

**CS/SB 130** by **JU, Simmons, Smith (CO-INTRODUCERS) Thompson**; (Similar to H 0193) Use of Deadly Force

219914 D S RCS CJ, Simmons Delete everything after 03/17 07:09 PM

**SB 190** by **Braynon**; (Similar to H 1215) False Personation

332122 A S CJ, Smith Delete L.42 - 56: 03/13 01:30 PM

**SB 920** by **Dean**; (Compare to CS/H 0659) Protection of Crime Victims

863916 D S CJ, Dean Delete everything after 03/12 04:35 PM  
503996 AA S CJ, Dean Delete L.5 - 67: 03/17 10:37 AM

**SB 1406** by **Abruzzo**; (Similar to CS/H 1211) Care for Retired Law Enforcement Dogs

791320 D S CJ, Altman Delete everything after 03/14 04:20 PM

**SB 550** by **Hukill**; (Similar to H 0427) Traveling Across County Lines to Commit a Felony Offense

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**CRIMINAL JUSTICE**  
**Senator Evers, Chair**  
**Senator Smith, Vice Chair**

**MEETING DATE:** Monday, March 17, 2014  
**TIME:** 4:30 —6:00 p.m.  
**PLACE:** *Mallory Horne Committee Room, 37 Senate Office Building*

**MEMBERS:** Senator Evers, Chair; Senator Smith, Vice Chair; Senators Altman, Bradley, Dean, Gibson, and Simmons

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/SB's 130 &amp; 122</b> Judiciary / Simmons / Smith (Similar H 193, Compare H 33)	Use of Deadly Force; (THIS BILL COMBINES S130 & S122) Directing the Department of Law Enforcement to develop a uniform training curriculum for county sheriffs and municipal police departments to use in training participants in neighborhood crime watch programs; providing that a person who is justified in using force is immune from criminal prosecution and civil action initiated by the person against whom the force was used; providing that any reason, including immunity, used by an aggressor to justify the use of force is not available to the aggressor under specified circumstances, etc.  JU 10/08/2013 Fav/CS Combined - Lead CJ 03/17/2014 Fav/CS CA RC	Fav/CS Yeas 7 Nays 0
2	<b>SB 190</b> Braynon (Similar H 1215)	False Personation; Prohibiting a person from falsely personating a firefighter; prohibiting operation or ownership of a motor vehicle falsely marked with the intent to mislead or cause another person to believe that such vehicle is authorized by a fire department for use by the person operating it; providing an exception, etc.  CJ 03/17/2014 Not Considered ACJ AP	Not Considered

**COMMITTEE MEETING EXPANDED AGENDA**

Criminal Justice

Monday, March 17, 2014, 4:30 —6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	<b>SB 920</b> Dean (Compare CS/H 659)	Protection of Crime Victims; Requiring a licensed private investigator and private investigative agency to determine if an individual being investigated is a petitioner requesting notification of service of an injunction for protection against domestic violence, repeat violence, sexual violence, or dating violence or is a participant in the Address Confidentiality Program for Victims of Domestic Violence within the Office of the Attorney General; providing that a person commits a misdemeanor of the first degree if he or she violates a final injunction for protection against stalking or cyberstalking by having in his or her care, custody, possession, or control any firearm or ammunition, etc.  CJ 03/17/2014 Not Considered JU AP	Not Considered
4	<b>SB 1406</b> Abruzzo (Similar H 1211)	Care for Retired Law Enforcement Dogs; Citing this act as the "Care for Retired Law Enforcement Dogs Program Act"; creating the Care for Retired Law Enforcement Dogs Program within the Department of Law Enforcement; requiring the department to contract with a not-for-profit corporation meeting specified criteria to administer the program; providing specific procedures for disbursement of funds for the veterinary care of eligible retired law enforcement dogs; providing for the carryforward of unexpended appropriations for use in the program up to certain limits, etc.  CJ 03/17/2014 Not Considered AP	Not Considered
5	<b>SB 550</b> Hukill (Similar H 427)	Traveling Across County Lines to Commit a Felony Offense; Defining the terms "county of residence" and "felony offense" for the purpose of the crime of traveling across county lines with the intent to commit a felony offense; providing a criminal penalty; adding the crime of traveling across county lines with the intent to commit a felony offense to the factors a court must consider in determining whether to release a defendant on bail, etc.  CJ 03/17/2014 Not Considered CA ACJ AP	Not Considered

Other Related Meeting Documents

**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.)

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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**BILL:** CS/CS/SB's 130 & 122

**INTRODUCER:** Criminal Justice Committee; Judiciary Committee; and Senators Simmons, Smith, and Thompson

**SUBJECT:** Use of Deadly Force

**DATE:** March 19, 2014

**REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS Combined</u>
2.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/CS</u>
3.	_____	_____	<u>CA</u>	_____
4.	_____	_____	<u>RC</u>	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB's 130 & 122 require the county sheriff or municipal police department to issue reasonable guidelines for participants in neighborhood crime watch programs.

The bill specifies that the guidelines must include a prohibition against the program participant, while on patrol, confronting or attempting to apprehend a person suspected of improper or unlawful activity. The bill carves out an exception in the guidelines for program participants to act under circumstances in which a reasonable person would be permitted, authorized, or expected to assist another person. The guidelines may include any additional content the sheriff or municipal police department deem appropriate.

The bill amends the Stand Your Ground law to:

- No longer preclude lawsuits from third parties who are injured by negligent conduct used in self-defense. The bill clarifies that a person who uses justifiable force is immune from civil lawsuits filed by the person against whom force was used and his or her personal representative or heirs.
- Clarify that a law enforcement agency maintains the authority and duty to fully investigate whether a person claiming self-defense has lawfully used force. The bill further clarifies that law enforcement is not precluded from detaining an individual during the course of an

investigation under potential Stand Your Ground circumstances so long as the officer may otherwise lawfully do so.

- Clarify that an aggressor who unjustifiably uses force does not have the benefit of immunity from criminal prosecution or civil actions.
- Adopt the procedure under which the immunity hearing will be conducted.

Generally under s. 776.041, F.S., the self-defense and immunity provisions are not available to a person who provokes the use of force against him or herself. The bill clarifies that in order to provoke aggression against oneself, one must use force or threat of force. This should clarify that more than mere words or offensive behavior, for example, are required to constitute provocation.

The bill creates a new section of law that contains legislative findings.

The bill becomes effective October 1, 2014.

## II. Present Situation:

### Neighborhood Crime Watch Programs

County sheriffs and municipal police departments may establish neighborhood crime watch programs. The only statutory limit on crime watch programs is that the programs include city or county residents or business owners.<sup>1</sup>

### Self-defense

#### *The "Castle" Concept*

Section 776.012, F.S., absolves a person of a duty to retreat before using deadly force if the person knows or reasonably believes that an unlawful and forcible entry or act of a dwelling, residence, or occupied vehicle was occurring or had occurred.<sup>2</sup> This provision appears to codify and expand what constitutes a "castle" under the common law. Under the common law "Castle Doctrine," a "castle" was limited to a person's home.

Section 776.013(4), F.S., creates a presumption that a person intends to commit an unlawful act using force or violence when that person unlawfully and forcibly enters another person's dwelling, residence, or occupied vehicle. Similarly, s. 776.013(1), F.S., creates a presumption that the person using deadly, defensive force has a reasonable fear of imminent peril of death or great bodily harm.

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<sup>1</sup> Sections 30.60 and 166.0485, F.S.

<sup>2</sup> A dwelling is defined as: "a building or conveyance of any kind, including any attached porch, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed to be occupied by people lodging therein at night." Section 776.013(5)(a), F.S. A residence is defined as "a dwelling in which a person resides, even temporarily, or visits as an invited guest." Section 776.013(5)(b), F.S. A vehicle is defined as "a motorized or non-motorized conveyance intended to transport people or property." Section 776.013(5)(c), F.S. In addition to extending the concept of a home to other places of shelter, s. 776.013(3), F.S., extends the right to "stand your ground" beyond a place of habitation altogether provided that a person is attacked while he or she is in a place where he or she has a right to be and is not engaged in unlawful activity.

The presumption that a person intends to commit an unlawful act does not apply if the person against whom force is used:

- Has the right to enter the place, including as an owner or lessee, and if he or she is not subject to a court-ordered injunction or “no contact” order.
- Has custody of and is in the process of legally removing a child or grandchild.
- The person who uses defensive force is engaged in an unlawful activity or is using the dwelling, residence, or occupied vehicle for that purpose.
- Is a law enforcement officer acting pursuant to his or her official duties.

### ***Self-defense and Defense of Others (Outside the “Castle”)***

Section 776.012, F.S., relieves a person of a duty to retreat in using non-deadly force when the person reasonably believes that the force is needed for defense against a person’s imminent use of unlawful force. Deadly force is permitted when the person defends himself or herself or another person under a reasonable belief that deadly force is needed to prevent imminent great bodily harm or death or to prevent the perpetrator from committing a forcible felony.<sup>3</sup>

### ***Self-defense and Defense of Property***

Section 776.031, F.S., authorizes a person to use non-deadly force to protect personal property and real property other than a dwelling. Additionally, the provision absolves a person of a duty to retreat and justifies the use of deadly force if the person reasonably believes deadly force is necessary to prevent the commission of a forcible felony.<sup>4</sup>

### ***Limitations on Self-defense Claims by Aggressors***

A person who is in the process of committing or escaping after committing a forcible felony is precluded from claiming a justifiable use of force.<sup>5</sup>

The defense is also not available to a person who otherwise qualifies but initially provokes the use of force against himself or herself, unless:

- The force is so great that the person reasonably believes that he or she is in imminent danger of death or great bodily harm and has exhausted every reasonable means other than the use of force which is likely to result in death or great bodily harm; or
- The person physically withdraws in good faith and clearly indicates the desire to withdraw, but the assailant continues or resumes the use of force.<sup>6</sup>

### ***Immunities and Defenses to Legal Actions***

A person who uses force as authorized under the Stand Your Ground law is immune from criminal prosecution and any civil action based on the use of force. Immunity from criminal prosecution includes immunity from being arrested, detained in custody, and charged or

<sup>3</sup> Section 776.012, F.S.

<sup>4</sup> A forcible felony is defined to include the following offenses: “treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual.” Section 776.08, F.S.

<sup>5</sup> Section 776.041(1), F.S.

<sup>6</sup> Section 776.041(2)(a) and (b), F.S.

prosecuted.<sup>7</sup> A defendant to a civil action based on a use of force is entitled to reasonable attorney's fees, court costs, lost income and all expenses related to the defense of the action if the defendant is immune from criminal prosecution for the use of force.<sup>8</sup>

## Case Law

### *Self-defense and Common Law Duty to Retreat*

Before the Florida Legislature adopted the Stand Your Ground law in 2005, the state followed the Florida common law that imposed a duty to retreat in self-defense situations. Under Florida common law, a person acting in self-defense outside his or her home or workplace had a "duty to use every reasonable means to avoid the danger, including retreat, prior to using deadly force."<sup>9</sup> This duty is also referred to as a duty to retreat "to the wall."<sup>10</sup> The duty to retreat also applied to both parties in mutual combat and to an initial aggressor.<sup>11</sup> Before using non-deadly force, however, a defender had no duty to retreat.<sup>12</sup>

The duty to retreat had not always been a part of the common law. Centuries ago, "any man who was feloniously attacked without provocation could stand his ground *anywhere*, not retreat, and use deadly force if necessary to repel the attacker."<sup>13</sup> The common law predating the Stand Your Ground law placed a "greater emphasis on the sanctity of life as opposed to chivalry."<sup>14</sup> Similarly, the duty to retreat appeared to stem from the policy that "[h]uman life is precious, and deadly combat should be avoided if at all possible when imminent danger to oneself can be avoided."<sup>15</sup>

### *Immunity Determination*

When the Legislature declared in the 2005 Stand Your Ground law that a person who uses force as permitted in ss. 776.012, 776.013, and 776.031, F.S., is justified in doing so and is immune from prosecution, no procedure was put in place by which immunity could be determined.

The question of whether a person is using justifiable force turns on questions of fact and circumstance. The facts to be resolved are related to the reasonable belief that force is necessary to defend persons or property and what level of force is justifiable under the circumstances. In order to decide these factual matters, the trial courts had to decide how to evaluate the facts and settle the claims of immunity created in 2005.

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<sup>7</sup> Section 776.032(1), F.S.

<sup>8</sup> Section 776.032(3), F.S.

<sup>9</sup> *State v. James*, 867 So. 2d 414, 416 (Fla. 3d DCA 2003). According to *Weiland v. State*, 732 So. 2d 1044, note 4 (Fla. 1999), "a majority of jurisdictions do not impose a duty to retreat before a defendant may resort to deadly force when threatened with death or great bodily harm."

<sup>10</sup> *Weiland v. State*, 732 So. 2d 1044, 1049 (Fla. 1999).

<sup>11</sup> *Pell v. State*, 122 So. 110, 116 (Fla. 1929) and s. 776.041, F.S.

<sup>12</sup> *Weiland*, 732 So. 2d at note 4.

<sup>13</sup> *Cannon v. State*, 464 So. 2d 149, 150 (Fla. 5th DCA 1985) (emphasis original).

<sup>14</sup> *Id.*

<sup>15</sup> *State v. James*, 867 So. 2d 414, 417 (Fla. 3d DCA 2003) (quoting *State v. Bobbitt*, 415 So. 2d 724, 728 (Fla. 1982)).

In 2008, in *Peterson v. State*, the First District Court of Appeal reviewed a first-degree murder case involving a claim of immunity under the Stand Your Ground law.<sup>16</sup> The court rejected the State's endorsement of the commonly used Motion to Dismiss under Florida Rule of Criminal Procedure 3.190(c)(4) where immunity would be denied when there were "disputed material facts."

The *Peterson* court decided that trial courts must determine factual disputes by actually confronting and weighing them. The court approved the use of a pretrial, adversarial hearing to determine immunity.<sup>17</sup>

The court also endorsed the trial court's review of the defendant's motion to dismiss under a showing of a preponderance of the evidence standard, a similar burden for motions challenging the voluntariness of a confession.<sup>18</sup>

In *Dennis v. State*, the Florida Supreme Court upheld the *Peterson* process of determining immunity through a pretrial evidentiary hearing.<sup>19</sup>

The *Dennis* court also recognized that upon denial of a defense motion to dismiss, the defendant still has available the claim of self-defense or Stand Your Ground as an affirmative defense at trial.<sup>20</sup> The Task Force on Citizen Safety and Protection determined that the *Peterson* hearing is an appropriate mechanism to resolve immunity claims.

### ***Arrest and Detention***

The Fourth Amendment of the U.S. Constitution provides, in part, "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated."

Fourth Amendment protections are triggered for most stops by law enforcement officers, and law enforcement officers must have a reasonable suspicion that a person has committed, is committing, or is about to commit a crime. The U.S. Supreme Court has long authorized law enforcement officers to effect a temporary detention or investigatory stop, also known as a *Terry* Stop-and-Frisk, for the purpose of briefly ascertaining information about criminal activity. The seminal case of *Terry v. Ohio* established limits on law enforcement officers in making temporary stops.<sup>21</sup> In so doing, the Court strictly limits the scope of a search and generally disfavors moving a defendant to multiple places for questioning.<sup>22</sup>

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<sup>16</sup> *Peterson v. State*, 983 So. 2d 27 (Fla. 1st DCA 2008).

<sup>17</sup> *Id.* at 29.

<sup>18</sup> *Id.* at 29-30.

<sup>19</sup> *Dennis v. State*, 51 So. 3d 456, 464 (Fla. 2010).

<sup>20</sup> *Id.* at 459.

<sup>21</sup> *Terry v. Ohio*, 392 U.S. 1 (88 S.Ct. 1868).

<sup>22</sup> *Terry v. Ohio*, 392 U.S. 1 (88 S.Ct. 1868), involved a discovery of unlawfully concealed firearms during a pat down by a law enforcement officer. In this case, the Court ruled the search permissible where the law enforcement officer had a reasonable suspicion of criminal activity. In this case, the officers observed defendants engage in a pattern of unusual activity, possibly indicative of preparing to commit a burglary or robbery. The Court also found that the officers conducted a reasonable scope of search by limiting the search to a pat down of outer pockets of clothing. *Id.* at 7 and 29. "The sole justification of the search in the present situation is the protection of the police officer and others nearby, and it must



Florida codified the *Terry* holding as s. 901.151, F.S., which is known as the “Florida Stop and Frisk Law.”<sup>23</sup> The Florida Stop and Frisk Law imposes a reasonableness standard for law enforcement officers to temporarily detain a person. The questions a law enforcement officer may ask are limited to identifying a person’s identity and questions designed to elicit information about the suspected criminal activity. Likewise, Florida law prohibits law enforcement officers from moving the person detained as part of a “Stop and Frisk,” investigatory stop.

The U.S. Supreme Court makes sharp distinctions between a temporary detention and an arrest for which an officer must have probable cause. Probable cause is a much higher level of suspicion than reasonable suspicion. Probable cause requires that the facts and circumstances known to the officer warrant a prudent man in believing that an offense has been committed.<sup>24</sup>

Taking a person into custody generally rises to the level of an arrest.<sup>25</sup> Custody does not always mean arrest, however. Regardless, the courts do not typically recognize a cursory, temporary detention as being as restrictive as taking someone into custody.

### **Task Force**

Florida Governor Rick Scott convened the Task Force on Citizen Safety and Protection to thoroughly review the state’s Stand Your Ground law. The task force held seven public hearings around the state, took testimony, and issued recommendations, detailed in a report dated February 21, 2013.<sup>26</sup> The task force provided the report to the Governor, President of the Senate, and the Speaker of the House of Representatives.

Although the task force issued a number of recommendations, members concurred in the belief that all persons who are conducting themselves in a lawful manner have the right to defend themselves and to stand their ground when attacked.<sup>27</sup>

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therefore be confined in scope to an intrusion reasonably designed to discover guns, knives, clubs, or other hidden instruments for the assault of the police officer.” *Id.* at 29.

<sup>23</sup> Section 901.151(2), F.S., provides: “Whenever any law enforcement officer of this state encounters any person under circumstances which reasonably indicate that such person has committed, is committing, or is about to commit a violation of the criminal laws in this state . . . the officer may temporarily detain such person for the purpose of ascertaining the identity of the person temporarily detained and the circumstances surrounding the person’s presence abroad which led the officer to believe that the person had committed, was committing, or was about to commit a criminal offense.” The section precludes an officer from temporarily detaining a person longer than is reasonably necessary or from moving the person to another location during the detention. Section 901.151 (3), F.S.

<sup>24</sup> *Henry v. United States*, 361 U.S. 98, 102 (1959).

<sup>25</sup> See *Caldwell v. State*, 41 So. 3d 188 (Fla. 2010). In this case, the Florida Supreme Court reviewed the requirement for law enforcement officers to issue *Miranda* warnings in the context of arrest and custody. The Court emphasized that “*Miranda* warnings are not required in any police encounter in which the suspect is not placed under arrest or otherwise in custody . . . .” *Id.* at 198. “[B]ecause of the very cursory and limited nature of a *Terry* stop, a suspect is not free to leave, yet is not entitled to full custody *Miranda* rights.” *Id.* at 199, quoting *United States v. Salvo*, 133 F.3d 943, 949 (6th Cir. 1998).

<sup>26</sup> Governor’s Task Force on Citizen Safety and Protection, Final Report (Feb. 21, 2013). The task force developed its mission as follows: “The Task Force on Citizen Safety and Protection will review ch. 776, F.S., and its implementation, listen to the concerns and ideas from Floridians, and make recommendations to the Governor and Florida Legislature to ensure the rights of all Floridians and visitors, including the right to feel safe and secure in our state.”

<sup>27</sup> *Id.* at 5. “The Task Force concurs with the core belief that all persons . . . have a right to feel safe and secure in our state. To that end, all persons who are conducting themselves in a lawful manner have a fundamental right to stand their ground and defend themselves from attack with proportionate force in every place they have a lawful right to be.”

Task force members recommended that:

- The Stand Your Ground law apply to all persons, regardless of citizenship status.
- The term “unlawful activity” be defined. Suggested definitions would exclude noncriminal or certain county and municipal ordinance violations or require a temporal nexus between the unlawful activity and the use of force.
- Law enforcement agencies, prosecutors, defense attorneys, and the judiciary have additional training and education to facilitate the uniform and fair application of the self-defense law.
- The role of neighborhood crime watch participants be limited to observing, watching, and reporting potential criminal activity.
- Any ambiguity be removed from the definition of the term “criminal prosecution” to enable law enforcement officers to fully investigate cases involving the use of force.
- The Legislature consider whether the immunity provisions of the Stand Your Ground law should preclude innocent, third-party bystanders from filing legal actions.
- The Legislature consider funding further study of the relationship between race, ethnicity, gender, and expanded self-defense laws, as a follow-up to the informal report provided by the University of Florida, Levin College of Law.
- The Legislature review the state’s 10-20-Life law to eliminate unintended consequences.<sup>28</sup>

### **Stand Your Ground Law in other States**

At least 22 states adopted some version of the Stand your Ground law. These laws provide that there is no duty to retreat from an attacker in any place in which a person is lawfully present.<sup>29</sup> These states include Alabama, Arizona, Florida, Georgia, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Montana, Nevada, New Hampshire, North Carolina, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, and West Virginia.<sup>30</sup> Nine of these states adopted laws with specific language providing that a person may stand his or her ground.<sup>31</sup>

Civil immunity is available to persons who use self-defense in certain circumstances in at least 22 states. These states include Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Illinois, Kentucky, Louisiana, Maryland, Michigan, Montana, New Hampshire, North Carolina, North Dakota, Oklahoma, Ohio, Pennsylvania, South Carolina, Tennessee, West Virginia, and Wisconsin.

<sup>28</sup> The final report of the task force is available at: <http://www.flgov.com/citizensafety/>.

<sup>29</sup> *Self-defense and “Stand Your Ground,”* National Conference of State Legislatures (Aug. 30, 2013).

<http://www.ncsl.org/issues-research/justice/self-defense-and-stand-your-ground.aspx> (last visited Oct. 2, 2013).

<sup>30</sup> Alabama (s. 13A-3-20, 23); Arizona (s. 13-405); Florida (ch. 776, F.S.); Georgia (ss. 16-3-23, 16-3-23-1, 16-3-24); Indiana (s. 35-41-3-2); Kansas (ss. 21-5222, 21-5223, 21-5224, 21-5225, 21-5230); Kentucky (ss. 503.050, 503.055, 503.080); Louisiana (ss. 14:19, 14:20); Michigan (s. 780.972); Mississippi (s. 97-3-15); Montana (s. 45-3-110); Nevada (ss. 200.120, 200.160); New Hampshire (s. 627:4); North Carolina (ss. 14-51.2, 14-51.3); Oklahoma (s. 1289.25); Pennsylvania (title 18, s. 505); South Carolina (ss. 16-11-440, 16-11-450); South Dakota (s. 22-18-4); Tennessee (s. 39-11-614); Texas (ss. 9.31, 9.32, 9.41, 9.42, 9.43); Utah (ss. 76-2-402, 76-2-405, 76-2-407); West Virginia (s. 55-7-22).

<sup>31</sup> States with self-defense laws with specific stand your ground language are: Alabama (s. 13A-3-23(b)), Florida (s. 776.013, F.S.), Georgia (s. 16-3-23.1), Kansas (s. 21-5320), Kentucky (s. 503.055), Louisiana (s. 14:19), Oklahoma (s. 1289.25), Pennsylvania (title 18, s. 505), and South Carolina (s. 16-11-440(C)).

### **III. Effect of Proposed Changes:**

#### **Neighborhood Crime Watch Program Law**

The bill requires the sheriff or municipal police department to issue guidelines for the operation of neighborhood crime watch programs within the county or municipality.

The content of the guidelines are only limited by the bill in two respects. The bill requires that the guidelines include:

- a prohibition against a program participant, while on patrol, confronting or attempting to apprehend a person suspected of improper or unlawful activity subject to
- an exception in the guidelines for program participants to act under circumstances in which a reasonable person would be permitted, authorized, or expected to assist another person.

#### **Immunity from Civil Actions**

The bill provides that a person who is immune from civil lawsuits is only immune from lawsuits by the person against whom force is used and his or her personal representative or heirs. Therefore, an injured third party is not expressly precluded from filing a civil action against a person who is otherwise immune under the Stand Your Ground law.

