
11:24:29 AM Sen. Ingoglia
11:24:37 AM R. Contreras
11:25:33 AM Sen. Ingoglia
11:26:09 AM R. Contreras
11:26:29 AM Sen. Ingoglia
11:26:34 AM R. Contreras
11:26:43 AM Sen. Ingoglia
11:27:01 AM R. Contreras
11:27:16 AM Sen. Ingoglia
11:28:29 AM R. Contreras
11:28:54 AM Sen. Ingoglia
11:29:36 AM R. Contreras
11:30:05 AM Sen. Garcia
11:32:01 AM Sen. Martin
11:32:10 AM Sen. Garcia
11:33:08 AM Sen. Martin
11:33:15 AM S 322
11:33:38 AM Sen. Rodriguez
11:33:59 AM Sen. Martin
11:35:25 AM Barney Bishop III, Fla. Smart Justice Alliance (waives in support)

11:35:26 AM Derick Tabertshufer, America for Prosperity (waives in support)
11:35:31 AM Andrew Rutledge, Florida Realtors (waives in support)
11:35:41 AM Sen. Rodriguez
11:35:41 AM Sen. Martin
11:36:24 AM Sen. Wright
11:36:37 AM Am. 369714
11:36:54 AM Sen. Martin
11:37:02 AM Sen. Wright
11:37:06 AM Sen. Martin
11:37:13 AM S 138
11:37:14 AM Sen. Osgood
11:37:57 AM Sen. Wright
11:38:10 AM Sen. Osgood
11:38:17 AM Sen. Wright
11:38:24 AM Sen. Rouson
11:38:40 AM Sen. Wright
11:39:21 AM Sen. Martin
11:39:27 AM Melissa Villar, NORML Tallahassee
11:41:00 AM Sen. Simon
11:41:21 AM M. Villar
11:43:10 AM Sen. Ingoglia
11:43:35 AM M. Villar
11:44:30 AM Sen. Ingoglia
11:45:12 AM M. Villar
11:45:56 AM Sen. Ingoglia
11:47:35 AM Sen. Martin
11:47:42 AM Aaron Wayt, Florida Association of Criminal Defense Lawyers
11:53:31 AM Sen. Osgood
11:53:40 AM A. Wayt
11:54:12 AM Sen. Osgood
11:54:43 AM A. Wayt
11:55:15 AM Sen. Polsky
11:55:40 AM A. Wayt
11:56:40 AM Sen. Ingoglia
11:58:08 AM A. Wayt
11:58:29 AM Sen. Ingoglia
11:58:55 AM A. Wayt
12:00:04 PM Sen. Polsky
12:01:05 PM Sen. Rouson
12:01:27 PM Sen. Osgood
12:02:00 PM Sen. Wright
12:02:05 PM Molly Hudson, Volusia Sheriff's Office (waives in support)
12:02:05 PM Lt. Abby Hilley, Orange County Sheriff's Office (waives in support)
12:02:05 PM Barney Bishop III, Fla. Smart Justice Alliance (waives in support)
12:05:12 PM Sen. Martin
12:05:57 PM S 130
12:06:00 PM Sen. Bradley
12:06:39 PM Sen. Martin
12:06:39 PM Seth Miller, Innocence Project of Florida (waives in support)
12:06:45 PM Derick Tabertshufer, Americans for Prosperity (waives in support)
12:06:51 PM Barney Bishop III, Fla Smart Justice Alliance (waives in support)
12:06:53 PM Aaron Wyat, Florida Association of Criminal Defense Lawyers (waives in support)
12:07:00 PM Katie Bonnett, Alliance for Safety and Justice (waives in support)
12:07:07 PM Alexius Baker (waives in support)
12:07:16 PM Sen. Bradley
12:07:50 PM Sen. Martin
12:08:09 PM Recording Paused
12:10:38 PM Recording Resumed
12:10:43 PM Sen. Martin
12:11:41 PM S 234
12:11:48 PM Sen. Leek
12:15:05 PM Sen. Martin

12:15:12 PM Aaron Wyatt, Florida Association of Criminal Defense Lawyers
12:18:19 PM Sen. Martin
12:18:23 PM Jennifer Cook Pritt, Florida Police Chiefs Association Executive Director (waives in support)
12:18:28 PM Lt. Abby Hilley, Orange County Sheriff's Office (waives in support)
12:18:33 PM Jonathan Vazquez, Florida PBA (waives in support)
12:18:38 PM Jim Sniffen, Fraternal Order of Police (waives in support)
12:18:44 PM Michael Ward, Suncoast PBA (waives in support)
12:18:50 PM Barney Bishop III, Fla. Smart Justice Alliance
12:18:53 PM Molly Hudson, Volusia Sheriff's Office (waives in support)
12:19:03 PM Sen. Wright
12:19:47 PM Sen. Osgood
12:20:28 PM Sen. Leek
12:21:49 PM Sen. Martin