#### **Immunity from Criminal Prosecution**

The Stand Your Ground law provides that a person who justifiably uses force is immune from criminal prosecution. The term "criminal prosecution" is further defined by the law to include "arresting, detaining in custody, and charging or prosecuting the defendant." The bill redefines "criminal prosecution" for purposes of the application of the Stand Your Ground law as arresting, taking into custody, or charging or prosecuting the defendant."

The bill also states that the immunity language in the Stand Your Ground law does not negate or lessen a law enforcement agency's authority and duty to fully investigate whether a person lawfully used force.

As such, the bill should remove ambiguities which may have been interpreted by some to require law enforcement officers to have probable cause to make an investigatory detention during the course of an investigation under potential Stand Your Ground circumstances.

The bill clarifies that an aggressor who is not justified in using force will not benefit from immunity from criminal prosecution or civil actions.

#### ***Immunity Hearing Procedure***

The bill creates a procedure by which immunity claims may be raised by defendants facing criminal prosecution. The defendant is entitled to an evidentiary hearing on a pretrial Motion to

Dismiss by making a prima facie showing of the justifiable use of force.<sup>32</sup> The bill does not specify whether the motion must be a sworn motion.

At the hearing the State bears the burden of proving by a preponderance of the evidence that the defendant's use of force was not lawful. Presumably the defendant will not testify at the hearing, and cannot be compelled to do so. If, however, the defendant testifies, the bill provides that his or her testimony is only admissible for impeachment purposes in a subsequent hearing or trial. Likewise, any factual determinations made are not considered to be established for trial purposes.

The judge will decide all factual disputes at the hearing. If the court denies the defendant's Motion to Dismiss, any factual findings the court makes at the hearing does not preclude the defendant from raising any defense or presenting any evidence at trial.

### **Additional Provisions in the Bill**

The bill refines current law related to the availability of the Stand Your Ground self-defense and immunity provisions. Generally, under s. 776.041, F.S., the self-defense and immunity provisions are not available to a person who provokes the use of force against him or herself. The bill clarifies that in order to provoke aggression against oneself, one must use force or threat of force. This should clarify that more than mere words or offensive behavior, for example, is required to constitute provocation.

The bill creates a new section of law containing legislative findings that state: The use of force authorized by this chapter is not intended to encourage vigilantism or acts of revenge, authorize the initiation of a confrontation as a pretext to respond with deadly force, or negate a duty to retreat for persons engaged in unlawful mutual combat.

The bill takes effect October 1, 2014.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

None.

### **C. Trust Funds Restrictions:**

None.

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<sup>32</sup> "Evidence good and sufficient on its face; such evidence as, in the judgment of the law, is sufficient to establish a given fact, or the group or chain of facts constituting the party's claim or defense, and which if not rebutted or contradicted, will remain sufficient." *Black's Law Dictionary*, Fifth Ed., 1979, West Publishing.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The local sheriffs and municipal police departments may incur some costs related to creating and distributing the guidelines for local neighborhood crime watch programs.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 30.60, 166.0485, 776.032, and 776.041.

The bill creates section 776.09, of the Florida Statutes.

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

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

**CS/CS by Criminal Justice on March 17, 2014:**

The committee substitute:

- Requires the county sheriff or municipal police department to issue reasonable guidelines for participants in neighborhood crime watch programs and eliminates the requirement that FDLE develop curriculum for the programs.
- Amends the Stand Your Ground law to no longer preclude lawsuits from third parties who are injured by negligent conduct used in self-defense.
- Clarifies that a law enforcement agency maintains the authority and duty to fully investigate whether a person claiming self-defense has lawfully used force.
- Clarifies that an aggressor who unjustifiably uses force does not have the benefit of immunity from criminal prosecution or civil actions.
- Clarifies that in order to provoke aggression against oneself, one must use force or threat of force. This should clarify that more than mere words or offensive behavior, for example, are required to constitute provocation.

- Adopts the procedure under which the Stand Your Ground immunity hearing will be conducted.
- Creates a new section of law, s. 776.09, F.S., that contains legislative findings.

**CS by Judiciary on October 8, 2013:**

The committee substitute:

- Requires FDLE to develop a training curriculum for neighborhood crime watch participants, rather than requiring local law enforcement agencies to establish guidelines for crime watch programs, and specifies subject matter to be addressed in the curriculum.
- Revises the definition of “criminal prosecution” used in the section on immunity for justifiable use of force to clarify the distinction between an officer effecting a detention and a custody.

**B. Amendments:**

None.



219914

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2014	.	
	.	
	.	
	.	

---

The Committee on Criminal Justice (Simmons) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 30.60, Florida Statutes, is amended to  
read:

30.60 Establishment of neighborhood crime watch programs.-

(1) A county sheriff or municipal police department may  
establish neighborhood crime watch programs within the county or  
municipality. The participants of a neighborhood crime watch



219914

11 program shall include, but need not be limited to, residents of  
12 the county or municipality and owners of businesses located  
13 within the county or municipality.

14 (2) The county sheriff or municipal police department shall  
15 issue reasonable guidelines for the operation of such programs.  
16 The guidelines must include, but are not limited to, prohibiting  
17 a neighborhood crime watch patrol participant, while on patrol,  
18 from confronting or attempting to apprehend a person suspected  
19 of improper or unlawful activity, subject, however, to those  
20 circumstances in which a reasonable person would be permitted,  
21 authorized, or expected to assist another person.

22 Section 2. Section 166.0485, Florida Statutes, is amended  
23 to read:

24 166.0485 Establishment of neighborhood crime watch  
25 programs.—

26 (1) A county sheriff or municipal police department may  
27 establish neighborhood crime watch programs within the county or  
28 municipality. The participants of a neighborhood crime watch  
29 program shall include, but need not be limited to, residents of  
30 the county or municipality and owners of businesses located  
31 within the county or municipality.

32 (2) The county sheriff or municipal police department shall  
33 issue reasonable guidelines for the operation of such programs.  
34 The guidelines must include, but are not limited to, prohibiting  
35 a neighborhood crime watch patrol participant, while on patrol,  
36 from confronting or attempting to apprehend a person suspected  
37 of improper or unlawful activity, subject, however, to those  
38 circumstances in which a reasonable person would be permitted,  
39 authorized, or expected to assist another person.





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40 Section 3. Present subsection (1) of section 776.032,  
41 Florida Statutes, is amended, subsections (2) and (3) are  
42 renumbered as subsections (3) and (4), respectively, and a new  
43 subsection (2) is added to that section, to read:

44 776.032 Immunity from criminal prosecution and civil action  
45 for justifiable use of force.—

46 (1) A person who uses force as permitted in s. 776.012, s.  
47 776.013, or s. 776.031 is justified in using such force and is  
48 immune from criminal prosecution and civil action by the person,  
49 personal representative, or heirs of the person, against whom  
50 force was used for the use of such force, unless the person  
51 against whom force was used is a law enforcement officer, as  
52 defined in s. 943.10(14), who was acting in the performance of  
53 his or her official duties and the officer identified himself or  
54 herself in accordance with any applicable law or the person  
55 using force knew or reasonably should have known that the person  
56 was a law enforcement officer. As used in this subsection, the  
57 term "criminal prosecution" includes arresting, taking into  
58 custody, or arresting, detaining in custody, and charging or  
59 prosecuting the defendant. This subsection does not restrict a  
60 law enforcement agency's authority and duty to fully and  
61 completely investigate the use of force upon which an immunity  
62 may be claimed or any event surrounding such use of force.

63 (2) A defendant is entitled to an evidentiary hearing on a  
64 pretrial motion to dismiss an indictment or information by  
65 making a prima facie showing of the justifiable use of force.  
66 During the hearing, the state bears the burden of proving by a  
67 preponderance of the evidence that the defendant's use of force  
68 was not lawful. For purposes of the motion, the judge shall



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69 decide all factual disputes relating to the defendant's use of  
70 force, but any factual findings are not established for the  
71 purposes of any subsequent trial. The defendant's testimony is  
72 not admissible in a subsequent hearing or trial except for the  
73 purposes of impeachment. The denial of the defendant's motion to  
74 dismiss or any factual findings at the hearing do not preclude  
75 the defendant from raising any defense or presenting any  
76 evidence at trial.

77 Section 4. Section 776.041, Florida Statutes, is amended to  
78 read:

79 776.041 Use of force by aggressor.—The justifications  
80 ~~justification~~ described in the preceding sections of this  
81 chapter, including, but not limited to, the immunity provided  
82 for in s. 776.032, are is not available to a person who:

83 (1) Is attempting to commit, committing, or escaping after  
84 the commission of, a forcible felony; or

85 (2) Initially provokes the use of force against himself or  
86 herself, unless:

87 (a) Such force is so great that the person reasonably  
88 believes that he or she is in imminent danger of death or great  
89 bodily harm and that he or she has exhausted every reasonable  
90 means to escape such danger other than the use of force which is  
91 likely to cause death or great bodily harm to the assailant; or

92 (b) In good faith, the person withdraws from physical  
93 contact with the assailant and indicates clearly to the  
94 assailant that he or she desires to withdraw and terminate the  
95 use of force, but the assailant continues or resumes the use of  
96 force.

97



98 For purposes of this subsection, provocation must include the  
99 use of force or threat of force.

100 Section 5. Section 776.09, Florida Statutes, is created to  
101 read:

102 776.09 Justifiable Use of Force; Legislative Intent.—The  
103 use of force authorized by this chapter is not intended to  
104 encourage vigilantism or acts of revenge, authorize the  
105 initiation of a confrontation as a pretext to respond with  
106 deadly force, or negate a duty to retreat for persons engaged in  
107 unlawful mutual combat.

108 Section 6. This act shall take effect October 1, 2014.

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

112 And the title is amended as follows:

113 Delete everything before the enacting clause  
114 and insert:

115 A bill to be entitled  
116 An act relating to the use of deadly force; amending  
117 ss. 30.60 and 166.0485, F.S.; requiring the county  
118 sheriff or municipal police department to issue  
119 reasonable guidelines for the operation of  
120 neighborhood crime watch programs; providing that the  
121 guidelines are subject to reasonable exceptions;  
122 amending s. 776.032, F.S.; providing that a person who  
123 is justified in using force is immune from criminal  
124 prosecution and civil action initiated by the person  
125 against whom the force was used; revising the  
126 definition of the term "criminal prosecution";



219914

127 clarifying that a law enforcement agency retains the  
128 authority and duty to fully investigate the use of  
129 force upon which an immunity may be claimed; providing  
130 that during a pretrial immunity hearing, the state  
131 bears the burden of proving by a preponderance of the  
132 evidence that the defendant's use of force was not  
133 lawful; amending s. 776.041, F.S.; providing that any  
134 reason, including immunity, used by an aggressor to  
135 justify the use of force is not available to the  
136 aggressor under specified circumstances; providing  
137 that provocation justifying the use of defensive force  
138 must include the use of force or the threat of the use  
139 of force; creating s. 776.09, F.S.; providing  
140 legislative intent relating to the justifiable use of  
141 force; providing an effective date.

By the Committee on Judiciary; and Senators Simmons and Smith

590-00460-14

2014130c1

1 A bill to be entitled  
 2 An act relating to the use of deadly force; amending  
 3 ss. 30.60 and 166.0485, F.S.; directing the Department  
 4 of Law Enforcement to develop a uniform training  
 5 curriculum for county sheriffs and municipal police  
 6 departments to use in training participants in  
 7 neighborhood crime watch programs; amending s.  
 8 776.032, F.S.; providing that a person who is  
 9 justified in using force is immune from criminal  
 10 prosecution and civil action initiated by the person  
 11 against whom the force was used; revising the  
 12 definition of the term "criminal prosecution";  
 13 clarifying that a law enforcement agency retains the  
 14 authority and duty to fully investigate the use of  
 15 force upon which an immunity may be claimed; amending  
 16 s. 776.041, F.S.; providing that any reason, including  
 17 immunity, used by an aggressor to justify the use of  
 18 force is not available to the aggressor under  
 19 specified circumstances; providing an effective date.  
 20  
 21 Be It Enacted by the Legislature of the State of Florida:  
 22  
 23 Section 1. Section 30.60, Florida Statutes, is amended to  
 24 read:  
 25 30.60 Establishment of neighborhood crime watch programs.—  
 26 (1) A county sheriff or municipal police department may  
 27 establish neighborhood crime watch programs within the county or  
 28 municipality. The participants of a neighborhood crime watch  
 29 program shall include, but need not be limited to, residents of

Page 1 of 4

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

590-00460-14

2014130c1

30 the county or municipality and owners of businesses located  
 31 within the county or municipality.  
 32 (2) The Department of Law Enforcement shall develop a  
 33 uniform training curriculum for training participants in  
 34 neighborhood crime watch programs. County sheriffs and municipal  
 35 police departments shall use the curriculum in training  
 36 participants of such programs. The training shall address, but  
 37 need not be limited to, how to recognize and report suspicious  
 38 or unlawful activity, crime prevention techniques, when a  
 39 participant in a crime watch program is authorized or expected  
 40 to assist another person, the unlawful use of force, and conduct  
 41 that may unreasonably create or escalate a confrontation between  
 42 a neighborhood watch participant and a person suspected of  
 43 unlawful activity.  
 44 Section 2. Section 166.0485, Florida Statutes, is amended  
 45 to read:  
 46 166.0485 Establishment of neighborhood crime watch  
 47 programs.—  
 48 (1) A county sheriff or municipal police department may  
 49 establish neighborhood crime watch programs within the county or  
 50 municipality. The participants of a neighborhood crime watch  
 51 program shall include, but need not be limited to, residents of  
 52 the county or municipality and owners of businesses located  
 53 within the county or municipality.  
 54 (2) The Department of Law Enforcement shall develop a  
 55 uniform training curriculum for training participants in  
 56 neighborhood crime watch programs. County sheriffs and municipal  
 57 police departments shall use the curriculum in training  
 58 participants of such programs. The training shall address, but

Page 2 of 4

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

590-00460-14

2014130c1

59 need not be limited to, how to recognize and report suspicious  
 60 or unlawful activity, crime prevention techniques, when a  
 61 participant in a crime watch program is authorized or expected  
 62 to assist another person, the unlawful use of force, and conduct  
 63 that may unreasonably create or escalate a confrontation between  
 64 a neighborhood watch participant and a person suspected of  
 65 unlawful activity.

66 Section 3. Subsection (1) of section 776.032, Florida  
 67 Statutes, is amended to read:

68 776.032 Immunity from criminal prosecution and civil action  
 69 for justifiable use of force.—

70 (1) A person who uses force as permitted in s. 776.012, s.  
 71 776.013, or s. 776.031 is justified in using such force and is  
 72 immune from criminal prosecution and civil action by the person,  
 73 personal representative, or heirs of the person, against whom  
 74 force was used for the use of such force, unless the person  
 75 against whom force was used is a law enforcement officer, as  
 76 defined in s. 943.10(14), who was acting in the performance of  
 77 his or her official duties and the officer identified himself or  
 78 herself in accordance with any applicable law or the person  
 79 using force knew or reasonably should have known that the person  
 80 was a law enforcement officer. As used in this subsection, the  
 81 term "criminal prosecution" includes with probable cause,  
 82 arresting, taking into custody, or arresting, detaining in  
 83 custody, and charging or prosecuting the defendant. This  
 84 subsection does not restrict a law enforcement agency's  
 85 authority and duty to fully and completely investigate the use  
 86 of force upon which an immunity may be claimed or any event  
 87 surrounding such use of force.

Page 3 of 4

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

590-00460-14

2014130c1

88 Section 4. Section 776.041, Florida Statutes, is amended to  
 89 read:

90 776.041 Use of force by aggressor.—The justification  
 91 described in the preceding sections of this chapter, including,  
 92 but not limited to, the immunity provided for in s. 776.032, is  
 93 not available to a person who:

94 (1) Is attempting to commit, committing, or escaping after  
 95 the commission of, a forcible felony; or

96 (2) Initially provokes the use of force against himself or  
 97 herself, unless:

98 (a) Such force is so great that the person reasonably  
 99 believes that he or she is in imminent danger of death or great  
 100 bodily harm and that he or she has exhausted every reasonable  
 101 means to escape such danger other than the use of force which is  
 102 likely to cause death or great bodily harm to the assailant; or

103 (b) In good faith, the person withdraws from physical  
 104 contact with the assailant and indicates clearly to the  
 105 assailant that he or she desires to withdraw and terminate the  
 106 use of force, but the assailant continues or resumes the use of  
 107 force.

108 Section 5. This act shall take effect October 1, 2014.

Page 4 of 4

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/17/2014

Meeting Date

Topic USE OF FORCE

Bill Number 130 + 122

Name STACY SCOTT

Amendment Barcode 219914  
(if applicable)

Job Title PUBLIC DEFENDER

(if applicable)

Address 35 NORTH MAIN STREET  
Street

Phone 352-338-7370

GAINESVILLE FL 32601  
City State Zip

E-mail SCOTT@pd08.

Speaking:  For  Against  Information

Representing FLORIDA PUBLIC DEFENDER ASSOC. INC

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

TESTIFY LAST PLEASE

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/17/14

Meeting Date

Topic Deadly FORCE

Bill Number SB-130 & 122  
(if applicable)

Name MARION P. HAMMER

Amendment Barcode 219914  
(if applicable)

Job Title \_\_\_\_\_

Address P.O. BOX 1387

Phone 850-222-9518

Street

TALLAHASSEE FL 32302

City

State

Zip

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing NRA (NATIONAL RIFLE ASSOCIATION) UNIFIED SPORTSMEN OF FLORIDA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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



THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-17-14

Meeting Date

# Asans + Amendment  
# 219914

Topic Stand your Ground

Bill Number SB 130-122  
(if applicable)

Name Willie Meggs

Amendment Barcode # 219914  
(if applicable)

Job Title State Atty 2nd Cir

Address 301 S. Monroe  
Street

Phone 850-606-6016

Tallah  
City State Zip

E-mail Meggs@lemoncountyfl.gov

Speaking:  For  Against  Information

Representing ~~State Atty 2nd Cir~~ Amendment # 219914

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/17/14

Meeting Date

Topic Stand Your Ground

Bill Number 130/122  
*(if applicable)*

Name Congresswoman Corrine Brown

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Member of Congress

Address 2111 Auburn H.O.B. Washington, DC

Phone (202) 225-0123

Street

Washington, DC

City

State

Zip

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

*Meeting Date*

Topic Stand your ground

Bill Number 130/122  
*(if applicable)*

Name US Rep Bobby Scott

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Congressman

Address 7501 Rivers Rd Apt 26

Phone 757-303-3033

*Street*

Newport News VA 23607

*City*

*State*

*Zip*

E-mail RSCOTTVA3@gmail.com

Speaking:  For  Against  Information

Representing self

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

TESTIFY LAST PLEASE

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/17/14  
Meeting Date

Topic Deadly Force

Bill Number SB-1306 122  
(if applicable)

Name MARION P. HAMMER

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title \_\_\_\_\_

Address P.O. BOX 1387

Phone 850-222-9518

Street

TALLAHASSEE FL 32302

City

State

Zip

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing NRA (NATIONAL RIFLE ASSOCIATION) UNITED SPORTSMEN OF FLORIDA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

? 130 ?

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

Meeting Date \_\_\_\_\_

Topic Criminal Justice

Bill Number \_\_\_\_\_  
*(if applicable)*

Name MARY LOVE

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Citizen

Address 1233 W. 3<sup>rd</sup> St.  
*Street*

Phone 904-329-9712

Jacksonville, Florida 32209  
*City State Zip*

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing NO - FLAC

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/17/14

Meeting Date

Topic Stand your ground

Bill Number 130

(if applicable)

Name Reverend DR. R. B. Holmes Junior

Amendment Barcode \_\_\_\_\_

(if applicable)

Job Title \_\_\_\_\_

Address 224 N. Martin Luther King Jr. Blvd.

Phone 850-222-8440

Street

Tallahassee

Fl.

32301

City

State

Zip

E-mail pholmes1@vzw.blackberry.net

Speaking:  For  Against  Information

Representing Church / community

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

1227

Meeting Date \_\_\_\_\_

Topic Criminal Justice

Bill Number SB 920 / SB 30  
*(if applicable)*

Name Eunice Barnum

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Citizen / constituent

Address 9121 Spottswood Rd

Phone \_\_\_\_\_

Street

Apal JI 32208

City

State

Zip

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing NO-FLAC

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

*start your ground*  
SB's 130 & 122

Meeting Date \_\_\_\_\_

Topic Criminal Justice

Bill Number SB 920 *crime victim*  
(if applicable)

Name Shirley A. Reed

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Citizen

Address 2150 Emerson St #240  
Street

Phone 904-396-4337

Jacksonville, FL 32207  
City State Zip

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing NO-FLAC

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

03/17/14  
Meeting Date

Topic Criminal Justice

SB 130/122  
Bill Number SB 920 -  
(if applicable)

Name German E. Vivas

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Citizen

Address 1378 Rensselaer Ave  
Street

Phone 904-314-6123

Jacksonville FL 32205  
City State Zip

E-mail gvivas927@gmail.com

Speaking:  For  Against  Information

Representing Self

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No  
N/A

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

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Greg Evers, Chair  
Committee on Criminal Justice

**Subject:** Committee Agenda Request

**Date:** October 10, 2013

---

I respectfully request that **Senate Bill 130**, relating to Use of Deadly Force, be placed on the:

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

A handwritten signature in black ink, appearing to read "David Simmons", with a stylized flourish at the end.

---

Senator David Simmons  
Florida Senate, District 10



**THE FLORIDA SENATE**

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Criminal Justice, *Vice Chair*  
Rules, *Vice Chair*  
Appropriations  
Appropriations Subcommittee on Criminal and Civil Justice  
Appropriations Subcommittee on Health and Human Services  
Communications, Energy, and Public Utilities  
Community Affairs  
Governmental Oversight and Accountability

**SELECT COMMITTEE:**  
Select Committee on Patient Protection and Affordable Care Act

**JOINT COMMITTEE:**  
Joint Legislative Budget Commission

**SENATOR CHRISTOPHER L. SMITH**  
*Democratic Leader*  
31st District

February 27, 2014



Senator Greg Evers, Chairman  
Committee on Criminal Justice  
309 Senate Office Building  
404 South Monroe Street  
Tallahassee, Florida 32399-1100

Dear Chairman Evers:

I respectfully request that CS/SB 130, which combines Senator Simmons' and my bill related to the Deadly Use of Force, be placed on the Criminal Justice committee agenda for its March 10, 2014 Committee Meeting. The bill offers a responsible approach to use of the Deadly Force Doctrine.

Agenda placement of this issue would be timely, as on this very date, the city of Tallahassee will serve as host to a National Campaign kick-off against Stand Your Ground Laws.

Thank you for your consideration. Please let me know if I can provide any further information.

Sincerely,

Christopher L. Smith, State Senator  
District 31

cc: The Honorable Don Gaetz, Senate President  
Amanda Cannon, Staff Director

**RECEIVED**  
2014 FEB 28 A 8:14  
OFFICE OF THE  
SENATE PRESIDENT

REPLY TO:  
 2151 NW 6th Street, Fort Lauderdale, Florida 33311 (954) 321-2705 FAX: (954) 321-2707  
 200 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5031

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**DON GAETZ**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

SHEILA JACKSON LEE  
18TH DISTRICT, TEXAS

WASHINGTON OFFICE:  
2160 Rayburn House Office Building  
Washington, DC 20515  
(202) 225-3816

DISTRICT OFFICE:  
1919 SMITH STREET, SUITE 1180  
THE GEORGE "MICKEY" LELAND FEDERAL BUILDING  
HOUSTON, TX 77002  
(713) 655-0050

ACRES HOME OFFICE:  
6719 WEST MONTGOMERY, SUITE 204  
HOUSTON, TX 77019  
(713) 691-4882

HEIGHTS OFFICE:  
420 WEST 19TH STREET  
HOUSTON, TX 77008  
(713) 861-4070

FIFTH WARD OFFICE:  
3300 LYONS AVENUE, SUITE 301  
HOUSTON, TX 77020

**Congress of the United States**  
**House of Representatives**  
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**DEMOCRATIC CAUCUS**

**CONGRESSWOMAN SHEILA JACKSON LEE OF TEXAS**

**BEFORE THE COMMITTEE ON CRIMINAL JUSTICE  
OF THE**

**FLORIDA SENATE  
SENATOR EVERS, CHAIR  
SENATOR SMITH, VICE CHAIR**

**PREPARED TESTIMONY  
IN SUPPORT OF  
FLORIDA S.B. 122 AND S.B. 130  
“AN ACT TO AMEND THE STATE OF FLORIDA’S  
‘STAND YOUR GROUND’ LAW**



**MARCH 17, 2014**

Chairman Evers, Vice-Chair Smith, and Members of the Committee on Criminal Justice:

I am U.S. Congresswoman Sheila Jackson Lee. Since 1995 I have been honored to represent the 18<sup>th</sup> Congressional District of Texas, which is centered in Houston, the 4<sup>th</sup> largest and most diverse city in the United States.

Thank you for this opportunity to testify in strong support of S.B. 122 and S.B. 130, legislation that corrects well-documented flaws in Florida's "Stand Your Ground" law.

Mr. Chairman, I am a senior member of the U.S. House Committee on the Judiciary, where I have served on the following subcommittees: Crime, Terrorism, and Homeland Security; Immigration and Border Security; Constitution and Civil Rights.

I also serve as a senior member of the House Committee on Homeland Security. I am a member, along with my Florida colleagues, Congressman Alcee Hastings and Congresswomen Corrine Brown and Fredericka Wilson, of the Congressional Black Caucus. I also Chair the Congressional Children's Caucus.

But as the mother of two African America children, the views I express in my testimony are my own.

Mr. Chairman, I believe that if Florida insists on maintaining its problematic "Stand Your Ground" law, it must, at a minimum, include the conditions and limitations contained in S.B. 122 and S.B. 130.

According to the Centers for Disease Control, on average, 32 Americans are victims of gun homicides every day and 140 more are treated for gun injuries in emergency rooms. The statistics are even worse for young African America men. An American child is 11 times more likely to die from gun violence as is a child living in other high-income countries.

Proponents of Florida's Stand Your Ground law contend that the law is needed to address a serious gap in the law of self-defense. They were wrong then and wrong now. The so-called "Stand Your Ground" law is a solution in search of a problem. Worse, instead of solving a problem, the law has created others far worse.

Even before the 2005 adoption of "Stand Your Ground" law, Floridians always had the right to defend themselves with deadly force if they reasonably believed they needed to do so to prevent death or great bodily injury to themselves or another. However, before using deadly force to defend themselves, a person had to use reasonable means to avoid using the force including walking away if it could be done so safely.

In other words, prior to “Stand Your Ground,” the law excused the taking of a human life in self-defense only if one had no other means of protecting himself or others from mortal danger.

With the adoption of “Stand Your Ground” in 2005, this duty to retreat was eliminated and the use of deadly force is now permitted and excused even if the person could safely retreat or safely avoid the use of deadly force.

It is safe to say that the elimination of the duty to retreat where safely possible, combined with the extension of the Castle Doctrine to any place a person has a right to be, has transformed Florida’s law from permitting lethal force in self-defense into a “license to kill.”

It would be much more accurate to characterize Florida’s law not as “Stand Your Ground” but as “Last Man Standing” because whoever is left alive is the one who can frame the story to match the statute, thus resolving any confusion in their own favor and giving that person a distinct advantage in beating the justice system since the only other material witness lay dead at his hands.

The “Stand Your Ground” law is not now, and never was, necessary to save a life. The only thing it saved was the pride of the person relying upon it to use deadly force. Pride, it should be recalled, is one of the seven deadly sins. As the Scriptures teach: “Pride goeth before destruction, and a haughty spirit before a fall.” (Proverbs 16:18).

Not only does Florida’s “Stand Your Ground” law create an unwarranted, unnecessary, and dangerous expansion of the law of self-defense, it unduly hampers law enforcement and the civil justice system by granting the person invoking the law complete immunity from criminal prosecution and any civil action based on the use of force.

As interpreted by the Florida courts, the immunity granted by Florida’s “Stand Your Ground” law is much more than an affirmative defense against conviction; rather the law “expressly grants defendants a substantive right to not be arrested, detained, charged, or prosecuted[.]” *Dennis v. State*, 51 So. 3d 456, 464 (Fla. 2010); see *Peterson v. State*, 983 So. 2d 27 (Fla. 1st DCA 2008).

With respect to civil actions based on the use of force, a defendant is entitled to reasonable attorney's fees, court costs, lost income and all expenses related to the defense of the action if the defendant is determined to be immune from criminal prosecution. Section 776.032(3), F.S. Under current law, a defendant is immune from civil liability even where the action is brought by a third party injured by negligent conduct used in self-defense.

The flaws in Florida's "Stand Your Ground" law, which first came to the national attention following the tragic killing of Trayvon Martin, an unarmed teen-ager by George Zimmerman, are now well known. The law needs to be reformed, if not repealed altogether. In this connection, the reforms contained in S.B. 130, introduced by Florida State Senator Christopher Smith (D-Ft. Lauderdale), are a step in the right direction.

*Specifically, S.B. 130 amends Florida's "Stand Your Ground" law to:*

1. No longer preclude lawsuits from third parties who are injured by negligent conduct used in self-defense.
2. Clarify that a law enforcement agency maintains the duty to fully investigate whether a person claiming self-defense has lawfully used force.
3. Clarify that an aggressor who unjustifiably uses force does not have the benefit of immunity from criminal prosecution or civil actions.
4. Require the Department of Law Enforcement to develop a training curriculum for participants in neighborhood crime watch programs and requires local law enforcement agencies to apply the uniform curriculum in training neighborhood crime watch program participants.

S.B. 130 would institute on a local basis many of the national reforms contained in legislation I recently introduced in Congress. H.R. 2812, the "*Justice Exists for All of Us Act of 2013*," will help to make our neighborhoods and streets safer in the following ways:

1. For states that do not require a "duty to retreat," the "Justice Exists for Us All Act," would reduce by 20 percent the Justice Department grant funding they would otherwise receive for that fiscal year under

subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968. The legislation contains an exception to the duty to retreat requirement for victims of domestic violence.

2. The bill will also decrease the incidence of gun violence resulting from vigilantes by reducing by 20 percent the funds that would otherwise be allocated for that fiscal year to any state that does not require local Neighborhood Watch programs to be registered with the local law enforcement agency and the U.S. Department of Justice, in accordance with regulations promulgated by the Attorney General.
3. The bill requires that Neighborhood Watch participants be strictly prohibited from carrying firearms or any other type of offensive weapon while conducting their duties. The goal is to enhance the safety of all by encouraging participants to report rather than intervene.
4. The bill requires the Attorney General to conduct a study of state "Stand Your Ground" laws and report the findings to Congress.

Mr. Chairman, as you consider S.B. 130's salutary reforms to Florida's "Stand Your Ground" law, I would encourage you also to reflect upon the involvement of the American Law Exchange Council in saddling the great state of Florida, and 21 other states, with a law that is unnecessary, ineffective, and socially disruptive. I encourage you to follow the example of a number of states -- including Alabama, Georgia, and Arizona -- that have begun to pare back the application in their states of this dangerous law.

Florida's "Stand Your Ground" law language was developed by the National Rifle Association, a leading member of the American Legislative Exchange Council ("ALEC"), which adopted by the language and used it to promulgate model statutes that were subsequently enacted by other states.

ALEC bills itself as an organization composed of state legislators, businesses and foundations motivated by a desire to see the enactment on the state and local level of good public policy. In reality, however, ALEC is devoted primarily to rolling back consumer, environmental, public health and safety, and civil rights protections.



More than 98 percent of ALEC's revenues come from corporations, corporate trade groups, and corporate foundations. Each corporate member pays an annual fee of between \$7,000 and \$25,000 a year, and if a corporation participates in any of ALEC's nine task forces, additional fees apply, from \$2,500 to \$10,000 each year. ALEC has also received grants from some of the largest foundations funded by corporate CEOs in the country, including those run by the controversial and ultra-conservative billionaires, brothers Charles and David Koch. For decades, the Koch brothers have used ALEC, to promote their own ideas of "free enterprise" and limited government, most of which are intended only to enhance their economic interests.

Mr. Speaker, I am not new to the campaign to end gun violence in America and the threat it poses to all Americans, particularly children, young people, and women. Over the years I have held many events highlighting the need for increased public safety. For example, I held a Gun Violence Prevention Field Hearing on January 31, 2013, in Houston at the Victory Campus of Lone Star Community College in the wake of a campus shooting occurring in January 2013.

I also participated in a hearing of the House Democratic Task Force on Gun Violence Prevention Task Force, at which the parents of Florida teenager Jordan Davis testified. In 2012, in the aftermath of the Trayvon Martin tragedy, I organized a congressional forum to explore the flaws and problems with Florida's "Stand Your Ground" law which was attended by the family of Trayvon Martin.

Gun violence exacts a tremendous toll on the American people day in and day out:

- Every year in America more than 100,000 people are shot, and 31,537 of them die, including 11,583 who are murdered.
- Every year, 18,000 children and adolescents are shot, and 2,829 of them die, including 1,888 who are murdered.
- Every day in America, 282 people are shot and 86 of them die, including 32 who are murdered.

- Every day 50 children and teens are shot and eight of them die, including five who are murdered.
- Firearm-related deaths and injuries result in medical and lost productivity expenses of about \$37 billion in 2005 but the overall cost of gun violence goes well beyond these figures.
- When lost quality of life, psychological and emotional trauma, decline in property values, and other legal and societal consequences are included, the cost of gun violence in the U.S. in 2010 is estimated to be \$174 billion, with government absorbing \$12 billion of those costs.

Mr. Chairman, it does not have to be this way. Gun violence, especially the unnecessary gun violence resulting from “Stand Your Ground” laws can be reduced, perhaps eliminated entirely, by the adoption in Florida of S.B. and 122 and S.B. 130, and nationally by the adoption of H.R. 2812, the *“Justice Exists for All of Us Act of 2013.”*

Thank you very much for the opportunity to present my testimony today.

# DEFERRED

**'STAND YOUR GROUND' LAWS AND THEIR EFFECT ON  
VIOLENT CRIME AND THE CRIMINAL JUSTICE SYSTEM**



National  
Urban League

MAYORS AGAINST  
ILLEGAL GUNS



SEPTEMBER 2013

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**EXECUTIVE  
SUMMARY**

On July 13, 2013, George Zimmerman was acquitted of all charges in the death of Trayvon Martin, an unarmed black teenager whom Zimmerman had shot and killed the previous year. The jury, based on Florida's law, was instructed:

"If George Zimmerman was not engaged in an unlawful activity and was attacked in any place where he had a right to be, he had no duty to retreat and had the right to stand his ground and meet force with force..."<sup>1</sup>

One of the jurors stated publicly that "Stand Your Ground," Florida's expansive self-defense statute, was a key factor in the jury's verdict.<sup>2</sup>

Martin's death and Zimmerman's acquittal drew attention to "Stand Your Ground" or "Shoot First" laws, which have proliferated since the NRA successfully lobbied the Florida legislature to pass the first in 2005. These laws are now on the books in 22 states.<sup>3</sup> Since the shooting of Trayvon Martin, legislators in at least 11 states — including Florida — have introduced legislation to repeal or scale back their Stand Your Ground laws. On June 7, 2012, Louisiana became the first state to pass reform legislation.<sup>4</sup> Leaders in Florida convened two task forces to assess how these laws affect public safety, and the U.S. Commission on Civil Rights launched a special investigation into the association between racial bias and Stand Your Ground laws. More recently, the United States Senate and the Florida House of Representatives have announced that they will hold hearings to review these laws and their implications.

This report provides a comprehensive review of Stand Your Ground laws and how they have affected public safety and the criminal justice system. It explains how Stand Your Ground statutes have dramatically expanded the circumstances under which people are permitted to use deadly force and have created legal hurdles that make it more difficult for law enforcement to hold shooters accountable. The report also shows that Stand Your Ground states have on average experienced a 53% increase in homicides deemed justifiable in the years following passage of the law, compared with a 5% decrease in states without Stand Your Ground statutes during the same period — an increase disproportionately borne by the black community. Finally, the report provides a state-by-state analysis of each of the 22 state Stand Your Ground laws.

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## INTRODUCTION

When George Zimmerman shot an unarmed 17-year-old named Trayvon Martin on February 26, 2012 in Sanford, Florida, police initially declined to file charges against the shooter, arguing that they were unable to refute Zimmerman's claim of self-defense. Sanford city officials gave the following explanation: "By Florida Statute, law enforcement was PROHIBITED from making an arrest based on the facts and circumstances they had at the time." The city cited Florida's "Stand Your Ground" statute, which had become law in 2005.<sup>5</sup>

Long before the recent advent of Stand Your Ground laws, traditional self-defense principles gave Americans the legal right to "stand their ground" and use non-deadly force to protect themselves from an attacker, as long as their use of force was reasonably necessary.<sup>6</sup> Prior to using deadly force, however, people generally had a legal "duty to retreat" or take other measures to avoid taking another person's life if they could do so safely.<sup>7</sup> Like other areas of law, this principle encouraged the use of non-deadly force, and favored de-escalation of conflicts when that was possible. Deadly force was legally justified — but only as a means of last resort.<sup>8</sup>

A narrow exception to this rule, the Castle Doctrine, has existed for centuries.<sup>9</sup> This principle holds that a person has no duty to retreat before using deadly force if the conflict takes place in his or her own home — the "castle."<sup>10</sup>

Stand Your Ground laws, which have upended traditional self-defense law, are statutes that allow people to use deadly force in public places, even if they can avoid the conflict by safely leaving the area. Though often labeled "Castle Doctrine Acts," Stand Your Ground laws are not about the right to defend oneself at home. Instead, they expand that narrow exception to apply everywhere, making it the rule instead of the exception.<sup>11</sup> Under these laws, everyday confrontations in bars, on highways, even in parks and playgrounds, can — and do — escalate into deadly shootouts.<sup>12</sup> And those responsible for taking a life in Stand Your Ground states have, in many instances, evaded prosecution and conviction by asserting that they acted in self-defense.<sup>13</sup>

States that have adopted Stand Your Ground laws have experienced increased rates of overall homicides, firearm-related homicides,<sup>14</sup> and "justifiable homicides." This report will show that justifiable homicides increased by 53% in states with Stand Your Ground laws, while decreasing by 5% in states without these laws. After Florida passed its law, for example, its justifiable homicide rate rose 200%.

The impact on the African American community has been particularly dramatic. Among people shot to death in the black population in states with Stand Your Ground laws, the rate of those homicides found to be justifiable more than doubled between 2005 and 2011, while it fell in the rest of the country.

## WHAT ARE STAND YOUR GROUND LAWS?

Criminal laws in our country have always safeguarded the right of self-defense, permitting the use of force to fend off an attack when reasonably necessary.<sup>15</sup> Before resorting to deadly force, however, people have generally been required to use a lesser degree of force or avoid the confrontation.<sup>17</sup> A centuries-old exception to this "duty to retreat" — the Castle Doctrine — applies in the home, where people are legally allowed to "stand their ground" and use deadly force against intruders without any obligation to retreat.<sup>18</sup>

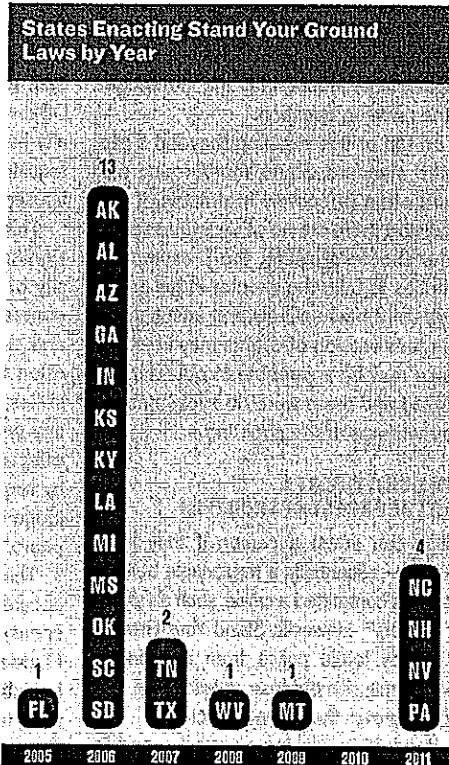
Florida passed a law in April 2005 that applied this "stand your ground" principle to all public places.<sup>19</sup> Under this law, people have no obligation to de-escalate confrontations or walk away as an alternative to using deadly force.

Marion Hammer, a former president of the National Rifle Association (NRA) and its chief Florida lobbyist in 2005, helped draft and pass the legislation.<sup>20</sup> Soon after, the American Legislative Exchange Council (ALEC) — a national coalition of conservative state legislators and corporations — adopted a model law based on Florida's statute. At the time, the NRA was a paid sponsor of ALEC, and an NRA official served as co-chair of the ALEC committee that adopted the model law.<sup>21</sup> Legislators connected to ALEC and the NRA soon began introducing Stand Your Ground laws in states across the country.<sup>22</sup>

Though ALEC titled its model law the "Castle Doctrine Act," the law actually removes the castle concept by allowing people to use deadly force anywhere they have a right to be, even if there is an obvious, easy, and safe opportunity to leave the danger zone.

Critics argue that these laws encourage armed vigilantism by granting ordinary citizens greater latitude to use deadly force than the law gives even to U.S. soldiers and law enforcement officers. While soldiers and police are trained to defuse confrontations and are required to use deadly force only as a last resort, under Stand Your Ground laws, citizens have no such obligation.<sup>23</sup>

Since 2005, 22 states have passed these laws.



While at least seven additional states had Stand Your Ground legislation pending at the time of Trayvon Martin's death, none of these bills have become law.<sup>24</sup> Since then, at least 11 states, including Florida, have introduced legislation to repeal or scale back their laws,<sup>25</sup> and one of these reform bills passed in Louisiana.<sup>26</sup> Some legislators have said they intend to introduce new Stand Your Ground legislation in the 2013 or 2014 sessions.

## HOW DO STAND YOUR GROUND LAWS CHANGE EXISTING LAW?

ALEC's model Stand Your Ground law and the Florida law on which it was based contain seven key components that distinguish them from traditional self-defense doctrine. Some states have adopted all seven elements, while others have adopted varying combinations of them. For the purposes of this report, a state is only considered a Stand Your Ground state if its statute allows a person to use deadly force — e.g., shoot someone — anywhere the shooter has a right to be, even when there is a clear and safe opportunity to avoid a dangerous situation.

### ALLOWING PEOPLE TO STAND THEIR GROUND IN PUBLIC

Stand Your Ground states give shooters the right to use deadly force even when there is a safe opportunity to retreat, as long as they are in any place they have a right to be. An additional three states — which are not classified as Stand Your Ground states for the purposes of this report — expand the "Castle Doctrine" only to the shooter's vehicle,<sup>27</sup> allowing a driver to shoot someone when threatened in his or her car instead of simply driving away.

### PERMITTING DEADLY FORCE IN DEFENSE OF PROPERTY

At least nine Stand Your Ground states<sup>28</sup> have statutes that allow a shooter to kill a person to defend property, even if no one is in physical danger — and, in at least one state, even if the perpetrator is fleeing.<sup>29</sup>

The statutes that allow deadly force to be used to defend property fall into two broad categories. Four states allow deadly force to be used to protect personal property, such as money, cell phones, and cameras.<sup>30</sup> This can result in the legally justified killing of people even when the compromised property is of very little value.<sup>31</sup> Six states permit the use of deadly force to prevent the burglary of an occupied building, even if the shooter does not own or control the building, and even if the shooter knows that no one is inside or otherwise in danger.<sup>32</sup>

Though proponents of these laws claim that they deter criminals, the evidence indicates other-

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wise. A recent study by Texas A&M University economists found that rates of burglary and robbery are unaffected by the passage of Stand Your Ground laws.<sup>33</sup> Meanwhile, as this report explains, states that have passed these laws have experienced increased homicide rates.

**CREATING PRESUMPTIONS THAT SHOOTINGS ARE LAWFUL**

Beyond expanding the Castle Doctrine to apply outside the home, the Stand Your Ground laws in 14 states also alter traditional doctrine by creating a legal presumption that shooters in certain locations, such as their home or vehicle, are justified in their use of deadly force.<sup>34</sup> In two states — Arizona and Texas — these presumptions apply everywhere.

Under traditional American legal principles, a defendant is presumed innocent and the government's prosecutors are required to convince a jury beyond a reasonable doubt that the defendant committed the crime in question.

Layered on top of this exacting "beyond a reasonable doubt" standard, Stand Your Ground presumptions are often effectively irrefutable. If the victim is dead, and there are no other witnesses to contradict the shooter's claims, the presumption forces authorities to take the shooter at his or her word, regardless of how unlikely and unsubstantiated the shooter's version of events may be. Additional evidence may be impossible to obtain if the victim was killed and there were no eyewitnesses to or video recordings of the shooting.

**CRIMINAL IMMUNITY, PART I: PREVENTING THE ARREST OF SHOOTERS**

Typically, police can arrest a person if they have "probable cause" — essentially, a reasonable belief — that he or she has committed a crime, such as shooting another person.<sup>35</sup> However, Stand Your Ground laws in six states forbid police from arresting a shooter who claims self-defense unless they find evidence to disprove the shooter's claim.<sup>36</sup> This heightened standard for making an arrest — and, in three states, for even detaining a suspect<sup>37</sup> — puts a significant roadblock in front of law enforcement because police often start accumulating evidence by interviewing the shooter, and a shooter who is presumed to have acted lawfully has little incentive to cooperate with an investigation. If the victim is dead and there are no other witnesses, it may be impossible for the police to proceed with the investigation.

Stand Your Ground laws provide law enforcement with little guidance for how to evaluate the validity of a suspect's self-defense claim,<sup>38</sup> and instead expose officers to the prospect of a wrongful arrest lawsuit for improperly detaining a

suspect who has claimed self-defense.<sup>39</sup> Additionally, as a recent Tampa Bay Times study demonstrated, courts have difficulty determining when arrests and prosecutions are proper, leading to confusion and inconsistent decisions.<sup>40</sup> This uncertainty creates a chilling effect, making police less likely to arrest, and prosecutors less likely to prosecute, shooters who claim self-defense.

**CRIMINAL IMMUNITY, PART 2: IMMUNITY HEARINGS**

Stand Your Ground laws in eight states shield a shooter from criminal prosecution even after an arrest is made.<sup>41</sup> State courts have interpreted these criminal immunity provisions to entitle a shooter to a pretrial "immunity hearing" — a procedure during which each party presents evidence to a judge who determines if the shooter acted in self-defense. If the judge finds it more likely than not that the defendant acted in self-defense, the case is dismissed. Otherwise, the case proceeds to trial.<sup>42</sup> Such immunity hearings alter traditional criminal procedure by requiring a judge to make factual determinations usually left to a panel of jurors.

The distinction between judge and jury can be significant. The jury — with its breadth and diversity of opinions, experiences, and backgrounds — generally determines what evidence to believe and disbelieve. Self-defense cases, in particular, often turn on only a few crucial facts.<sup>43</sup> In most states, a jury must decide those facts. The immunity provisions found in Stand Your Ground laws effectively overturn this rule in self-defense cases by requiring factual disputes to be decided by a judge instead of by "the people" — a jury of one's peers.<sup>44</sup>

The purpose of granting "criminal immunity," according to Representative Dennis Baxley, who sponsored Florida's Stand Your Ground law in the Florida House of Representatives, was to protect law-abiding citizens from uncertainty while they wait for the government to decide whether to prosecute them for shootings they claimed were in self-defense.<sup>45</sup> In practice, however, immunity provisions do not accomplish this goal. Shooters continue to wait — sometimes years — for a decision.<sup>46</sup> In fact, if the shooter is prosecuted, the case may take even longer to resolve than under the traditional regime: If the judge decides the shooter is not entitled to criminal immunity, the case then proceeds to a jury trial, effectively lengthening the process and giving the shooter two trials instead of one. The difference is often not in the time spent awaiting a decision, but in whether the case is decided by a judge or a jury.



### CIVIL IMMUNITY: PROHIBITING CIVIL LAWSUITS

Our civil justice system provides avenues for injured parties to seek redress for harms they have suffered. Shooting victims and their families traditionally have the ability to file a civil lawsuit for monetary damages to compensate for injuries like lost wages, medical costs, and pain and suffering. To prevail, the injured party must generally show by a "preponderance of the evidence" (i.e., that it is more likely than not) that the defendant's actions violated the law and caused harm. This standard of proof is much easier to meet than the exacting "beyond a reasonable doubt" standard in criminal cases and provides some measure of justice where the proof of guilt was substantial, but not strong enough to satisfy the criminal standard. Of the 22 Stand Your Ground states examined in this report, 19 effectively bar civil lawsuits against shooters protected by Stand Your Ground laws.

These so-called "civil immunity" laws take different forms. Eleven states have statutes that create immunity from all civil suits arising from the "lawful" use of force.<sup>47</sup> Often referred to as "blanket" immunity, these provisions prevent all suits against the shooter, including suits brought by innocent bystanders who may have been injured. Eight states have more limited civil immunity provisions that shield the shooter only from suits brought by the intended victim and his or her survivors, implicitly allowing innocent bystanders to sue.<sup>48</sup>

In addition, 12 states award attorney's fees and litigation costs to a shooter who prevails in a civil suit, creating a strong disincentive for a shooting victim to pursue justice in the civil system.<sup>49</sup> These cost-shifting provisions only work in one direction: They award attorney's fees if the shooter prevails, but not if the injured party prevails.

## EFFECTS OF STAND YOUR GROUND LAWS

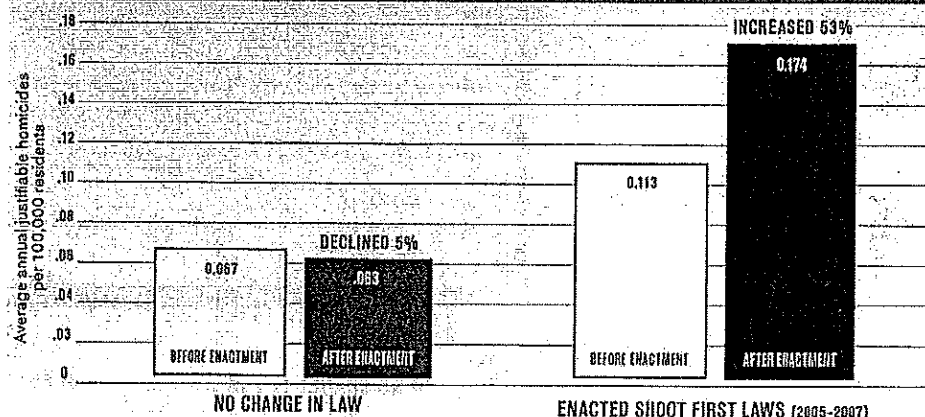
The Trayvon Martin shooting prompted an outpouring of research examining the effect of Stand Your Ground laws on public safety. Original research presented here shows that states that passed these laws experienced a sharp increase in justifiable homicides, while states without these laws saw a small decline over the same period. Other studies have shown an association between Stand Your Ground laws and increases in both overall homicides and firearm-related homicides.<sup>50</sup>

### INCREASE IN JUSTIFIABLE HOMICIDES

A Mayors Against Illegal Guns analysis of FBI data indicates that Stand Your Ground states experienced a striking increase in the number of justifiable homicides committed by private citizens in the years following the laws' enactment. Other research indicates that this increase is not the result solely of more homicides being classified as "justifiable," but also of an overall increase in homicides.

In states that passed these laws in 2005-07, the justifiable homicide rate was on average 53% higher in the years after passage of the law than in the years preceding it. (See Figure 1.) By contrast, in states that did not enact Stand Your Ground laws during this period, the justifiable homicide rate fell by 5% on average over the same period.<sup>51</sup>

**FIGURE 1: In states that enacted Stand Your Ground laws justifiable homicides rose dramatically.**



Source: FBI Uniform Crime Reports, Supplementary Homicide File. Enacted new SYG laws 2005-7: AK, AL, AZ, FL, GA, HI, KS, KY, LA, MI, MS, OK, SC, SD, TN, TX. Did not change law: AR, CA, CO, CT, DE, HI, IA, ID, IL, MA, ND, ME, MN, MO, NC, ND, NE, NH, NJ, NM, NY, OR, PA, RI, UT, VA, VT, WA, WI, WY.

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The increase in the number of justifiable homicides was particularly large in Florida, Texas, Georgia, Arizona, and Kentucky: The average annual number of justifiable homicides jumped by 200% in Florida, 54% in Texas, 83% in Georgia, 24% in Arizona, and 725% in Kentucky.<sup>62</sup> (See Figure 2.)

Researchers John Roman and Mitchell Downey at the Urban Institute examined overall homicide data and found that cases resembling the Martin shooting — handgun homicides with a single shooter and victim who are strangers to one another — are twice as likely to be deemed justifiable in Stand Your Ground states as they are elsewhere. According to their study, 7.2% of such homicides in non-Stand Your Ground states were deemed justifiable, while 13.6% of the same type of homicides in Stand Your Ground states were deemed justifiable — nearly twice the share.<sup>59</sup>

**DISPARATE RACIAL IMPACT**

A Mayors Against Illegal Guns analysis of demographic data shows that the increase in justifiable homicides has disproportionately affected the African American population.<sup>64</sup> The number of both black and white justifiable homicide victims has increased in Stand Your Ground states, but because the rate of victimization among black Americans was already much higher before enactment of Stand Your Ground laws, the subsequent increase has also been more dramatic.<sup>65</sup> (See Figure 3.) Controlling for population, the number of homicides of black people that were deemed

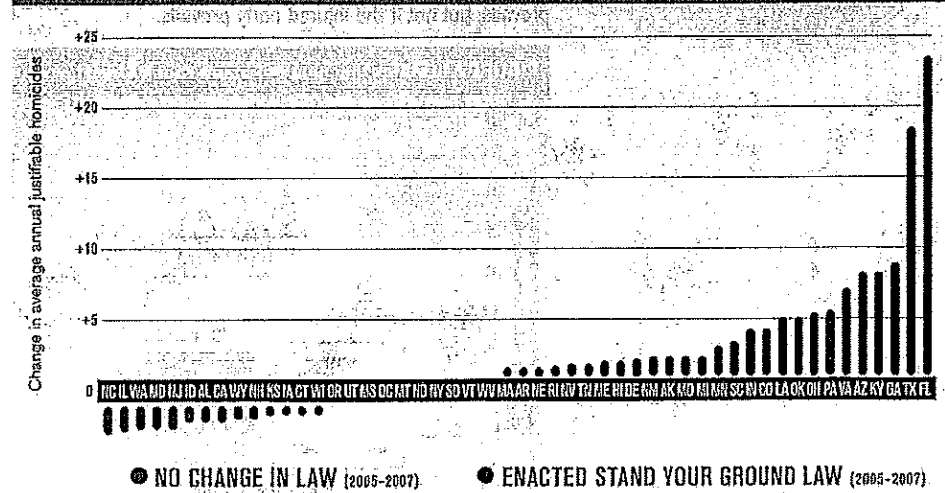
justifiable in Stand Your Ground states more than doubled between 2005 and 2011 — rising from 0.5 to 1.2 per 100,000 people — while it remained unchanged in the rest of the country.<sup>66</sup>

The Urban Institute also examined racial disparities in justified gun homicide rulings that involve a single shooter and victim who are strangers. The researchers found that when white shooters kill black victims, 34% of the resulting homicides are deemed justifiable, while only 3.3% of deaths are ruled justifiable when the shooter is black and the victim is white.<sup>67</sup> This discrepancy does not appear to be affected by the relative ages of or relationship between the shooters and victims. When an older white man shoots a younger black man with whom he had no prior relationship, the shooting is determined justifiable 49% of the time. Yet when the situation is reversed, and an older black man shoots a younger white man with whom he had no previous relationship, the homicide is only judged justifiable 8% of the time.<sup>68</sup>

**METHODOLOGY**

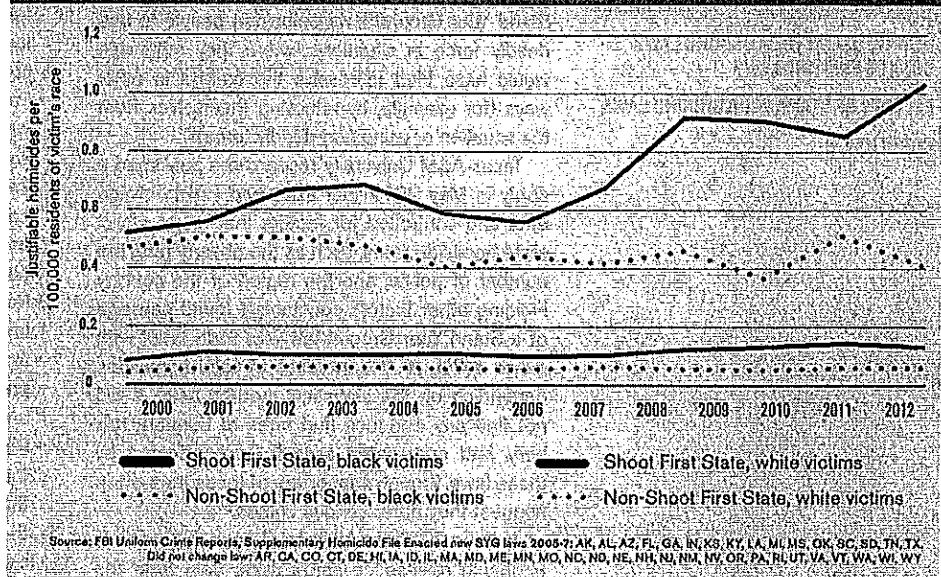
Although there is no national system for collecting data about cases in which Stand Your Ground laws are invoked as a defense, the Federal Bureau of Investigation (FBI) collects data on the number of "justifiable homicides" committed each year, which it defines as "the killing of a felon during the commission of a felony by a private citizen." (The FBI has a different category for justifiable homicides committed by law enforcement officers.)

**FIGURE 2:**  
Change in average annual justifiable homicides from pre- to post- enactment.



Source: FBI Uniform Crime Reports, Supplementary Homicide File

**FIGURE 3:**  
Justifiable homicide victims per capita in Stand Your Ground and non-Stand Your Ground states.



Mayors Against Illegal Guns conducted a difference-in-difference analysis to evaluate the effect of enacting a Stand Your Ground state law on the number of justifiable homicides committed there. This kind of analysis compares the difference in justifiable homicide rates before and after enactment of Stand Your Ground law in those states that passed them, and then compares those figures to the difference in justifiable homicides over the same period in states that did not pass them. The most recent data available (through 2011) on justifiable homicides was obtained from the FBI's Uniform Crime Reports and the Florida Department of Law Enforcement.

In states that enacted a Stand Your Ground law, the rate of justifiable homicides in the years immediately preceding passage were compared to the rate in the years immediately after. An increase in justifiable homicides between pre- and post-enactment periods would indicate an association between Stand Your Ground laws and the rate of justifiable homicide.

In states that did not enact a Stand Your Ground law, rates of justifiable homicide during equivalent periods were compared. A smaller increase between these periods than in states that enacted Stand Your Ground laws would indicate that the increase in Stand Your Ground states was not the result of factors common to both groups of states, but rather to the Stand Your Ground laws themselves.

Of the 22 states that now have Stand Your Ground laws, most enacted them in 2006, allowing

five subsequent years for the accrual of data on justifiable homicides. Accordingly, this analysis compared the number of justifiable homicides committed in the five-year periods before and after enactment of the laws (2001-2005 and 2007-2011). The same periods were compared in states that did not enact Stand Your Ground laws during the study period. In Florida, which enacted its law in 2005, five-year periods before and after enactment were also compared (2000-2004 and 2006-2010). For the four states that enacted Stand Your Ground laws in 2007, the 2002-2006 and 2008-2011 periods were compared.

The four states that enacted Stand Your Ground laws in 2011 did not have a law in effect throughout the period of comparison and thus were categorized as not having Stand Your Ground laws for the purposes of this analysis. These states are NC, NH, NV, and PA. The two states that enacted laws in 2008-2009 (MT and WV), for which there is insufficient data to be considered in either the Stand Your Ground or non-Stand Your Ground category, are excluded from analysis. The two states that did not report justifiable homicide data to the FBI during part of the study period (DC and NY) are also excluded.

In the final analysis, the 16 states that enacted Stand Your Ground laws and had sufficient data for comparison were compared to the 30 states that did not have Stand Your Ground laws during the same period.

## EXECUTIVE SUMMARY

### INTRODUCTION

### WHAT ARE STAND YOUR GROUND LAWS?

### HOW DO STAND YOUR GROUND LAWS CHANGE EXISTING LAW?

### EFFECTS OF STAND YOUR GROUND LAWS

### CONCLUSION

## INCREASE IN OVERALL HOMICIDES

Other scholarly research provides evidence that Stand Your Ground states experienced increases in overall homicides, supporting a conclusion that Stand Your Ground laws embolden people to use deadly force in situations where they otherwise would have tried to resolve the conflict in other ways (for example, by removing themselves from the situation or using non-deadly force).

Texas A&M University researchers published a study in May 2012 that examined FBI homicide data and controlled for factors that might affect state homicide rates, such as the poverty rate, the number of police, and the region of the country. Holding other factors constant, it found passage of a Stand Your Ground law was associated with either a 7% or 9% increase in total homicides, depending on the statistical method used. It did not find any evidence that rates of burglary, robbery, and aggravated assault were affected by these laws, though supporters of these laws often suggest they deter serious crimes.<sup>59</sup>

In June 2012, the National Bureau of Economic Research released a study, using data from the Centers for Disease Control (CDC) that specifically considered the effect of these laws on firearm-related homicides, rather than all homicides. Controlling for other factors, the study found that passage of a Stand Your Ground law was associated with a 9.2% or 15.6% increase in firearm-related homicides involving white male victims (depending on methodology), while changes in the firearm-related homicide rates for black victims and white female victims were not statistically significant. The authors suggest that the measurable effect on white male victims may be due to the larger share of white males who own firearms.<sup>60</sup>

## CONCLUSION

There is significant evidence that Stand Your Ground laws undermine public safety and increase overall homicide rates. In light of the laws' impact on public safety, states have begun to consider legislative reforms that would restore some of the traditional principles of self-defense law and clarify provisions of Stand Your Ground laws that have tied the hands of law enforcement.

Stand Your Ground states have introduced the following types of reform legislation:

- Returning to the rule that a person must remove himself or herself from the situation, if he or she can do so safely, before using deadly force—a rule that encourages de-escalation of confrontations when possible;
- Providing that deadly force can only be used when reasonably necessary to prevent or end imminent danger of death or serious bodily injury to a person or to prevent or end arson or certain burglaries—a standard that allows the use of deadly force only when a reasonable person would deem it necessary;
- Removing presumptions of reasonableness or lawfulness;
- Repealing criminal immunity provisions that prevent the arrest and prosecution of killers and usurp the role of juries; and
- Repealing civil immunity provisions, particularly those that prevent innocent bystanders and their families from seeking compensation for their injuries.

In addition, certain changes and clarifications to Stand Your Ground laws could eliminate some of the laws' unintended effects:

- Clarifying that the legal presumptions in the laws are rebuttable by a preponderance of the evidence;
- Clarifying that, when the other person is in retreat, the use of deadly force in self-defense is prohibited and the Stand Your Ground presumptions do not apply;
- Clarifying that, even without a duty to retreat, judges and juries can consider the ability to retreat in determining whether the use of deadly force was necessary;
- Clarifying that the unlawful possession of a firearm constitutes unlawful activity that prevents a person from asserting a Stand Your Ground defense;
- Prohibiting people who initially attack another person with deadly force from later claiming self-defense;
- Clarifying that police must conduct a full investigation even if someone claims immunity; and
- Using grand juries instead of immunity hearings, thereby allowing faster pretrial determinations of self-defense and leaving factual determinations to a panel of grand jurors instead of a judge.

## APPENDIX A: STATES WITH STAND YOUR GROUND LAWS

STATE	DATE LAW SIGNED	NO DUTY TO RETREAT ANYWHERE	NO DUTY TO RETREAT IN DEFENSE OF PROPERTY	PRESUMPTION THAT USE OF DEADLY FORCE WAS LAWFUL	IMMUNITY FROM ARREST OR PROSECUTION	IMMUNITY FROM CIVIL SUITS
AL	4/4/06	x	x	x	x	x
AK	6/15/06	x				x
AZ	4/24/06	x	x	x		x
FL	4/26/05	x	x	x	x	x
GA	4/27/06	x	x		x	x
IN	3/21/06	x				
KS	5/19/06	x	x	x	x	x
KY	4/21/06	x	x	x	x	x
LA	6/2/06	x		x		x
MI	7/18/06	x		x		x
MS	3/27/08	x		x		x
MT	4/27/09	x				x
NV	5/19/11	x	x			
NH	9/14/11	x				
NC	6/23/11	x		x	x	x
OK	5/15/06	x	x	x	x	x
PA	6/28/11	x		x		x
SC	6/9/06	x		x	x	x
SD	2/17/06	x				
TN	5/22/07	x		x		x
TX	3/27/07	x	x	x		x
WV	3/12/08	x				x



## ALABAMA

NO DUTY TO RETREAT ANYWHERE:   
 NO DUTY TO RETREAT IN DEFENSE OF PROPERTY:   
 PRESUMPTION THAT USE OF DEADLY FORCE WAS LAWFUL:   
 IMMUNITY FROM ARREST OR PROSECUTION:   
 IMMUNITY FROM CIVIL SUITS:

BILL NO. 2006 AL. SB 283  
 DATE SIGNED APRIL 4, 2006  
 VOTE COUNTS 30-2 (S); 82-9 (H)  
 GOVERNOR BOB RILEY (R)

BILL NO. 2013 AL. ALS 283  
 DATE SIGNED MAY 21, 2013  
 VOTE COUNTS 25-5 (S); 73-28 (H)  
 GOVERNOR ROBERT BENTLEY (R)

Governor Bob Riley signed Alabama's Stand Your Ground bill into law on April 4, 2006, giving Alabama one of the most expansive self-defense laws in the country. On May 21, 2013, Governor Robert Bentley signed a bill broadening it further. A shooter in Alabama may use lethal force to defend himself or herself or another from serious bodily harm anywhere he or she has a right to be — including public spaces like playgrounds, parks, sidewalks, and roadways — even if the shooter has a clear opportunity to safely leave the area.<sup>61</sup>

Alabama also allows deadly force to be used to prevent the burglary of any building, including those the shooter knows are unoccupied, even if the shooter does not own or control the building being burglarized.<sup>62</sup> A shooting is presumed to be lawful if the shooter reasonably believes that the victim is unlawfully entering a home, business property, occupied vehicle, or nuclear power facility.<sup>63</sup>

A shooter who claims self-defense is immune from criminal prosecution under Alabama law<sup>64</sup> and cannot be arrested unless police have probable cause to believe that the shooter was not acting in self-defense.<sup>65</sup> States with similar statutes have found that a shooter who is charged with a crime is entitled to a pre-trial immunity hearing in which a judge must make factual determinations typically left to a jury.<sup>66</sup> If the shooter wins, the case is dismissed; if the shooter loses, the case is heard a second time, this time by a jury. The Alabama statute also immunizes the shooter from all civil suits, including those brought by innocent bystanders.<sup>67</sup>



## ALASKA

NO DUTY TO RETREAT ANYWHERE:   
 NO DUTY TO RETREAT IN DEFENSE OF PROPERTY:   
 PRESUMPTION THAT USE OF DEADLY FORCE WAS LAWFUL:   
 IMMUNITY FROM ARREST OR PROSECUTION:   
 IMMUNITY FROM CIVIL SUITS:

BILL NO. 2006 AK. SB 200  
 DATE SIGNED JUNE 15, 2006  
 VOTE COUNTS 18-0 (S); 33-0 (H)  
 GOVERNOR FRANK MURKOWSKI (R)

BILL NO. 2013 AK. H.B. 24  
 DATE SIGNED JUNE 20, 2013  
 VOTE COUNTS 15-4 (S); 29-4 (H)  
 GOVERNOR FRANK MURKOWSKI (R)

Alaska's Stand Your Ground law was signed into law by Governor Frank Murkowski on June 15, 2006, after passing unanimously in both the House and Senate. The law was broadened on June 20, 2013. It eliminates the shooter's duty to retreat prior to using deadly force to defend himself or herself or another from serious bodily harm anywhere the shooter has a right to be — including public spaces like playgrounds, parks, sidewalks, and roadways — even if the shooter has a clear opportunity to safely leave the area. Alaska's statute allows a person to kill another in self-defense even in certain situations where he or she used deadly force or the threat of deadly force to provoke the confrontation.<sup>68</sup>

Alaska law also allows a shooter to use deadly force or to stop or prevent some crimes, like robbery and vehicle theft, even if the shooter could have safely left the area.<sup>69</sup>

A shooter protected by Alaska's Stand Your Ground statute has immunity from civil suits claiming relief based on the death or injury of the person whom he or she intended to shoot.<sup>70</sup> If the victim brings a civil suit against an immunized shooter, the Alaska law requires that the victim pay the shooter's attorney's fees and court costs and that the victim compensate the shooter for lost income and other expenses.<sup>71</sup>



## ARIZONA

NO DUTY TO RETREAT ANYWHERE:   
 NO DUTY TO RETREAT IN DEFENSE OF PROPERTY:   
 PRESUMPTION THAT USE OF DEADLY FORCE WAS LAWFUL:   
 IMMUNITY FROM ARREST OR PROSECUTION:   
 IMMUNITY FROM CIVIL SUITS:

BILL NO. 2006 ARIZ. SB 1145  
 DATE SIGNED APRIL 24, 2006  
 GOVERNOR JANET NAPOLITANO (R)

BILL NO. 2010 ARIZ. HB 2629  
 DATE SIGNED MAY 11, 2010  
 VOTE COUNTS 22-7 (S); 66-2 (H)  
 GOVERNOR JAN BREWER (R)

BILL NO. 2011 ARIZ. SB 1469  
 DATE SIGNED APRIL 29, 2011  
 VOTE COUNTS 30-0 (S); 48-11 (H)  
 GOVERNOR JAN BREWER (R)

Since 2006, three separate bills signed by two different governors have expanded Arizona's self-defense law. Arizona now has one of the broadest Stand Your Ground statutes in the country. A shooter in Arizona may use deadly force to defend himself or herself or another from serious bodily harm or to stop or prevent certain crimes anywhere where he or she may legally be — including public spaces like playgrounds, parks, sidewalks, and roadways — even if the shooter has a clear opportunity to safely leave the area.<sup>72</sup>

The shooter may kill another in self-defense in some situations even if the shooter used deadly force to initially provoke the confrontation.<sup>73</sup> If the shooter claims the killing was justified, Arizona law presumes it was, regardless of where the shooting took place.<sup>74</sup>

Arizona also allows deadly force to be used to prevent the burglary of any building, including buildings that the shooter knows are unoccupied, even if the shooter does not own or control the building being burglarized.<sup>75</sup> A shooter protected by Arizona's Stand Your Ground statute has immunity from all civil suits, including those brought by innocent bystanders.<sup>76</sup>



## FLORIDA

NO DUTY TO RETREAT ANYWHERE:   
 NO DUTY TO RETREAT IN DEFENSE OF PROPERTY:   
 PRESUMPTION THAT USE OF DEADLY FORCE WAS LAWFUL:   
 IMMUNITY FROM ARREST OR PROSECUTION:   
 IMMUNITY FROM CIVIL SUITS:

BILL NO. 2005 FLA. SB 436  
 DATE SIGNED APRIL 26, 2005  
 VOTE COUNTS 39-0 (S); 94-20 (H)  
 GOVERNOR JEB BUSH (R)

Governor Jeb Bush signed Florida's Stand Your Ground bill into law on April 26, 2005, kick-starting the proliferation of these laws across the country and supplying a model for other states. A shooter in Florida does not have to retreat prior to using lethal force to defend himself or herself or another from serious bodily harm anywhere the shooter has a right to be — including public spaces like playgrounds, parks, sidewalks, and roadways — even if the shooter has a clear opportunity to safely leave the area.<sup>77</sup> A shooter may kill someone and successfully claim self-defense in some situations even if the shooter used deadly force to initially provoke the confrontation.<sup>78</sup>

Florida law also allows deadly force to be used to prevent the burglary of any building, including those that are known to be unoccupied and that the shooter does not own or control.<sup>79</sup> A shooting is presumed lawful if the victim unlawfully and forcibly entered, or attempted to remove a person from, a dwelling or occupied vehicle, regardless of whether anyone was in actual danger.<sup>80</sup> If a person unlawfully and by force enters, or attempts to enter, a dwelling or occupied vehicle, that person is presumed to be doing so in order to commit a violent and unlawful act, regardless of the specific facts of the case or the person's age or actual intent.<sup>81</sup> These presumptions apply not only to the shooter's dwelling and vehicle, but to third-party homes and vehicles as well.

A shooter claiming self-defense is immune from criminal prosecution under Florida law<sup>82</sup> and cannot be arrested or detained unless police have probable cause to believe that the shooter was not acting in self-defense.<sup>83</sup> After being charged, the shooter is entitled to a pre-trial immunity hearing in which a judge must make factual determinations typically left to a jury. If the shooter wins, the case is dismissed; if the shooter loses, the case is heard a second time, this time by a jury.<sup>84</sup>

The Florida statute also immunizes the shooter from all civil suits, including those brought by innocent bystanders.<sup>85</sup> If a person, including an innocent bystander, does bring suit against a shooter who is immunized, that person is required to pay the shooter's attorney's fees and court costs and must compensate the shooter for lost income and other expenses.<sup>86</sup>



## GEORGIA

NO DUTY TO RETREAT ANYWHERE:   
 NO DUTY TO RETREAT IN DEFENSE OF PROPERTY:   
 PRESUMPTION THAT USE OF DEADLY FORCE WAS LAWFUL:   
 IMMUNITY FROM ARREST OR PROSECUTION:   
 IMMUNITY FROM CIVIL SUITS:

BILL NO. 2006 GA. SB 396  
 DATE SIGNED APRIL 27, 2006  
 VOTE COUNTS 40-13 (S); 116-42 (H)  
 GOVERNOR SONNY PERDUE (R)



## INDIANA

NO DUTY TO RETREAT ANYWHERE:   
 NO DUTY TO RETREAT IN DEFENSE OF PROPERTY:   
 PRESUMPTION THAT USE OF DEADLY FORCE WAS LAWFUL:   
 IMMUNITY FROM ARREST OR PROSECUTION:   
 IMMUNITY FROM CIVIL SUITS:

BILL NO. 2006 IND. HBA 1028  
 DATE SIGNED MARCH 21, 2006  
 VOTE COUNTS 44-5 (S); 81-10 (H)  
 GOVERNOR MITCH DANIELS (R)

BILL NO. 2012 IND. SEA 1  
 DATE SIGNED MARCH 20, 2012  
 VOTE COUNTS 38-12 (S); 67-26 (H)  
 GOVERNOR MITCH DANIELS (R)

Georgia's Stand Your Ground statute was signed into law by Governor Sonny Perdue on April 27, 2006, about a year after Governor Bush signed Florida's Stand Your Ground law. A shooter in Georgia may use deadly force to defend himself or herself or another from serious bodily harm or to stop or prevent certain crimes without retreating anywhere — including public spaces like playgrounds, parks, sidewalks, and roadways — even if the shooter has a clear opportunity to safely leave the area.<sup>88</sup> A shooter may successfully claim self-defense in some situations even if he or she used deadly force to initially provoke the confrontation or was engaged in unlawful activity at the time.<sup>89</sup>

Georgia's statute allows deadly force to be used to prevent the burglary of any residence, or theft of any vehicle, including a residence or vehicle that the shooter knows is unoccupied and that is not under the shooter's ownership or control.<sup>90</sup>

Georgia law also immunizes the shooter from criminal prosecution, entitling him or her to a pre-trial immunity hearing in which a judge must make factual determinations typically left to a jury.<sup>91</sup> If the shooter wins, the case is dismissed; if the shooter loses, the case is heard a second time, this time by a jury. A shooter who is protected by Georgia's Stand Your Ground law also has immunity from civil suits claiming relief based on the death or injury of the person whom he or she intended to shoot.<sup>92</sup>

Indiana Governor Mitch Daniels signed his state's Stand Your Ground statute on March 21, 2006. A shooter in Indiana may use deadly force to defend himself or herself or another from serious bodily harm or to stop or prevent certain crimes without retreating anywhere he or she may be — including public spaces like playgrounds, parks, sidewalks, and roadways — even if the shooter has a clear opportunity to safely leave the area.<sup>93</sup>

Indiana law also allows a shooter to use lethal force to stop someone from trespassing onto his or her property even if that person never entered or tried to enter a building or commit a crime (other than trespass) on the property.<sup>94</sup> A 2012 amendment to Indiana's law specifically provides that ordinary citizens may use force against law enforcement officers to protect themselves and their property.<sup>95</sup>





## KANSAS

**NO DUTY TO RETREAT ANYWHERE:**   
**NO DUTY TO RETREAT IN DEFENSE OF PROPERTY:**   
**PRESUMPTION THAT USE OF DEADLY FORCE WAS LAWFUL:**   
**IMMUNITY FROM ARREST OR PROSECUTION:**   
**IMMUNITY FROM CIVIL SUITS:**

**BILL NO.** 2006 KAN. SB 386  
**DATE SIGNED** MAY 19, 2006  
**VOTE COUNTS** 39-1 (S); 122-1 (H)  
**GOVERNOR** KATHLEEN SEBELIUS (D)

**BILL NO.** 2009 KAN. SB 381  
**DATE SIGNED** APRIL 19, 2010  
**VOTE COUNTS** 40-0 (S); 119-0 (H)  
**GOVERNOR** MARK PARKINSON (D)

**BILL NO.** 2011 KAN. HB 2339  
**DATE SIGNED** APRIL 8, 2011  
**VOTE COUNTS** 39-0 (S); 116-7 (H)  
**GOVERNOR** SAM BROWNBACK (R)

Since 2006, three separate bills signed by three different governors have progressively expanded Kansas' self-defense law. Kansas now has one of the broadest Stand Your Ground statutes in the country. A shooter in Kansas does not have to retreat prior to using lethal force to defend himself or herself or another from serious bodily harm or to stop or prevent certain crimes anywhere he or she has a right to be — including public spaces like playgrounds, parks, sidewalks, and roadways — even if the shooter has a clear opportunity to safely leave the area.<sup>96</sup>

The shooting is presumed to be lawful if the victim unlawfully entered the shooter's dwelling, workplace, or occupied vehicle, or if the victim attempted to remove a person against his or her will from the shooter's dwelling, workplace, or vehicle, regardless of whether anyone was in actual danger.<sup>97</sup> There is no requirement that the shooter be engaged in lawful activity either immediately before or at the time he or she uses lethal force.<sup>98</sup> And a shooter may successfully claim self-defense in some situations even if he or she used deadly force to provoke the confrontation.<sup>99</sup>

The shooter is immune from criminal prosecution under Kansas law and cannot be arrested unless police have probable cause to believe that the shooter was not acting in self-defense.<sup>100</sup> States with similar statutes have found that a shooter who is charged with a crime is entitled to a pre-trial immunity hearing in which a judge must make factual determinations typically left to a jury.<sup>101</sup> If the shooter wins, the case is dismissed; if the shooter loses, the case is heard a second time, this time by a jury. The Kansas statute also immunizes the shooter from all civil suits, including those brought by innocent bystanders.<sup>102</sup>



## KENTUCKY

**NO DUTY TO RETREAT ANYWHERE:**   
**NO DUTY TO RETREAT IN DEFENSE OF PROPERTY:**   
**PRESUMPTION THAT USE OF DEADLY FORCE WAS LAWFUL:**   
**IMMUNITY FROM ARREST OR PROSECUTION:**   
**IMMUNITY FROM CIVIL SUITS:**

**BILL NO.** 2006 KY. SB 38  
**DATE SIGNED** APRIL 21, 2006  
**VOTE COUNTS** 36-1 (S); 88-8 (H)  
**GOVERNOR** ERNIE FLETCHER (R)

Governor Ernie Fletcher signed Kentucky's Stand Your Ground bill into law on April 21, 2006. A shooter in Kentucky does not have to retreat prior to using lethal force to defend himself or herself or another from serious bodily harm or to stop or prevent certain crimes anywhere he or she has a right to be — including public spaces like playgrounds, parks, sidewalks, and roadways — even if the shooter has a clear opportunity to safely leave the area.<sup>103</sup> A shooting is presumed to be lawful if the victim unlawfully and forcibly entered, or attempted to remove any person from, a dwelling or occupied vehicle — regardless of whether anyone was in actual danger.<sup>104</sup> This presumption applies to all homes and vehicles, not only to those owned or controlled by the shooter.

The shooter is immune from criminal prosecution under Kentucky law and cannot be arrested or detained unless the police have probable cause to believe that the shooter was not acting in self-defense.<sup>105</sup> After being charged, the shooter is entitled to a pre-trial immunity hearing in which a judge must make factual determinations typically left to a jury.<sup>106</sup> If the shooter wins, a jury does not hear the case; if the shooter loses, his or her case is heard a second time, this time by a jury.

The Kentucky statute also immunizes the shooter from all civil suits, including those brought by innocent bystanders.<sup>107</sup> If a person, including an innocent bystander, does bring suit against a shooter who is immunized, that person is required to pay the shooter's attorney's fees and court costs, along with compensation for lost income and any other expenses.<sup>108</sup>



## LOUISIANA

NO DUTY TO RETREAT ANYWHERE:   
 NO DUTY TO RETREAT IN DEFENSE OF PROPERTY:   
 PRESUMPTION THAT USE OF DEADLY FORCE WAS LAWFUL:   
 IMMUNITY FROM ARREST OR PROSECUTION:   
 IMMUNITY FROM CIVIL SUITS:

BILL NO. 2006 LA. HB 89  
 DATE SIGNED JUNE 2, 2006  
 VOTE COUNTS 36-0 (S); 99-0 (H)  
 GOVERNOR KATHLEEN BLANCO (D)

Governor Kathleen Blanco signed Louisiana's Stand Your Ground bill into law on June 2, 2006 after it passed unanimously in both the House and the Senate. A shooter in Louisiana may use deadly force to defend himself or herself or another from serious bodily harm or to stop or prevent certain crimes without retreating anywhere he or she has a right to be — including public spaces like playgrounds, parks, sidewalks, and roadways — even if the shooter has a clear opportunity to safely leave the area.<sup>109</sup> The shooting is presumed to be lawful if the victim unlawfully and forcibly entered a dwelling, workplace, or vehicle, regardless of whether it is the shooter's dwelling, workplace, or vehicle and regardless of whether anyone was in actual danger.<sup>110</sup>

The Louisiana statute also immunizes the shooter from all civil suits, including those brought by innocent bystanders. If a person does bring suit against a shooter who is immunized, that person is required to pay the shooter's attorney's fees and court costs, along with compensation for lost income and any other expenses.<sup>111</sup>

In 2012, Louisiana passed reform legislation requiring that law enforcement conduct a full investigation of, and preserve evidence related to, violent or suspicious deaths when the killer claims self-defense.<sup>112</sup>



## MICHIGAN

NO DUTY TO RETREAT ANYWHERE:   
 NO DUTY TO RETREAT IN DEFENSE OF PROPERTY:   
 PRESUMPTION THAT USE OF DEADLY FORCE WAS LAWFUL:   
 IMMUNITY FROM ARREST OR PROSECUTION:   
 IMMUNITY FROM CIVIL SUITS:

BILL NO. 2008 MI. HB 6145  
 DATE SIGNED JULY 18, 2006  
 VOTE COUNTS 28-10 (S); 90-17 (H)  
 GOVERNOR JENNIFER GRANHOLM (D)

Michigan's Stand Your Ground law was signed by Governor Jennifer Granholm on July 18, 2006. Since leaving office, Granholm has been outspoken in her opposition to Stand Your Ground laws.<sup>113</sup> In Michigan, a shooter has no duty to retreat prior to using deadly force to defend himself or herself or another from serious bodily harm anywhere he or she may legally be — including public spaces like playgrounds, parks, sidewalks, and roadways — even if the shooter has a clear opportunity to safely leave the area.<sup>114</sup>

In addition, a shooting is presumed to be lawful if the victim is breaking and entering a dwelling or workplace, or if the victim is unlawfully attempting to remove a person against his or her will from a dwelling, workplace or vehicle, regardless of whether it is the shooter's dwelling, workplace, or vehicle, and regardless of whether anyone is in actual danger.<sup>115</sup>

The shooter has immunity from civil suits claiming relief based on the death or injury of the person he or she intended to shoot.<sup>116</sup> The Michigan statute also requires that the victim pay the shooter's attorney's fees and costs if the victim brings a civil suit from which the shooter is immunized.<sup>117</sup>



## MISSISSIPPI

NO DUTY TO RETREAT ANYWHERE:   
 NO DUTY TO RETREAT IN DEFENSE OF PROPERTY:   
 PRESUMPTION THAT USE OF DEADLY FORCE WAS LAWFUL:   
 IMMUNITY FROM ARREST OR PROSECUTION:   
 IMMUNITY FROM CIVIL SUITS:

BILL NO. 2006 MISS. S.B. 2428  
 DATE SIGNED MARCH 27, 2006  
 VOTE COUNTS 39-10 (S); 115-3 (H)  
 GOVERNOR HALEY BARBOUR (R)

Governor Haley Barbour signed Mississippi's Stand Your Ground bill into law on March 27, 2006. As long as the shooter is in a place he or she has a right to be — including public spaces like playgrounds, parks, sidewalks, and roadways — a shooter in Mississippi need not retreat prior to using deadly force to defend himself or herself or another from serious bodily harm or to stop or prevent certain crimes, even if shooter has a clear opportunity to safely leave the area.<sup>118</sup> The shooting is presumed to be lawful if the victim unlawfully and forcibly entered a dwelling, workplace, or occupied vehicle, or if the victim unlawfully attempted to remove a person against his will from a dwelling, workplace, or vehicle, regardless of whether it was the shooter's dwelling, workplace, or vehicle, and regardless of whether anyone was in actual danger.<sup>119</sup>

The shooter has blanket immunity from all civil suits, including those brought by innocent bystanders. If a person, including an innocent bystander, does bring suit against a shooter protected by Mississippi's Stand Your Ground law, that person is required to pay the shooter's attorney's fees and costs, along with compensation for lost income and any other expenses.<sup>120</sup>



## MONTANA

NO DUTY TO RETREAT ANYWHERE:   
 NO DUTY TO RETREAT IN DEFENSE OF PROPERTY:   
 PRESUMPTION THAT USE OF DEADLY FORCE WAS LAWFUL:   
 IMMUNITY FROM ARREST OR PROSECUTION:   
 IMMUNITY FROM CIVIL SUITS:

BILL NO. 2009 MT. HB 228  
 DATE SIGNED APRIL 27, 2009  
 VOTE COUNTS 40-10 (S); 85-14 (H)  
 GOVERNOR BRIAN SCHWEITZER (D)

Governor Brian Schweitzer signed Montana's Stand Your Ground bill into law on April 27, 2009. A shooter in Montana does not have to retreat prior to using lethal force to defend himself or herself or another from serious bodily harm or to stop or prevent certain crimes anywhere he or she may lawfully be — including public spaces like playgrounds, parks, sidewalks, and roadways — even if the shooter has a clear opportunity to safely leave the area.<sup>121</sup> Montana's statute allows a shooter to kill another in self-defense even if he or she used deadly force to initially provoke the confrontation.<sup>122</sup>

The shooter has immunity from civil suits claiming relief based on the injury to the person whom he or she intended to shoot.<sup>123</sup> The Montana statute also requires that the victim pay the shooter's attorney's fees and costs if the victim brings a civil suit from which the shooter is immunized.<sup>124</sup>



## NEVADA

NO DUTY TO RETREAT ANYWHERE:   
 NO DUTY TO RETREAT IN DEFENSE OF PROPERTY:   
 PRESUMPTION THAT USE OF DEADLY FORCE WAS LAWFUL:   
 IMMUNITY FROM ARREST OR PROSECUTION:   
 IMMUNITY FROM CIVIL SUITS:

BILL NO. 2011 NBV AB 321  
 DATE SIGNED MAY 19, 2011  
 VOTE COUNTS 21-0 (S); 39-3 (A)  
 GOVERNOR BRIAN SANDOVAL (R)

Governor Brian Sandoval signed Nevada's Stand Your Ground bill into law on May 19, 2011, after it passed in both the Assembly and the Senate. A shooter in Nevada does not have to retreat prior to using lethal force to defend himself or herself or another from serious bodily harm or to stop or prevent certain crimes anywhere he or she has a right to be — even if the shooter has a clear opportunity to safely leave the area.<sup>126</sup> This includes public places like playgrounds, parks, sidewalks, and roadways.



## NEW HAMPSHIRE

NO DUTY TO RETREAT ANYWHERE:   
 NO DUTY TO RETREAT IN DEFENSE OF PROPERTY:   
 PRESUMPTION THAT USE OF DEADLY FORCE WAS LAWFUL:   
 IMMUNITY FROM ARREST OR PROSECUTION:   
 IMMUNITY FROM CIVIL SUITS:

BILL NO. 2011 NH SB 88  
 DATE SIGNED SEPTEMBER 14, 2011  
 VOTE COUNTS 17-7 (S); 281-111 (H)  
 GOVERNOR VETOED BY JOHN LYNCH (D)

On September 14, 2011, New Hampshire's legislature overrode Governor John Lynch's veto to enact the state's Stand Your Ground Law. A shooter in New Hampshire need not retreat prior to using deadly force to defend himself or herself or another from serious bodily harm or to stop or prevent certain crimes anywhere the shooter has a right to be — including public spaces like playgrounds, parks, sidewalks, and roadways — even if the shooter has a clear opportunity to safely leave the area.<sup>126</sup>

The shooter has immunity from civil suits claiming relief based on the injury to the person whom he or she intended to shoot.<sup>127</sup> The New Hampshire statute also requires that the victim pay the shooter's attorney's fees and court costs and that the victim compensate the shooter for lost income and other expenses if the victim brings a civil suit from which the shooter is immunized.<sup>128</sup>



## NORTH CAROLINA

NO DUTY TO RETREAT ANYWHERE:   
 NO DUTY TO RETREAT IN DEFENSE OF PROPERTY:   
 PRESUMPTION THAT USE OF DEADLY FORCE WAS LAWFUL:   
 IMMUNITY FROM ARREST OR PROSECUTION:   
 IMMUNITY FROM CIVIL SUITS:

BILL NO. 2011 N.C. HB 650  
 DATE SIGNED MAY 23, 2011  
 VOTE COUNTS 37-9 (S); 80-39 (H)  
 GOVERNOR BEVERLY PERDUE (D)

North Carolina Governor Beverly Perdue signed the state's Stand Your Ground bill into law on May 23, 2011. A shooter in North Carolina does not have to retreat prior to using lethal force to defend himself or herself or another from serious bodily harm anyplace he or she has a lawful right to be — including public spaces like playgrounds, parks, sidewalks, and roadways — even if the shooter has a clear opportunity to safely leave the area.<sup>129</sup> In some situations, North Carolina's statute allows a person to kill another in self-defense even if he or she used deadly force to initially provoke the confrontation.<sup>130</sup>

The shooting is presumed to be lawful if the victim unlawfully and forcibly entered, or attempted to remove a person from a dwelling, workplace, or occupied vehicle, regardless of whether anyone was in actual danger.<sup>131</sup> This presumption applies not only to the shooter's dwelling and vehicle, but to the homes and vehicles of third parties as well.<sup>132</sup> In addition, if a person unlawfully and by force enters, or attempts to enter an occupied vehicle, workplace, or dwelling, that person is presumed to be doing so in order to commit a violent crime, regardless of the specific facts of the case or the person's age or actual intent.<sup>133</sup>

A shooter who claims self-defense is immune from criminal prosecution under North Carolina law.<sup>134</sup> States with similar statutes have found that a shooter who is charged with a crime is entitled to a pre-trial immunity hearing in which a judge must make factual determinations typically left to a jury. If the shooter wins, the case is dismissed; if the shooter loses, the case is heard a second time, this time by a jury. The shooter also has blanket immunity from all civil suits, including those brought by innocent bystanders.<sup>135</sup>



## OKLAHOMA

NO DUTY TO RETREAT ANYWHERE:   
 NO DUTY TO RETREAT IN DEFENSE OF PROPERTY:   
 PRESUMPTION THAT USE OF DEADLY FORCE WAS LAWFUL:   
 IMMUNITY FROM ARREST OR PROSECUTION:   
 IMMUNITY FROM CIVIL SUITS:

BILL NO. 2006 OK, HB 2615  
 DATE SIGNED MAY 15, 2006  
 VOTE COUNTS 39-5 (S); 83-4 (H)  
 GOVERNOR BRAD HENRY (D)

BILL NO. 2011 OK HB 1439  
 DATE SIGNED APRIL 26, 2011  
 VOTE COUNTS 42-3 (S); 87-8 (H)  
 GOVERNOR MARY FALLIN (R)

Governor Brad Henry signed Oklahoma's Stand Your Ground law on May 15, 2006, and the law was expanded further in 2011. A shooter in Oklahoma does not have to retreat prior to using lethal force to defend himself or herself or another from serious bodily harm or to stop or prevent certain crimes anyplace he or she has a right to be — including public spaces like playgrounds, parks, sidewalks, and roadways — even if the shooter has a clear opportunity to safely leave the area.<sup>136</sup> The shooting is presumed to be lawful if the victim unlawfully and forcefully entered a dwelling, occupied vehicle, or workplace, or if the victim attempted to remove a person against his will from a dwelling, vehicle, or workplace, regardless of whose dwelling, vehicle, or workplace it was and regardless of whether anyone was in actual danger.<sup>137</sup>

The shooter is immune from criminal arrest and prosecution under Oklahoma law<sup>138</sup> and cannot be arrested unless police have probable cause to believe that he or she was not acting in self-defense.<sup>139</sup> States with similar statutes have found that a shooter who is charged with a crime is entitled to a pre-trial immunity hearing in which a judge must make factual determinations typically left to a jury.<sup>140</sup> If the shooter wins, the case is dismissed; if the shooter loses, the case is heard a second time, this time by a jury.

The Oklahoma statute also immunizes the shooter from all civil suits, including those brought by innocent bystanders.<sup>141</sup> If a person, including an innocent bystander, does bring suit against a shooter who is immunized, that person is required to pay the shooter's attorney's fees and costs, along with compensation for lost income and any other expenses.<sup>142</sup>



## PENNSYLVANIA

NO DUTY TO RETREAT ANYWHERE:   
 NO DUTY TO RETREAT IN DEFENSE OF PROPERTY:   
 PRESUMPTION THAT USE OF DEADLY FORCE WAS LAWFUL:   
 IMMUNITY FROM ARREST OR PROSECUTION:   
 IMMUNITY FROM CIVIL SUITS:

BILL NO. 2011 PA. HB 40  
 DATE SIGNED JUNE 28, 2011  
 VOTE COUNTS 45-5 (S); 164-37 (H)  
 GOVERNOR TOM CORBETT (R)

Pennsylvania's Stand Your Ground statute was signed into law by Governor Tom Corbett on June 28, 2011. A shooter in Pennsylvania may use deadly force to defend himself or herself or another from serious bodily harm or to stop or prevent certain crimes without retreating anywhere he or she has a right to be — including public spaces like playgrounds, parks, sidewalks, and roadways — if the victim displays a deadly weapon.<sup>143</sup> The weapon does not have to be a firearm, so the shooter may fire and kill the victim even if the victim is armed only with a baseball bat and the shooter could safely leave the area.

It is presumed that the shooting is justified if the victim was unlawfully entering a dwelling or occupied vehicle, regardless of whether it was the shooter's dwelling or occupied vehicle and even if no one was in actual danger.<sup>144</sup>

The shooter has immunity from civil suits claiming relief based on the death or injury of the person whom he or she intended to shoot.<sup>145</sup> The Pennsylvania statute also requires that the victim pay the shooter's attorney's fees and court costs, along with compensation for lost income and other expenses, if the victim brings a civil suit from which the shooter is immunized.<sup>146</sup>



## SOUTH CAROLINA

NO DUTY TO RETREAT ANYWHERE:   
 NO DUTY TO RETREAT IN DEFENSE OF PROPERTY:   
 PRESUMPTION THAT USE OF DEADLY FORCE WAS LAWFUL:   
 IMMUNITY FROM ARREST OR PROSECUTION:   
 IMMUNITY FROM CIVIL SUITS:

BILL NO. 2005 S.C. H.B. 4301  
 DATE SIGNED JUNE 9, 2006  
 VOTE COUNTS 43-0 (S); 108-0 (H)  
 GOVERNOR MARK SANFORD (R)

After passing unanimously in both the House and the Senate, South Carolina's Stand Your Ground bill was signed into law on June 9, 2006 by Governor Mark Sanford. South Carolina now has one of the broadest self-defense laws in the country. The shooter has no duty to retreat prior to using deadly force to defend himself or herself or another from serious bodily harm, or to stop or prevent certain crimes anywhere the shooter has a right to be — including public spaces like playgrounds, parks, sidewalks and roadways — even if the shooter has a clear opportunity to safely leave the area.<sup>147</sup>

It is presumed that the shooting is justified if the shooter reasonably believes that the victim is unlawfully entering a dwelling or occupied vehicle, regardless of whether it is the shooter's dwelling or occupied vehicle and regardless of whether the shooter's belief is correct.<sup>148</sup>

A shooter in South Carolina is immune from criminal prosecution and cannot be arrested unless police have probable cause to believe that he or she was not acting in self-defense.<sup>149</sup> After being charged, the shooter is entitled to a pre-trial immunity hearing in which a judge must make factual determinations typically left to a jury.<sup>150</sup> If the shooter wins, the case is dismissed; if the shooter loses, the case is heard a second time, this time by a jury.

The South Carolina statute also immunizes the shooter from all civil suits, including those brought by innocent bystanders.<sup>151</sup> If a person, including an innocent bystander, does bring suit against a shooter who is immunized, that person is required to pay the shooter's attorney's fees and costs, along with compensation for lost income and any other expenses.<sup>152</sup>



## SOUTH DAKOTA

NO DUTY TO RETREAT ANYWHERE:   
 NO DUTY TO RETREAT IN DEFENSE OF PROPERTY:   
 PRESUMPTION THAT USE OF DEADLY FORCE WAS LAWFUL:   
 IMMUNITY FROM ARREST OR PROSECUTION:   
 IMMUNITY FROM CIVIL SUITS:

**BILL NO.** 2006 S.D. HB 1134  
**DATE SIGNED** FEBRUARY 17, 2006  
**VOTE COUNTS** 30-1 (S); 43-27 (H)  
**GOVERNOR** M. MICHAEL ROUNDS (R)

Governor M. Michael Rounds signed South Dakota's Stand Your Ground bill into law on February 17, 2006. A shooter in South Dakota has the right to use lethal force to defend himself or herself or certain family members from serious bodily harm or to stop or prevent certain crimes without retreating anywhere he or she has a right to be — including public spaces like playgrounds, parks, sidewalks, and roadways — even if the shooter has a clear opportunity to safely leave the area.<sup>153</sup> There is no requirement that the shooter be engaged in lawful conduct immediately prior to, or at the time of, the shooting.<sup>154</sup>



## TENNESSEE

NO DUTY TO RETREAT ANYWHERE:   
 NO DUTY TO RETREAT IN DEFENSE OF PROPERTY:   
 PRESUMPTION THAT USE OF DEADLY FORCE WAS LAWFUL:   
 IMMUNITY FROM ARREST OR PROSECUTION:   
 IMMUNITY FROM CIVIL SUITS:

<b>BILL NO.</b> 2007 TENN. HB 1907	<b>BILL NO.</b> 2009 TENN. HB 70
<b>DATE SIGNED</b> MAY 22, 2007	<b>DATE SIGNED</b> MAY 13, 2009
<b>VOTE COUNTS</b> 52-0 (S); 96-1 (H)	<b>VOTE COUNTS</b> 29-0 (S); 89-1 (H)
<b>GOVERNOR</b> PHIL BREDESEN (D)	<b>GOVERNOR</b> PHIL BREDESEN (D)
<b>BILL NO.</b> 2007 TENN. HB 3509	<b>BILL NO.</b> 2011 TENN. HB 2326
<b>DATE SIGNED</b> MAY 22, 2008	<b>DATE SIGNED</b> MAY 23, 2012
<b>VOTE COUNTS</b> 30-2 (S); 82-9 (H)	<b>VOTE COUNTS</b> 33-0 (S); 91-1 (H)
<b>GOVERNOR</b> PHIL BREDESEN (D)	<b>GOVERNOR</b> BILL HASLAM (R)

Since 2007, four bills signed by two governors have expanded Tennessee's self-defense laws. A shooter in Tennessee does not have to retreat prior to using lethal force to defend himself or herself or another from serious bodily harm anywhere he or she has a lawful right to be — including public spaces like playgrounds, parks, sidewalks, and roadways — even if the shooter has a clear opportunity to safely leave the area.<sup>155</sup> Tennessee's statute allows a person to kill another in self-defense even if he or she used deadly force to initially provoke the confrontation.<sup>156</sup>

A shooting is presumed to be lawful if the victim unlawfully and forcibly entered a dwelling, workplace, or occupied vehicle, regardless of whether it is the shooter's property or whether anyone was in actual danger.<sup>157</sup>

The shooter has immunity from civil suits claiming relief based on the death of, or injury to, the person whom he or she intended to shoot.<sup>158</sup> The Tennessee statute also requires that the victim pay the shooter's attorney's fees and court costs and that the victim compensate the shooter for lost income and other expenses if the victim brings a civil suit from which the shooter is immunized.<sup>159</sup>



## TEXAS

NO DUTY TO RETREAT ANYWHERE:   
 NO DUTY TO RETREAT IN DEFENSE OF PROPERTY:   
 PRESUMPTION THAT USE OF DEADLY FORCE WAS LAWFUL:   
 IMMUNITY FROM ARREST OR PROSECUTION:   
 IMMUNITY FROM CIVIL SUITS:

BILL NO. 2007 TX, SB 378  
 DATE SIGNED MAY 22, 2007  
 VOTE COUNTS 30-0 (S); 133-13 (H)  
 GOVERNOR RICK PERRY (R)

Governor Rick Perry signed Texas' Stand Your Ground law on March 27, 2007, giving Texas one of the broadest self-defense statutes in the country. A shooter in Texas has no duty to retreat prior to using deadly force to defend himself or herself or another from serious bodily harm or to stop or prevent certain crimes anywhere he or she has a right to be — including public spaces like playgrounds, parks, sidewalks, and roadways — even if the shooter has a clear opportunity to safely leave the area.<sup>160</sup> No matter where the shooter is, his use of deadly force is presumed to be lawful if he or she "had reason to believe" that the victim was committing one of a list of enumerated felonies.<sup>161</sup>

Texas law gives the shooter immunity from all civil suits, including those brought by innocent bystanders.<sup>162</sup>



## WEST VIRGINIA

NO DUTY TO RETREAT ANYWHERE:   
 NO DUTY TO RETREAT IN DEFENSE OF PROPERTY:   
 PRESUMPTION THAT USE OF DEADLY FORCE WAS LAWFUL:   
 IMMUNITY FROM ARREST OR PROSECUTION:   
 IMMUNITY FROM CIVIL SUITS:

BILL NO. 2008 W.V. SB 148  
 DATE SIGNED MARCH 12, 2008  
 VOTE COUNTS 32-0 (S); 96-1 (H)  
 GOVERNOR JOE MANCHIN (D)

Governor Joe Manchin signed West Virginia's Stand Your Ground bill into law on March 12, 2008. A shooter in West Virginia has no duty to retreat before using lethal force to defend himself or herself or another from serious bodily harm anywhere he or she has a right to be — including public spaces like playgrounds, parks, sidewalks, and roadways — even if the shooter has a clear opportunity to safely leave the area.<sup>163</sup> The West Virginia law immunizes the shooter from civil suits claiming relief based on the death or injury of the person whom he or she intended to shoot.<sup>164</sup>



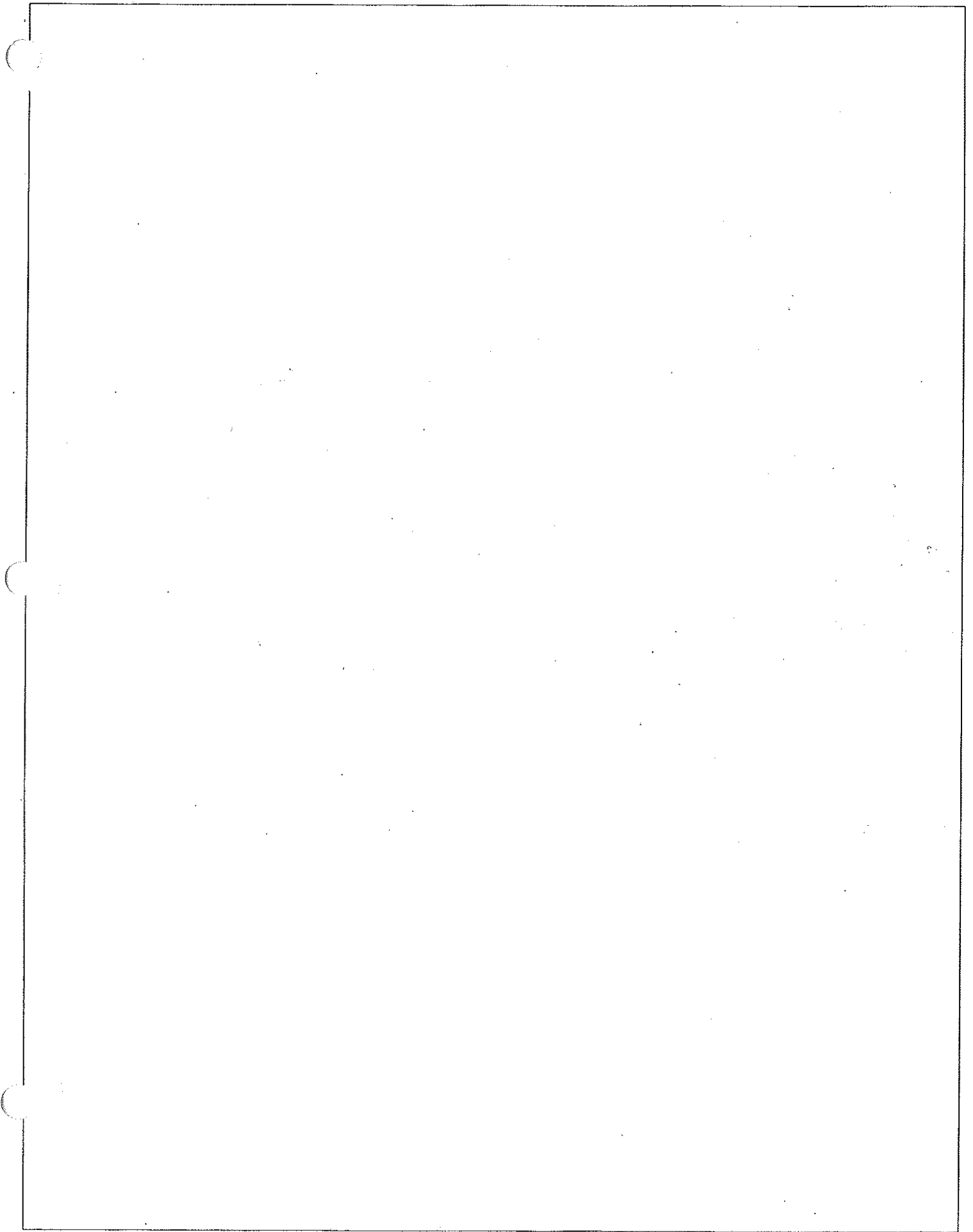
## NOTES

- 1 [http://media.cmgdigital.com/shared/news/documents/2013/07/12/jury\\_instructions\\_1.pdf](http://media.cmgdigital.com/shared/news/documents/2013/07/12/jury_instructions_1.pdf)
- 2 \*Anderson Cooper 360 Degrees transcript,\* CNN, July 15, 2013, available at <http://transcripts.cnn.com/TRANSCRIPTS/130715/acd.01.html>; Marc Caputo, "Juror: We talked Stand Your Ground before not-guilty Zimmerman verdict," Miami Herald, July 18, 2013, at <http://www.miamiherald.com/2013/07/16/3502481/juror-we-talked-stand-your-ground.html#storylink=cpy>
- 3 Alabama: 2006 Al. ALS 303; Alaska: 2006 AK. ALS 68; Arizona: 2006 Ariz. ALS 199, 2010 Ariz. ALS 327, 2011 Ariz. ALS 363; Florida: 2005 FL ALS 27; Georgia: 2006 Ga. ALS 599; Indiana: 2006 Ind. ALS 189, 2012 Ind. ALS 161; Kansas: 2006 Kan. ALS 194, 2010 Kan. ALS 124, 2011 Kan. ALS 30; Kentucky: 2006 Ky. Acts 192; Louisiana: 2006 La. ALS 141; Michigan: 2006 MI PA 309; Mississippi: 2006 MS ALS 492; Montana: 2009 Mont. Laws 332; Nevada: 2011 Nev. Als 69, Assembly Bill 321; New Hampshire: 2011 NH ALS 268, 2010 NH ALS 361; North Carolina: 2011 NC ALS 268; Oklahoma: 2011 Ok. ALS 106, 2006 Ok. ALS 145; Pennsylvania: 2011 Pa. ALS 10; South Carolina: 2006 SC ACTS 379; South Dakota: 2006 SD ALS 116; Tennessee: 2007 TN ALS 210, 2008 TN ALS 1012, 2009 Tenn. ALS 194, 2012 Tenn. ALS 627; Texas: 2007 Tex. ALS 1; West Virginia: 2008 WV. ALS 23.
- 4 2012 La. SB 738.
- 5 Emily Bazelon, "What If Trayvon Martin Was the One Acting in Self-Defense?," Slate, March 22, 2012, at [http://www.slate.com/articles/news\\_and\\_politics/crime/2012/03/florida\\_s\\_stand\\_your\\_ground\\_law\\_doesn\\_t\\_prohibit\\_they\\_arrest\\_george\\_zimmerman\\_for\\_killing\\_trayvon\\_martin.html](http://www.slate.com/articles/news_and_politics/crime/2012/03/florida_s_stand_your_ground_law_doesn_t_prohibit_they_arrest_george_zimmerman_for_killing_trayvon_martin.html); Daily News Wire Services, "Trayvon shooter's tale doubted," March 29, 2012, at [http://articles.philly.com/2012-03-29/news/31254993\\_1\\_arrest-warrantvideo-first-police-headquarters](http://articles.philly.com/2012-03-29/news/31254993_1_arrest-warrantvideo-first-police-headquarters).
- 6 *Beyer v. Birmingham*, R. L. & P. Co., 64 So. 609, 611 (Ala. 1914).
- 7 Francis Wharton, *A Treatise on the Law of Homicide in the United States* § 485 (1875); *Teal v. State*, 161 So. 422, 422 (Fla.1935); *Beyer*, 64 So. at 610.
- 8 *Allen v. United States*, 164 U.S. 492, 497-98 (1896).
- 9 Wharton, *supra* note 7, at § 306; *People v. Richardson*, 803 N.W.2d 302, 309-10 (Mich. 2011).
- 10 *Smiley v. State*, 966 So. 2d 330, 333 (Fla. 2007).
- 11 See, e.g. Fla. Stat. § 776.013(3).
- 12 "Florida's Stand Your Ground Law," Tampa Bay Times at <http://www.tampabay.com/stand-your-ground-law/>.
- 13 See id.
- 14 See EFFECTS OF STAND YOUR GROUND LAWS.
- 15 Id.
- 16 Wharton, *supra* note 7, at § 480.
- 17 Id at §§ 480, 485.
- 18 Id at §§ 543-44.
- 19 Fla. Stat. § 776.013(3).
- 20 Ann O'Neill, "NRA's Marion Hammer stands her ground," CNN, April 15, 2012 at <http://www.cnn.com/2012/04/15/us/marion-hammer-profile/index.html>; Michael C. Bender, "Pistol-Packing Grandma Helps NRA Push State Pro-Gun Laws," Bloomberg, May 11, 2012 at <http://www.bloomberg.com/news/2012-05-11/pistol-packing-grandma-helps-nra-push-state-pro-gun-laws.html>.
- 21 Matt Gertz, "ALEC Has Pushed the NRA's 'Stand Your Ground' Law Across the Nation," Media Matters for America, March 21, 2012 at <http://mediamatters.org/blog/2012/03/21/alec-has-pushed-the-nras-stand-your-groundlaw/186459>; Lisa Graves, "Resources for Investigating ALEC/NRA Gun Bills," PRWatch, March 30, 2012, at <http://www.prwatch.org/node/11393>.
- 22 Id.
- 23 Jon Soltz, "George Zimmerman Had More Legal Authority to Kill Than Our Troops Do At War," April 10, 2012, available at <http://thinkprogress.org/justice/2012/04/10/460965/zimmerman-shoot-kill-troops-military/>
- 24 Iowa: HF 2215; Massachusetts: SB 661; Minnesota: HF 1467; Nebraska: LB 298; New Jersey: A 886; New York: S 281; Washington: SB 5418.
- 25 Alabama: 2012 HB 694, 2013 HB 212; Florida: 2013 HB 123, HB 331, HB 4009, HB 799; Georgia: 2012 HB 1308; Louisiana: 2012 SB 738, HB 1100, SB 719; Michigan: 2012 HB 5644; Mississippi: 2013 HB 1040; New Hampshire: 2013 HB 135; North Carolina: 2012 HB 1192; Pennsylvania: 2012 HB 2559, 2013 HB 518; South Carolina: 2012 H 5072; Texas: 2013 HB 3773, SB 1349.
- 26 2012 La. SB 738.
- 27 Missouri: 2007 Mo. SB 62; Ohio: 2007 Ohio SB 184; Wisconsin: 2011 Wis. ALS 94.
- 28 Alabama: Code of Ala. § 13A-3-23(a)(3); Arizona: A.R.S. § 13-411(A); Florida: Fla. Stat §§ 776.031, 776.08; Georgia: O.C.G.A. § 16-3-23(3); Kansas: K.S.A. §§ 21-3212, 21-3213; Kentucky: KRS § 503.080(2)(b); Nevada: Nev. Rev. Stat. Ann. § 200.120(1); Oklahoma: 21 Okl. St. § 643(3); Texas: Tex. Penal Code § 9.42.
- 29 Texas: Tex. Penal Code § 9.42(2)(B).
- 30 Kansas: K.S.A. §§ 21-3212, 21-3213; Nevada: Nev. Rev. Stat. Ann. § 200.120(1); Oklahoma: 21 Okl. St. § 643(3); Texas: Tex. Penal Code § 9.42
- 31 For example, in June 2012, Benito Pantoja stole \$20.29 from the tip jar of a taco truck in Houston, Texas. The owner of the business chased Pantoja and shot him in the back, killing him. Pantoja's death was ruled a justifiable homicide. See Yang Wang and Dane Schiller, "Texas Justifiable Homicides Rise with 'Castle Doctrine'," Houston Chronicle, July 2, 2012, <http://www.chron.com/news/houston-texas/article/Killings-deemed-justified-are-on-the-rise-in-Texas-3676412.php#page=1>.
- 32 Alabama: Code of Ala. § 13A-3-23(a)(3); Arizona: A.R.S. § 13-411(A); Florida: Fla. Stat §§ 776.031, 776.08; Georgia: O.C.G.A. § 16-3-23(3); Kentucky: KRS § 503.080(2)(b)
- 33 C. Cheng and M. Hoekstra, "Does Strengthening Self-Defense Law Deter Crime or Escalate Violence? Evidence from Castle Doctrine," Texas A&M Department of Economics, 29 May 2012, available at [http://econweb.tamu.edu/mhoekstra/castle\\_doctrine.pdf](http://econweb.tamu.edu/mhoekstra/castle_doctrine.pdf).
- 34 Alabama: Code of Ala. § 13A-3-23(a)(4); Arizona: A.R.S. § 13-411(C); Florida: Fla. Stat. § 776.013; Kansas: K.S.A. § 21-3212a; Kentucky: KRS § 503.055; Louisiana: L.a. Rev. Stat. Ann. § 14:19(B); Michigan: MCLS § 780.951; Mississippi: Miss. Code Ann. § 97-3-15(3); North Carolina: N.C. Gen. Stat. § 14-51.2(b); Oklahoma: 21 Okla. Stat. § 1289.25(B); Pennsylvania: 18 Pa.C.S.A. § 505(b)(2.1); South Carolina: S.C. Code Ann. § 16-11-440; Tennessee: Tenn. Code Ann. § 39-11-611(c); Texas: Tex. Penal Code § 9.31.
- 35 See, e.g., F. Andrew Hessick III & Reshma Saujani, *Plea Bargaining and Convicting the Innocent: the Role of the Prosecutor, the Defense Counsel, and the Judge*, 16 BYU J. Pub. L. 189, 200 (2002); Elise Bjorkan Clare et. al., *Twenty-Fifth Annual Review of Criminal Procedure: I. Investigation and Police Practices*, 84 Geo. L.J. 717, 759-760 (1996).

- 36 Alabama: Code of Ala. § 13A-3-23(d); Florida: Fla. Stat. 776.032(2); Kansas: K.S.A. § 21-5231(a); Kentucky: KRS § 503.085(1); Oklahoma: 21 Okl. St. § 1289.25(G); South Carolina: S.C. Code Ann. § 16-11-450(B).
- 37 Florida: Fla. Stat. 776.032(2); Kansas: K.S.A. § 21-5231(a); Kentucky: KRS § 503.085(1).
- 38 *Reagan v. Mallory*, 429 Fed. Appx. 918 (11th Cir. 2011) ("Under Florida law, law enforcement officers have a duty to assess the validity of this defense, but they are provided minimal, if any, guidance on how to make this assessment.").
- 39 See, e.g., *Reagan v. Mallory*, 429 Fed. Appx. 918 (11th Cir. 2011).
- 40 "Florida's Stand Your Ground Law," Tampa Bay Times at <http://www.tampabay.com/stand-your-ground-law/>.
- 41 Alabama: Code of Ala. § 13A-3-23(e); Florida: Fla. Stat. 776.032(1); Georgia: O.C.G.A. § 16-3-24.2; Kansas: K.S.A. § 21-5231(a); Kentucky: KRS § 503.085(1); North Carolina: N.C. Gen. Stat. § 14-51.3(b); Oklahoma: 21 Okl. St. § 1289.25(F); South Carolina: S.C. Code Ann. § 16-11-450(A).
- 42 See, e.g., *Dennis v. State*, 51 So. 3d 456 (Fla. 2010); *Bunn v. State*, 667 S.E.2d 605 (Ga. 2008); *Rodgers v. Commonwealth*, 285 S.W.3d 740 (Ky. 2009); *State v. Duncan*, 392 S.C. 404 (S.C. 2011).
- 43 Jean K. Gilles Phillips & Elizabeth Cateforis, *Self-Defense: What's a Jury Got to Do with It?* 57 Kan. L. Rev. 1143, 1168-1174 (2009).
- 44 In doing so, Stand Your Ground laws grant a unique status to claims of self-defense. There are many defenses – e.g., necessity, entrapment, insanity – that a defendant can raise at trial that would relieve him or her of criminal responsibility for actions that would otherwise constitute a crime. Until the advent of Stand Your Ground laws, self-defense ranked among them, but these provisions single out self-defense and create a new type of procedural mechanism to determine whether self-defense applies.
- 45 See, e.g., Ann O'Neill, "NRA's Marion Hammer stands her ground," CNN, April 15, 2012, <http://www.cnn.com/2012/04/15/us/marion-hammer-profile/index.html>.
- 46 For example, in one Florida case, Dennis Sosa Palma, who had fatally stabbed his brother during a 2010 brawl, waited more than two years for a favorable determination on immunity. David Ovalle, "Miami-Dade judge tosses murder charge based on self-defense," The Miami Herald, August 17, 2012 at <http://www.miamiherald.com/2012/08/17/2956670/miami-dade-judge-tosses-murder.html>.
- 47 Alabama: Code of Ala. § 13A-3-23(d); Arizona: A.R.S. § 13-413; Florida: Fla. Stat. § 776.032; Kansas: K.S.A. § 21-3219; Kentucky: KRS §§ 503.085; Louisiana: La. Rev. Stat. Ann. § 9:2800.19; Mississippi: Miss. Code Ann. § 97-3-15(5); North Carolina: N.C. Gen. Stat. §§ 14-51.2(b), 14-51.3(b); Oklahoma: 21 Okla. Stat. § 1289.25(F); South Carolina: S.C. Code Ann. § 16-11-450(A); Texas: V.T.C.A. § 83.001.
- 48 Alaska: Alaska Stat. § 09.65.330; Georgia: O.C.G.A. § 51-11-9; Michigan: Mich. Comp. Laws § 600.2922b; Montana: Mont. Code Ann. § 27-1-722; New Hampshire: N.H. Rev. Stat. Ann. § 627:1-a; Pennsylvania: 42 Pa.C.S.A. § 8340.2(a); Tennessee: Tenn. Code Ann. § 39-11-622; West Virginia: W. Va. Code § 55-7-22(d).
- 49 Alaska: Alaska Stat. § 09.65.330(b); Florida: Fla. Stat. § 776.032 (3); Kentucky: KRS § 503.085; Louisiana: La. R.S. § 9:2800.19; Michigan: Mich. Comp. Laws § 600.2922c; Mississippi: Miss. Code Ann. § 97-3-15(5); Montana: Mont. Code Ann. § 27-1-722(4); New Hampshire: N.H. Rev. Stat. Ann. § 627:1-a; Oklahoma: 21 Okla. Stat. § 1289.25(H); Pennsylvania: 42 Pa.C.S.A. § 8340.2(b); South Carolina: S.C. Code Ann. § 16-11-450(C); Tennessee: Tenn. Code Ann. § 39-11-622(b).
- 50 C. Cheng and M. Hoekstra, "Does Strengthening Self-Defense Law Deter Crime or Escalate Violence? Evidence from Castle Doctrine," Texas A&M Department of Economics, 29 May 2012, available at [http://econweb.tamu.edu/mhoekstra/castle\\_doctrine.pdf](http://econweb.tamu.edu/mhoekstra/castle_doctrine.pdf); C. McClellan and E. Tekin, "Stand Your Ground laws and homicides," National Bureau of Economic Research, June 2012, available at <http://www.nber.org/papers/w18187.pdf>.
- 51 FBI Uniform Crime Reports, Supplementary Homicide File. National Archive of Criminal Justice Data, available at: <http://bitly/1bnoHhw>
- 52 As explained in the "methodology" section, the four states that enacted Stand Your Ground laws after 2011 (NC, NH, NV, and PA) are considered "no change" states for purposes of this study because they did not have a Stand Your Ground law in effect during the study period. Three states were excluded entirely because they either enacted Stand Your Ground laws too late in the study period to provide sufficient data (MT and WV) or did not report justifiable homicide data to the FBI (NY).
- 53 J. Roman and M. Downey, "Stand Your Ground laws and Miscarriages of Justice," MetroTrends Blog, March 29, 2012, available at <http://blog.metrotrends.org/2012/03/stand-ground-laws-miscarriages-justice/>.
- 54 FBI Uniform Crime Reports, Supplementary Homicide File. National Archive of Criminal Justice Data, available at: <http://bitly/1bnoHhw>
- 55 Id.
- 56 Id.
- 57 J. Roman, "Do Stand Your Ground Laws Worsen Racial Disparities?," Urban Institute MetroTrends Blog, Aug. 8, 2012 at <http://blog.metrotrends.org/2012/08/stand-ground-laws-worsen-racial-disparities/>.
- 58 FBI Uniform Crime Reports, Supplementary Homicide File. National Archive of Criminal Justice Data, available at: <http://bitly/1bnoHhw>
- 59 C. Cheng and M. Hoekstra, "Does Strengthening Self-Defense Law Deter Crime or Escalate Violence? Evidence from Castle Doctrine," Texas A&M Department of Economics, 29 May 2012, available at [http://econweb.tamu.edu/mhoekstra/castle\\_doctrine.pdf](http://econweb.tamu.edu/mhoekstra/castle_doctrine.pdf). This study defined Stand Your Ground states slightly differently than this report; however, the slight difference in classification does not create a noticeable difference in result.
- 60 C. McClellan and E. Tekin, "Stand Your Ground laws and homicides," National Bureau of Economic Research, June 2012, available at <http://www.nber.org/papers/w18187.pdf>. Note that this study looked at all homicides, as opposed to the Roman and Downey study, *supra* note 54, which studied only those homicides that were deemed justifiable.
- 61 Code of Ala. § 13A-3-23(b).
- 62 Code of Ala. §§ 13A-3-23(a)(3), 13A-7-7.
- 63 Code of Ala. § 13A-3-23(a).
- 64 Code of Ala. § 13A-3-23(d).
- 65 Code of Ala. § 13A-3-23(e).
- 66 See, e.g., *Dennis v. State*, 51 So. 3d 456 (Fla. 2010); *Bunn v. State*, 667 S.E.2d 605 (Ga. 2008); *Rodgers v. Commonwealth*, 285 S.W.3d 740 (Ky. 2009); *State v. Duncan*, 392 S.C. 404 (S.C. 2011).
- 67 Code of Ala. § 13A-3-23(d).
- 68 Alaska Stat. §§ 11.81.335(a), 11.81.330(b).
- 69 Alaska Stat. §§ 11.81.335(a)(7), 11.81.350(e).
- 70 Alaska Stat. § 09.65.330(a).

- 71 Alaska Stat. § 09.65.330(b).
- 72 A.R.S. §§ 13-405(B), 13-411(B), 13-418(B).
- 73 A.R.S. §§ 13-404(B)(3), 13-405(A)(1)
- 74 A.R.S. § 13-411(C).
- 75 A.R.S. §§ 13-411(A), 13-1508.
- 76 A.R.S. § 13-413.
- 77 Fla. Stat. § 776.013(3).
- 78 Fla. Stat. § 776.041(2).
- 79 Fla. Stat. §§ 776.031, 776.08, 810.02.
- 80 Fla. Stat. § 776.013(1).
- 81 Fla. Stat. § 776.013(4).
- 82 Fla. § Stat. 776.032(1).
- 83 Fla. § Stat. 776.032(2).
- 84 *Dennis v. State*, 51 So. 3d 456 (Fla. 2010).
- 85 Fla. § Stat. 776.032(1). A.R.S. § 13-413.
- 86 Fla. § Stat. 776.032(3).
- 87 O.C.G.A. § 16-3-23.1.
- 88 O.C.G.A. § 16-3-21(b)(3)
- 89 O.C.G.A. § 16-3-21(b).
- 90 O.C.G.A. §§ 16-3-23(3), 16-3-24.1.
- 91 O.C.G.A. § 16-3-24.2; *Bunn v. State*, 667 S.E.2d 605 (Ga. 2009).
- 92 O.C.G.A. § 51-11-9.
- 93 Burns Ind. Code Ann. § 35-41-3-2(c)-(f).
- 94 Burns Ind. Code Ann. § 35-41-3-2(d)
- 95 Burns Ind. Code Ann. § 35-41-3-2(i).
- 96 K.S.A. §§ 21-5230; 21-5222; 21-5223; 21-5225.
- 97 K.S.A. § 21-5224.
- 98 K.S.A. § 21-5226(a).
- 99 K.S.A. § 21-5226(c).
- 100 K.S.A. § 21-5231(a).
- 101 See, e.g., *Dennis v. State*, 51 So. 3d 456 (Fla. 2010); *Bunn v. State*, 667 S.E.2d 605 (Ga. 2009); *Rodgers v. Commonwealth*, 285 S.W.3d 740 (Ky. 2009).
- 102 K.S.A. § 21-5231(a).
- 103 KRS § 503.050; KRS § 503.070; KRS § 503.080.
- 104 KRS § 503.055(1).
- 105 KRS § 503.085(1).
- 106 *Rodgers v. Commonwealth*, 285 S.W.3d 740 (Ky. 2009)
- 107 KRS § 503.085(1).
- 108 KRS § 503.085(3).
- 109 La. R.S. § 14:20.
- 110 La. R.S. § 14:20(B).
- 111 La. R.S. § 9:2800.19.
- 112 2012 La. SB 738.
- 113 "Michigan 'Stand Your Ground' Law Under Fire," UPI, May 18, 2012, available at [http://www.upi.com/Top\\_News/US/2012/05/18/Michigan-stand-your-ground-law-under-fire/UP1-59951337368013/](http://www.upi.com/Top_News/US/2012/05/18/Michigan-stand-your-ground-law-under-fire/UP1-59951337368013/)
- 114 MCLS § 780.972.
- 115 MCLS § 780.951.
- 116 MCLS § 600.2922b.
- 117 MCL § 600.2922c.
- 118 Miss. Code. Ann. § 97-3-15(4).
- 119 Miss. Code. Ann. § 97-3-15(3).

- 120 Miss. Code Ann. § 97-3-15(5)(b).
- 121 Mont. Code Ann. § 45-3-110.
- 122 Mont. Code Ann. § 45-3-105
- 123 Mont. Code Anno., § 27-1-722(1).
- 124 Mont. Code Anno., § 27-1-722(3).
- 125 Nev. Rev. Stat. Ann. § 200.120.
- 126 N.H. Rev. Stat. Ann. § 627:4(III).
- 127 N.H. Rev. Stat. Ann. § 627:1-a.
- 128 N.H. Rev. Stat. Ann. § 627:1-a.
- 129 N.C. Gen. Stat. § 14-51.3.
- 130 N.C. Gen. Stat. § 14-51.4(2)
- 131 N.C. Gen. Stat. § 14-51.2(b).
- 132 N.C. Gen. Stat. § 14-51.2(b).
- 133 N.C. Gen. Stat. § 14-51.2(d).
- 134 N.C. Gen. Stat. § 14-51.3(b).
- 135 N.C. Gen. Stat. § 14-51.3(b).
- 136 21 Okl. St. § 1289.25(D).
- 137 21 Okl. St. § 1289.25(B).
- 138 21 Okl. St. § 1289.25(F).
- 139 21 Okl. St. § 1289.25(G).
- 140 See, e.g., *Dennis v. State*, 51 So. 3d 456 (Fla. 2010); *Burin v. State*, 667 S.E.2d 605 (Ga. 2008); *Rodgers v. Commonwealth*, 285 S.W.3d 740 (Ky. 2009); *State v. Duncan*, 392 S.C. 404 (S.C. 2011).
- 141 21 Okl. St. § 1289.25(F).
- 142 21 Okl. St. § 1289.25(H).
- 143 18 Pa.C.S.A. § § 505(2.3), 506.
- 144 18 Pa.C.S.A. § 505(2.1).
- 145 42 Pa.C.S.A. § 8340.2(a).
- 146 42 Pa.C.S.A. § 8340.2(b).
- 147 S.C. Code Ann. § 16-11-440(C).
- 148 S.C. Code Ann. § 16-11-440(A).
- 149 S.C. Code Ann. § 16-11-450(B).
- 150 *State v. Duncan*, 392 S.C. 404 (S.C. 2011).
- 151 S.C. Code Ann. § 16-11-450(A).
- 152 S.C. Code Ann. § 16-11-450(C).
- 153 S.D. Codified Laws § 22-18-4.
- 154 S.D. Codified Laws § 22-18-4.
- 155 TCA § 39-11-611(b)(2).
- 156 Tenn. Code Ann. § 39-11-611(e)(2).
- 157 Tenn. Code Ann § 39-11-611(c).
- 158 Tenn. Code Ann § 39-11-622(a).
- 159 Tenn. Code Ann § 39-11-622(b).
- 160 Tex. Penal Code §§ 9.31(a),(d); 9.32(a) and (c); 9.33.
- 161 Tex. Penal Code §§ 9.31(a) and 9.32(b).
- 162 TX CIV PRAC & REM § 83.001.
- 163 W. Va. Code § 55-7-22(c).
- 164 W. Va. Code § 55-7-22(d).





National  
Urban League



**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.)

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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BILL: SB 190

INTRODUCER: Senator Braynon

SUBJECT: False Personation

DATE: March 14, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	<b>Pre-meeting</b>
2.			ACJ	
3.			AP	

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**I. Summary:**

SB 190 provides that it is a third degree felony to falsely personate a firefighter. It is a second degree felony to falsely personate a firefighter during the course of the commission of a felony. It is a first degree felony to falsely personate a firefighter during the course of the commission of a felony if the commission of that felony results in the death or personal injury of another human being.

The bill provides that it is a first degree misdemeanor to own or operate a motor vehicle marked or identified with various indicia indicating the vehicle is used by a fire department (e.g., marked with the words “fire department”) “with the intent to mislead or cause another person to believe” that the vehicle is an official vehicle of the fire department and is authorized to be used by the department, unless a specified exception applies.

**II. Present Situation:**

**False Personation of Law Enforcement Officers and Other Specified Officers/Positions (s. 843.08, F.S.)**

Section 843.08, F.S., punishes false personation of a law enforcement officer or other specified person. A person commits this false personation offense if he or she falsely assumes or pretends to be any of the following officers/persons and takes upon himself or herself to act as such or to require any other person to aid or assist him or her in a matter pertaining to the duty of any such officer/person:

- Sheriff.
- Officer of the Florida Highway Patrol.
- Officer of the Fish and Wildlife Conservation Commission.
- Officer of the Department of Transportation.
- Officer of the Department of Financial Services.

- Officer of the Department of Corrections.
- Correctional probation officer.
- Deputy sheriff.
- State attorney or assistant state attorney.
- Statewide prosecutor or assistant statewide prosecutor.
- State attorney investigator.
- Coroner.
- Police officer.
- Lottery special agent or lottery investigator.
- Beverage enforcement agent.
- Watchman.
- Any member of the Parole Commission and any administrative aide or supervisor employed by the commission.
- Any personnel or representative of the Florida Department of Law Enforcement (FDLE).
- A federal law enforcement officer as defined in s. 901.1505, F.S.

It is a third degree felony to commit this offense.<sup>1</sup> However, a person who falsely personates any such officer/position during the course of the commission of a felony commits a second degree felony<sup>2</sup> or, if the commission of the felony results in the death or personal injury of another human being, a first degree felony.<sup>3</sup>

#### **Unlawful Marking of a Motor Vehicle (s. 843.085, F.S.)**

Section 843.085(2), F.S., provides that it is unlawful for a person to own or operate a motor vehicle if:

- The vehicle is marked or identified in any manner or combination by the word or words “police,” “patrolman,” “sheriff,” “deputy,” “trooper,” “highway patrol,” “commission officer,” “Wildlife Officer,” “Marine Patrol Officer,” “marshal,” “constable,” or “bailiff,” or by any lettering, marking, or insignia, or colorable imitation thereof, including, but not limited to, stars, badges, or shields;
- The wording is officially used to identify the vehicle as a federal, state, county, or municipal law enforcement vehicle or a vehicle used by a criminal justice agency as defined in s. 943.045, F.S.;
- The use of the wording on the vehicle could deceive a reasonable person into believing that the vehicle is authorized by any of these agencies for use by the person operating the motor vehicle; and
- A specified exception does not apply.

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<sup>1</sup> A third degree felony is punishable by up to 5 years in state prison, a fine of up to \$5,000, or prison and a fine. Sections 775.082 and 775.083, F.S. However, if total sentence points scored under the Criminal Punishment Code are 22 points or fewer, the court must impose a nonstate prison sanction, unless the court makes written findings that this sanction could present a danger to the public. Section 775.082(10), F.S.

<sup>2</sup> A second degree felony is punishable by up to 15 years in state prison, a fine of up to \$10,000, or prison and a fine. Sections 775.082 and 775.083, F.S.

<sup>3</sup> A first degree felony is generally punishable by up to 30 years in state prison, a fine of up to \$10,000, or prison and a fine. Sections 775.082 and 775.083, F.S.



Exceptions include:

- The vehicle is owned or operated by the “appropriate agency” and its use is authorized by the agency;
- The fire department authorizes the use of the vehicle; or
- The person is appointed by the Governor pursuant to ch. 354, F.S. (special officers for carriers).

This offense is punishable as a first degree misdemeanor.<sup>4</sup> Section 843.085, F.S., is cumulative to any law now in force in the state.

In *Sult v. State*,<sup>5</sup> the Florida Supreme Court held that s. 843.085, F.S. (2001), is unconstitutionally overbroad and vague, and also violates a person’s right to substantive due process. The Court only discusses subsection (1) of this statute but the intent language the Court found objectionable also appears in subsections (2) and (3) of the statute.

### III. Effect of Proposed Changes:

The bill amends s. 843.08, F.S., to provide that it is a third degree felony to falsely personate a firefighter.<sup>6</sup> It is a second degree felony to falsely personate a firefighter during the course of the commission of a felony. It is a first degree felony to falsely personate a firefighter during the course of the commission of a felony if the commission of that felony results in the death or personal injury of another human being.

The bill also amends s. 843.085, F.S., to provide that it is a first degree misdemeanor to own or operate a motor vehicle marked or identified with various indicia indicating the vehicle is used by a fire department (e.g., marked with the words “fire department”) “with the intent to mislead or cause another person to believe” that the vehicle is an official vehicle of the fire department and is authorized to be used by the department, unless a specified exception applies.

Exceptions include:

- The vehicle is owned or operated by the “appropriate agency” and its use is authorized by the agency;
- The fire department authorizes the use of the vehicle; or
- The person is appointed by the Governor pursuant to ch. 354, F.S. (special officers for carriers).<sup>7</sup>

The inclusion of specific intent language appears to be intended to address the case of *Sult v. State*, *supra*, and, if constitutionally sufficient, would make s. 843.085(2), F.S., enforceable for

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<sup>4</sup> A first degree misdemeanor is punishable by up to 1 year incarceration in county jail, a fine of up to \$1,000, or jail and a fine. Sections 775.082 and 775.083, F.S.

<sup>5</sup> 906 So.2d 1013 (Fla. 2005).

<sup>6</sup> The bill does not define “firefighter” by reference to any specific definition of the term in the Florida Statutes. However, most of the descriptive terms for officers/persons listed in the statute are not defined by reference to a statutory definition (e.g., “police officer”). Statutory definitions of “firefighter” vary. *See e.g.*, ss. 112.81(1), 633.102(9), and 784.07(1)(b), F.S.

<sup>7</sup> The bill also amends s. 843.085, F.S., to specify that the statute does not prohibit a fraternal, benevolent, or labor organization or association, or their subsidiaries or chapters, from using the words “fire department,” in any manner or in any combination, if those words appear in the official name of the organization or association.

unlawfully owning or operating a motor vehicle marked or identified with various indicia indicating the vehicle is used by a fire department. This change will also apply to the current offense covered by this paragraph: unlawfully owning or operating a motor vehicle marked or identified with various indicia indicating the vehicle is used by a law enforcement agency.

The bill also amends s. 921.0022, F.S., the offense severity ranking chart of the Criminal Punishment Code, to make technical, corrective change to descriptive language regarding the current ranking of false personation under s. 843.08, F.S. It does not change the current ranking of the offense.

The effective date of the bill is July 1, 2014.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the official estimate of the prison bed impact, if any, of legislation, has not yet reviewed the bill. However, the Legislature's Office of Economic and Demographic Research preliminarily estimates the bill will have an insignificant prison bed impact.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 843.08, 843.085, and 921.0022.

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

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332122

LEGISLATIVE ACTION

Senate

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House

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The Committee on Criminal Justice (Smith) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 42 - 56

and insert:

s. 775.082, s. 775.083, or s. 775.084. As used in this section, the term "watchman" means a security officer licensed under chapter 493.

Section 2. Subsections (2) and (4) of section 843.085, Florida Statutes, are amended to read:

843.085 Unlawful use of police badges or other indicia of



332122

11 authority.—It is unlawful for any person:  
12       (2) To own or operate a motor vehicle marked or identified  
13 in any manner or combination by the word or words "police,"  
14 "patrolman," "sheriff," "deputy," "trooper," "highway patrol,"  
15 "commission officer," "Wildlife Officer," "Marine Patrol  
16 Officer," "marshal," "constable," ~~or~~ "bailiff," or "fire  
17 department," or by any lettering, marking, or insignia, or  
18 colorable imitation thereof, including, but not limited to,  
19 stars, badges, or shields, officially used to identify the  
20 vehicle as a federal, state, county, or municipal law  
21 enforcement vehicle or a vehicle used by a criminal justice

22  
23 ===== T I T L E   A M E N D M E N T =====

24 And the title is amended as follows:

25       Delete line 4

26 and insert:

27       personating a firefighter; defining the term  
28       "watchman"; amending s. 843.085, F.S.;

By Senator Braynon

36-00118-14

2014190\_\_

A bill to be entitled

An act relating to false personation; amending s. 843.08, F.S.; prohibiting a person from falsely personating a firefighter; amending s. 843.085, F.S.; prohibiting operation or ownership of a motor vehicle falsely marked with the intent to mislead or cause another person to believe that such vehicle is authorized by a fire department for use by the person operating it; providing an exception; amending s. 921.0022, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 843.08, Florida Statutes, is amended to read:

843.08 False personation ~~Falsely personating officer, etc.~~—A person who falsely assumes or pretends to be a firefighter, sheriff, officer of the Florida Highway Patrol, officer of the Fish and Wildlife Conservation Commission, officer of the Department of Transportation, officer of the Department of Financial Services, officer of the Department of Corrections, correctional probation officer, deputy sheriff, state attorney or assistant state attorney, statewide prosecutor or assistant statewide prosecutor, state attorney investigator, coroner, police officer, lottery special agent or lottery investigator, beverage enforcement agent, or watchman, or any member of the Parole Commission and any administrative aide or supervisor employed by the commission, or any personnel or representative

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

36-00118-14

2014190\_\_

of the Department of Law Enforcement, or a federal law enforcement officer as defined in s. 901.1505, and takes upon himself or herself to act as such, or to require any other person to aid or assist him or her in a matter pertaining to the duty of any such officer, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, a person who falsely personates any such officer during the course of the commission of a felony commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the commission of the felony results in the death or personal injury of another human being, the person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. Subsections (2) and (4) of section 843.085, Florida Statutes, are amended to read:

843.085 Unlawful use of police badges or other indicia of authority.—It is unlawful for any person:

(2) To own or operate a motor vehicle marked or identified in any manner or combination by the word or words "police," "patrolman," "sheriff," "deputy," "trooper," "highway patrol," "commission officer," "Wildlife Officer," "Marine Patrol Officer," "marshal," "constable," ~~or~~ "bailiff," or "fire department," or by any lettering, marking, or insignia, or colorable imitation thereof, including, but not limited to, stars, badges, or shields, officially used to identify the vehicle as a federal, state, county, or municipal law enforcement vehicle, ~~or~~ a vehicle used by a criminal justice agency as ~~now or hereafter~~ defined in s. 943.045, or a vehicle used by a fire department with the intent to mislead or cause

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

36-00118-14 2014190\_\_  
 59 another person to believe that such vehicle is an official  
 60 vehicle of that agency and is authorized to be used by that  
 61 ~~agency which could deceive a reasonable person into believing~~  
 62 ~~that such vehicle is authorized by any of the agencies described~~  
 63 ~~above for use by the person operating the motor vehicle,~~ unless  
 64 such vehicle is owned or operated by the appropriate agency and  
 65 its use is authorized by such agency, ~~or~~ the local law  
 66 enforcement agency or fire department authorizes the use of such  
 67 vehicle, ~~or unless~~ the person is appointed by the Governor  
 68 pursuant to chapter 354.

69 (4) ~~Nothing in~~ This section does not shall prohibit a  
 70 fraternal, benevolent, or labor organization or association, or  
 71 their chapters or subsidiaries, from using the following words,  
 72 in any manner or in any combination, if those words appear in  
 73 the official name of the organization or association: "police,"  
 74 "patrolman," "sheriff," "deputy," "trooper," "highway patrol,"  
 75 "commission officer," "Wildlife Officer," "Marine Patrol  
 76 Officer," "marshal," "constable," ~~or~~ "bailiff," ~~or~~ fire  
 77 department."

78 Section 3. Paragraph (b) of subsection (3) of section  
 79 921.0022, Florida Statutes, is amended to read  
 80 921.0022 Criminal Punishment Code; offense severity ranking  
 81 chart.-

82 (3) OFFENSE SEVERITY RANKING CHART

83 (b) LEVEL 2

Florida Statute	Felony Degree	Description
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36-00118-14 2014190\_\_  
 379.2431 3rd Possession of 11 or  
 (1) (e) 3. fewer marine turtle eggs  
 in violation of the  
 Marine Turtle Protection  
 Act.

86 379.2431 3rd Possession of more than  
 (1) (e) 4. 11 marine turtle eggs in  
 violation of the Marine  
 Turtle Protection Act.

87 403.413(6) (c) 3rd Dumps waste litter  
 exceeding 500 lbs. in  
 weight or 100 cubic feet  
 in volume or any  
 quantity for commercial  
 purposes, or hazardous  
 waste.

88 517.07(2) 3rd Failure to furnish a  
 prospectus meeting  
 requirements.

89 590.28(1) 3rd Intentional burning of  
 lands.

90 784.05(3) 3rd Storing or leaving a  
 loaded firearm within  
 reach of minor who uses

	36-00118-14		2014190__	
				it to inflict injury or death.
91	787.04(1)	3rd		In violation of court order, take, entice, etc., minor beyond state limits.
92	806.13(1)(b)3.	3rd		Criminal mischief; damage \$1,000 or more to public communication or any other public service.
93	810.061(2)	3rd		Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
94	810.09(2)(e)	3rd		Trespassing on posted commercial horticulture property.
95	812.014(2)(c)1.	3rd		Grand theft, 3rd degree; \$300 or more but less than \$5,000.
96	812.014(2)(d)	3rd		Grand theft, 3rd degree; \$100 or more but less

Page 5 of 9

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

	36-00118-14		2014190__	
				than \$300, taken from unenclosed curtilage of dwelling.
97	812.015(7)	3rd		Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
98	817.234(1)(a)2.	3rd		False statement in support of insurance claim.
99	817.481(3)(a)	3rd		Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.
100	817.52(3)	3rd		Failure to redeliver hired vehicle.
101	817.54	3rd		With intent to defraud, obtain mortgage note, etc., by false representation.
102	817.60(5)	3rd		Dealing in credit cards

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



	36-00118-14		2014190__	
				of another.
103	817.60(6)(a)	3rd		Forgery; purchase goods, services with false card.
104	817.61	3rd		Fraudulent use of credit cards over \$100 or more within 6 months.
105	826.04	3rd		Knowingly marries or has sexual intercourse with person to whom related.
106	831.01	3rd		Forgery.
107	831.02	3rd		Uttering forged instrument; utters or publishes alteration with intent to defraud.
108	831.07	3rd		Forging bank bills, checks, drafts, or promissory notes.
109	831.08	3rd		Possessing 10 or more forged notes, bills, checks, or drafts.
110				

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

	36-00118-14		2014190__	
	831.09	3rd		Uttering forged notes, bills, checks, drafts, or promissory notes.
111	831.11	3rd		Bringing into the state forged bank bills, checks, drafts, or notes.
112	832.05(3)(a)	3rd		Cashing or depositing item with intent to defraud.
113	843.08	3rd		<u>False personation</u> <del>Falsely impersonating an</del> <del>officer.</del>
114	893.13(2)(a)2.	3rd		Purchase of any s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs other than cannabis.
115	893.147(2)	3rd		Manufacture or delivery of drug paraphernalia.
116				

Page 8 of 9

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

36-00118-14

2014190\_\_

117

Section 4. This act shall take effect July 1, 2014.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/17/14  
Meeting Date

Topic False Personation of a Firefighter

Bill Number 190  
*(if applicable)*

Name Rocco Salvatori

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Vice President

Address 345 W. Madison  
Street

Phone 850-224-7333

Tallahassee FL 32301  
City State Zip

E-mail RoccoSalvatori@icloud.com

Speaking:  For  Against  Information

Representing Florida Professional Firefighters

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:  
Regulated Industries, *Vice Chair*  
Appropriations Subcommittee on Criminal and  
Civil Justice  
Appropriations Subcommittee on General  
Government  
Children, Families, and Elder Affairs  
Ethics and Elections  
Gaming  
Health Policy

### SENATOR OSCAR BRAYNON II

*Democratic Whip*  
36th District

January 14, 2014

Senator Greg Evers, Chair  
Criminal Justice  
308 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chair Evers:

This letter is to request that **Senate Bill # 190**, relating to *False Personation* be placed on the agenda of the next scheduled meeting of the committee.

*SB 190 Prohibiting a person from falsely personating a firefighter; prohibiting operation or ownership of a motor vehicle falsely marked with the intent to mislead or cause another person to believe that such vehicle is authorized by a fire department for use by the person operating it; providing an exception, etc.*

Thank you for consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Oscar Braynon II".

Senator Braynon  
District 36

cc. *Amanda Cannon, Staff Director,*  
*Sue Arnold, Committee Administrative Assistant, Room 510K*

REPLY TO:

- 608 NW 183rd Street, Miami Gardens, Florida 33169 (305) 654-7150 FAX: (305) 654-7152
- 213 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5036

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

DON GAETZ  
President of the Senate

GARRETT RICHTER  
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.)

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Prepared By: The Professional Staff of the Committee on Criminal Justice

---

BILL: SB 920

INTRODUCER: Senator Dean

SUBJECT: Protection of Crime Victims

DATE: March 14, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	<b>Pre-meeting</b>
2.	_____	_____	JU	_____
3.	_____	_____	AP	_____

---

**I. Summary:**

SB 920 requires a private investigator or investigative agency to determine if the individual being investigated is a petitioner requesting notification of service of a protective injunction against domestic, repeat, dating, or sexual violence or a participant in the Address Confidentiality Program for domestic violence victims. The bill prohibits a private investigator from releasing that petitioner's or participant's personal identifying information. Violating this prohibition results in a first degree misdemeanor penalty and suspension or revocation of the investigator's license.

The bill also amends provisions relating to injunctions for protection against domestic, repeat, dating, or sexual violence, stalking, or cyberstalking as follows:

- Requires a temporary injunction to remain in effect until the final injunction is served on a respondent; and
- Provides that a respondent violates the terms of a final injunction against stalking or cyberstalking by possessing a firearm or ammunition (currently a first degree misdemeanor).

Finally, the bill expands the circumstances under which a law enforcement officer may conduct a warrantless arrest to include acts of stalking, cyberstalking, child abuse, and violations of a protective injunction for these acts.

## II. Present Situation:

### Regulation of Private Investigators

The profession of private investigation is regulated by the Department of Agriculture.<sup>1</sup> Private investigation is the investigation by a person for the purpose of obtaining information on any of the following matters:

- Crimes or threats against the United States or any state or territory of the United States, when operating under express written authority of the governmental official responsible for authorizing such investigation;
- The identity, habits, conduct, movements, whereabouts, affiliations, associations, transactions, reputation, or character of any society, person, or group of persons;
- The credibility of witnesses or other persons;
- The whereabouts of missing persons, owners of unclaimed property or escheated property, or heirs to estates;
- The location or recovery of lost or stolen property;
- The causes and origin of, or responsibility for, fires, libels, slanders, losses, accidents, damage, or injuries to real or personal property; or
- The business of securing evidence to be used before investigating committees or boards of award or arbitration or in the trial of civil or criminal cases.<sup>2</sup>

Every private investigator<sup>3</sup> must meet specified educational and training requirements and obtain a Class “C” license.<sup>4</sup> A Class “C” licensee may conduct investigations, own or manage a private investigation agency, carry a firearm, and perform bodyguard services.<sup>5</sup> A private investigator must comply with all regulations of the profession and is subject to specified disciplinary actions or criminal penalties for violating any provision of ch. 493, F.S.<sup>6</sup>

### Address Confidentiality Program

Domestic violence victims may apply to the Office of the Attorney General (Attorney General) to have his or her address designated as confidential.<sup>7</sup> The application must meet specified requirements. For example, a sworn statement must be provided that there is good reason to believe the subject of the application is the victim of domestic violence and the subject fears for his or her safety, or the safety of the subject’s children.<sup>8</sup> Once a properly completed application is filed, the Attorney General must certify the subject as a program participant, and designate an

---

<sup>1</sup> See ss. 493.6100 and 493.6101(1), F.S.

<sup>2</sup> Section 493.6101(17), F.S.

<sup>3</sup> Section 493.6101(16), F.S., defines “private investigator” to mean any individual who, for consideration, advertises as providing or performs private investigation.

<sup>4</sup> Sections 493.6201 and 493.6203, F.S.

<sup>5</sup> Section 493.6201(3), (5), (7), and (8), F.S.

<sup>6</sup> Sections 493.6118 and 493.6120, F.S.

<sup>7</sup> Section 741.403(1), F.S., states that any adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of a person adjudicated incapacitated under ch. 744, F.S., may apply to the Attorney General.

<sup>8</sup> Section 741.403(1)(a), F.S.

address to serve as the victim's address.<sup>9</sup> The Attorney General becomes the agent for purposes of service of process and receipt of mail.<sup>10</sup>

Section 741.465, F.S., specifies that the addresses, telephone numbers, and social security numbers of Address Program participants are exempt from the public records requirements of s. 119.07(1), F.S., and Article 1, Section 24(a) of the State Constitution. A limited number of specified instances are provided that allow the confidential information to be released. There is no criminal penalty for releasing a program participant's confidential information.

## **Injunctions for Protection against Specified Acts of Violence**

### ***Domestic Violence***

Any person who is the victim of domestic violence<sup>11</sup> or who reasonably believes that he or she is in imminent danger of becoming the victim of domestic violence may file a petition for an injunction for protection against domestic violence.<sup>12</sup> The sworn petition must allege the existence of domestic violence and include specific facts and circumstances upon which relief is sought.<sup>13</sup> A hearing must be set at the earliest possible time after a petition is filed,<sup>14</sup> and the respondent must be personally served with a copy of the petition.<sup>15</sup> At the hearing, specified injunctive relief may be granted if the court finds that the petitioner is:

- The victim of domestic violence; or
- Has reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence.<sup>16</sup>

If it appears to the court that an immediate and present danger of domestic violence exists when the petition is filed, the court may grant an ex parte temporary injunction.<sup>17,18</sup> Temporary injunctions are only effective for a fixed period of time that cannot exceed 15 days.<sup>19</sup> The hearing on the petition must be set for a date on or before the date when the temporary injunction expires.<sup>20</sup>

<sup>9</sup> Section 741.403(1) and (3), F.S. The certification is valid for four years, unless it is withdrawn or invalidated.

<sup>10</sup> Section 741.403(1)(b), F.S.

<sup>11</sup> Section 741.28, F.S., defines "domestic violence" as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.

<sup>12</sup> Section 741.30, F.S.

<sup>13</sup> Section 741.30(3), F.S.

<sup>14</sup> Section 741.30(4), F.S.

<sup>15</sup> *Id.*

<sup>16</sup> Section 741.30(6), F.S. Either party may move the court to modify or dissolve an injunction at any time. Section 741.30(6)(c) and (10), F.S.

<sup>17</sup> The court may grant such relief as it deems proper, including an injunction restraining the respondent from committing any acts of domestic violence, awarding to the petitioner the temporary exclusive use and possession of the dwelling that the parties share or excluding the respondent from the residence of the petitioner, and providing the petitioner a temporary parenting plan. Section 741.30(5), F.S.

<sup>18</sup> The only evidence admissible in the ex parte hearing is verified pleadings or affidavits, unless the respondent appears at the hearing *or* has received reasonable notice of the hearing. Section 741.30(5)(b), F.S.

<sup>19</sup> Section 741.30(5)(c), F.S.

<sup>20</sup> The court may grant a continuance of the hearing for good cause, which may include obtaining service of process. A temporary injunction must be extended, if necessary, during any period of continuance. Section 741.30(5)(c), F.S.

### ***Repeat, Dating, and Sexual Violence***

Section 784.046, F.S., governs the issuance of injunctions against repeat violence,<sup>21</sup> dating violence,<sup>22</sup> and sexual violence.<sup>23</sup> This statute largely parallels the provisions discussed above regarding domestic violence injunctions.

### ***Stalking and Cyberstalking***

Section 784.0485, F.S., governs the issuance of injunctions against stalking and cyberstalking. This statute largely parallels the provisions discussed above regarding domestic violence injunctions.

All three statutes are silent as to whether a temporary injunction may remain in effect past the 15 day time limit to allow a final injunction that is issued by the court to be served on the respondent.

### **Violation of an Injunction against Specified Acts of Violence**

A respondent violates the terms of an injunction against domestic, repeat, dating, or sexual violence, stalking, or cyberstalking if the respondent willfully:

- Refuses to vacate the dwelling that the parties share;<sup>24</sup>
- Goes to, or is within 500 feet of, the petitioner's residence, school, place of employment, or a specified place frequented regularly by the petitioner and any named family or household member;
- Commits an act of domestic, repeat, dating, or sexual violence, or stalking against the petitioner;
- Commits any other violation of the injunction through an intentional unlawful threat, word, or act to do violence to the petitioner;
- Telephones, contacts, or otherwise communicates with the petitioner directly or indirectly, unless the injunction specifically allows indirect contact through a third party;
- Knowingly and intentionally comes within 100 feet of the petitioner's motor vehicle, whether or not that vehicle is occupied;
- Defaces or destroys the petitioner's personal property, including the petitioner's car; or

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<sup>21</sup> Section 784.046(1)(b), F.S., defines "repeat violence" to mean two incidents of violence or stalking committed by the respondent, one of which must have been within 6 months of the filing of the petition, which are directed against the petitioner or the petitioner's immediate family member. Section 784.046(1)(a), F.S., defines "violence" to mean any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, or false imprisonment, or any criminal offense resulting in physical injury or death, by a person against any other person.

<sup>22</sup> Section 784.046(1)(d), F.S., defines "dating violence" to mean violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The following factors are considered when determining the existence of such a relationship: it must have existed within the past six months; it must have been characterized by the expectation of affection or sexual involvement between the parties; and it must have included that the persons be involved over time and on a continuous basis. (Dating violence does not include violence in a casual acquaintanceship or between individuals who have only engaged in ordinary fraternization.)

<sup>23</sup> Section 784.046(1)(c), F.S., defines "sexual violence" to mean any one incident of: sexual battery, lewd or lascivious act committed upon or in the presence of a person younger than 16 years of age, luring or enticing a child, sexual performance by a child, or any other forcible felony that involves a sexual act being attempted or committed. For purposes of this definition, it does not matter whether criminal charges based on the incident were filed, reduced, or dismissed by the state attorney.

<sup>24</sup> This action does not apply to an injunction against stalking or cyberstalking. Section 784.0487(4), F.S.



- Refuses to surrender firearms or ammunition if ordered to do so by the court.<sup>25</sup>

A court can enforce a violation of an injunction through civil or criminal contempt proceedings, or the state attorney may prosecute the violation as a first degree misdemeanor.<sup>26,27</sup>

### **Prohibition against Possessing a Firearm or Ammunition**

Under the firearms statute, a person may not have in his or her care, custody, possession, or control any firearm or ammunition if he or she has been issued a final protective injunction restraining that person from committing acts of domestic violence, stalking, or cyberstalking (acts of repeat, dating, or sexual violence are not currently included).<sup>28</sup> Violation of the prohibition results in a first degree misdemeanor penalty under s. 790.233, F.S. This prohibition is mirrored in the domestic violence statute,<sup>29</sup> but not in the stalking or cyberstalking statute.

### **Warrantless Arrests**

Section 901.15, F.S., prescribes when a law enforcement officer is authorized to conduct a warrantless arrest. Generally, the officer must witness a misdemeanor offense before making a warrantless arrest. If the officer does not witness it, he or she must first obtain an arrest warrant.<sup>30</sup>

There are certain exceptions to this rule, including when there is probable cause to believe that a person:

- Possesses a firearm or ammunition when the person is subject to a final injunction against domestic violence, stalking, or cyberstalking;<sup>31</sup>
- Commits a criminal act that violates the terms of an injunction against domestic, repeat, dating, or sexual violence;<sup>32</sup> or
- Commits an act of domestic or dating violence.<sup>33</sup>

Law enforcement officers acting in good faith and exercising due care in making a warrantless arrest are granted civil immunity when they believe a person has committed an act of domestic or dating violence, or violated the terms of an injunction against domestic, repeat, dating, or sexual violence.

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<sup>25</sup> Sections 741.31(4)(a), 784.047, and 784.0487, F.S.

<sup>26</sup> A first degree misdemeanor is punishable by up to one year in county jail and a potential \$1,000 fine. Sections 775.082 and 775.083, F.S.

<sup>27</sup> Sections 741.30(9), 784.046(9), and 784.0485(9), F.S.

<sup>28</sup> Section 790.233, F.S.

<sup>29</sup> Section 741.31(4)(b), F.S.

<sup>30</sup> Section 901.15, F.S.

<sup>31</sup> Section 901.15(6), F.S., in accordance with s. 790.233, F.S.

<sup>32</sup> This includes injunctions issued in accordance with ss. 741.30 or 784.046, F.S., or a foreign protection order accorded full faith and credit pursuant to s. 741.315, F.S. Additionally, the arrest may be made over the objection of the petitioner, if necessary. Section 901.15(6), F.S.

<sup>33</sup> Section 901.15(7), F.S., further provides that the arrest may be made without consent of the victim.

### III. Effect of Proposed Changes:

#### Regulation of Private Investigators

The bill creates s. 493.6204, F.S., to require a licensed private investigator or investigative agency to determine if the individual being investigated is a petitioner requesting notification of service of a protective injunction against domestic, repeat, dating, or sexual violence or a participant in the Address Confidentiality Program for domestic violence victims. If the subject of the investigation is such a petitioner or participant, the bill prohibits private investigators, private investigative agencies, and their agents from releasing the petitioner's or participant's personal identifying information. Private investigators who violate this prohibition commit a first degree misdemeanor under the bill and are subject to suspension or revocation of their license.

#### Injunctions for Protection against Specified Acts of Violence

The bill amends ss. 741.30 and 741.31, F.S., (domestic violence), s. 784.046, F.S., (repeat, dating, or sexual violence), and s. 784.0485, F.S. (stalking and cyberstalking), to specify that a temporary injunction is effective for a fixed period of time that cannot exceed 15 days, unless a final injunction is issued. In such instances, the temporary injunction remains in effect until the final injunction is served on the respondent.

The bill also amends s. 784.0487, F.S., to make it a first degree misdemeanor for a person to violate a stalking or cyberstalking injunction by having in his or her care, custody, possession, or control any firearm or ammunition. This mirrors current provisions found in s. 790.233, F.S., the firearms statute, as well as s. 741.31, F.S., which addresses violations of domestic violence injunctions.

#### Warrantless Arrests

The bill amends s. 901.15, F.S., to permit a law enforcement officer to conduct a warrantless arrest when there is probable cause to believe that the person has committed:

- A criminal act that violates the terms of an injunction against stalking or cyberstalking, or an act of child abuse occurring after a protective investigation is initiated,<sup>34</sup> or
- An act of repeat or sexual violence, stalking, cyberstalking, or child abuse.<sup>35</sup>

Similarly, the bill broadens the civil immunity provision to include a law enforcement officer who makes a good faith arrest of a person believed to have committed any of the above acts.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

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<sup>34</sup> This injunction is governed by s. 39.504, F.S.

<sup>35</sup> As provided in s. 39.01, F.S.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

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

None.

**B. Private Sector Impact:**

The bill could have a detrimental impact on private investigators.

**C. Government Sector Impact:**

There could be an indeterminate fiscal impact upon local jails to the extent that more persons are prosecuted and sent to jail for a first degree misdemeanor offense under the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 741.30, 741.31, 784.046, 784.0485, 784.0487, and 901.15.

This bill creates section 493.6204 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

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

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LEGISLATIVE ACTION

Senate

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. .  
. .  
. .  
. .

House

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The Committee on Criminal Justice (Dean) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (c) of subsection (5) of section  
741.30, Florida Statutes, is amended to read:

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



863916

11 (5)

12 (c) Any such ex parte temporary injunction ~~is shall be~~  
13 effective for a fixed period not to exceed 15 days. However, if  
14 a final injunction is issued for the same case, the  
15 effectiveness of the ex parte temporary injunction extends until  
16 the final injunction is served upon the respondent. A full  
17 hearing, as provided by this section, shall be set for a date no  
18 later than the date when the temporary injunction ceases to be  
19 effective. The court may grant a continuance of the hearing  
20 before or during a hearing for good cause shown by any party,  
21 which must ~~shall~~ include a continuance to obtain service of  
22 process. An ~~Any~~ injunction shall be extended, if necessary, so  
23 that it remains to remain in full force and effect during any  
24 period of continuance.

25 Section 2. Paragraph (c) of subsection (6) of section  
26 784.046, Florida Statutes, is amended to read:

27 784.046 Action by victim of repeat violence, sexual  
28 violence, or dating violence for protective injunction; dating  
29 violence investigations, notice to victims, and reporting;  
30 pretrial release violations; public records exemption.—

31 (6)

32 (c) Any such ex parte temporary injunction ~~is shall be~~  
33 effective for a fixed period not to exceed 15 days. An ~~However,~~  
34 ~~an~~ ex parte temporary injunction granted under subparagraph  
35 (2)(c)2. is effective for 15 days following the date the  
36 respondent is released from incarceration. However, if a final  
37 injunction is issued for the same case, the effectiveness of the  
38 ex parte temporary injunction extends until the final injunction  
39 is served upon the respondent. A full hearing, as provided by



863916

40 this section, shall be set for a date no later than the date  
41 when the temporary injunction ceases to be effective. The court  
42 may grant a continuance ~~of the ex parte injunction and the full~~  
43 ~~hearing~~ before or during a hearing, for good cause shown by any  
44 party, which must include a continuance to obtain service of  
45 process. An injunction shall be extended, if necessary, so that  
46 it remains in full force and effect during any period of  
47 continuance.

48 Section 3. Paragraph (c) of subsection (5) of section  
49 784.0485, Florida Statutes, is amended to read:

50 784.0485 Stalking; injunction; powers and duties of court  
51 and clerk; petition; notice and hearing; temporary injunction;  
52 issuance of injunction; statewide verification system;  
53 enforcement.-

54 (5)

55 (c) Any such ex parte temporary injunction is effective for  
56 a fixed period not to exceed 15 days. However, if a final  
57 injunction is issued for the same case, the effectiveness of the  
58 ex parte temporary injunction extends until the final injunction  
59 is served upon the respondent. A full hearing, as provided in  
60 this section, shall be set for a date no later than the date  
61 when the temporary injunction ceases to be effective. The court  
62 may grant a continuance of the hearing before or during a  
63 hearing for good cause shown by any party, which must ~~shall~~  
64 include a continuance to obtain service of process. An  
65 injunction shall be extended, if necessary, so that it remains  
66 ~~to remain~~ in full force and effect during any period of  
67 continuance.

68 Section 4. Section 784.047, Florida Statutes, is amended to



863916

69 read:

70 784.047 Penalties for violating protective injunction  
71 against violators.—

72 (1) A person who willfully violates an injunction for  
73 protection against repeat violence, sexual violence, or dating  
74 violence, issued pursuant to s. 784.046, or a foreign protection  
75 order accorded full faith and credit pursuant to s. 741.315, by:

76 (a)~~(1)~~ Refusing to vacate the dwelling that the parties  
77 share;

78 (b)~~(2)~~ Going to, or being within 500 feet of, the  
79 petitioner's residence, school, or place of employment, or a  
80 specified place frequented regularly by the petitioner or ~~and~~  
81 any named family or household member;

82 (c)~~(3)~~ Committing an act of repeat violence, sexual  
83 violence, or dating violence against the petitioner;

84 (d)~~(4)~~ Committing any other violation of the injunction  
85 through an intentional unlawful threat, word, or act to do  
86 violence to the petitioner;

87 (e)~~(5)~~ Telephoning, contacting, or otherwise communicating  
88 with the petitioner directly or indirectly, unless the  
89 injunction specifically allows indirect contact through a third  
90 party;

91 (f)~~(6)~~ Knowingly and intentionally coming within 100 feet  
92 of the petitioner's motor vehicle, whether or not that vehicle  
93 is occupied;

94 (g)~~(7)~~ Defacing or destroying the petitioner's personal  
95 property, including the petitioner's motor vehicle; or

96 (h)~~(8)~~ Refusing to surrender firearms or ammunition if  
97 ordered to do so by the court,





863916

98

99 commits a misdemeanor of the first degree, punishable as  
100 provided in s. 775.082 or s. 775.083.

101 (2) A person who violates a final injunction for protection  
102 against repeat violence, sexual violence, or dating violence by  
103 having in his or her care, custody, possession, or control any  
104 firearm or ammunition violates s. 790.233 and commits a  
105 misdemeanor of the first degree, punishable as provided in s.  
106 775.082 or s. 775.083.

107 Section 5. Paragraph (a) of subsection (4) of section  
108 784.0487, Florida Statutes, is amended, and subsection (6) is  
109 added to that section, to read:

110 784.0487 Violation of an injunction for protection against  
111 stalking or cyberstalking.—

112 (4) A person who willfully violates an injunction for  
113 protection against stalking or cyberstalking issued pursuant to  
114 s. 784.0485, or a foreign protection order accorded full faith  
115 and credit pursuant to s. 741.315, by:

116 (a) Going to, or being within 500 feet of, the petitioner's  
117 residence, school, or place of employment, or a specified place  
118 frequented regularly by the petitioner, ~~and~~ any named family  
119 members, or individuals closely associated with the petitioner;

120

121 commits a misdemeanor of the first degree, punishable as  
122 provided in s. 775.082 or s. 775.083.

123 (6) A person who violates a final injunction for protection  
124 against stalking or cyberstalking by having in his or her care,  
125 custody, possession, or control any firearm or ammunition  
126 violates s. 790.233 and commits a misdemeanor of the first



863916

127 degree, punishable as provided in s. 775.082 or s. 775.083.

128 Section 6. Subsection (1) of section 790.233, Florida  
129 Statutes, is amended to read:

130 790.233 Possession of firearm or ammunition prohibited when  
131 person is subject to an injunction against committing acts of  
132 domestic violence, repeat violence, dating violence, sexual  
133 violence, stalking, or cyberstalking; penalties.-

134 (1) A person may not have in his or her care, custody,  
135 possession, or control any firearm or ammunition if the person  
136 has been issued a final injunction that is currently in force  
137 and effect, restraining that person from committing acts of:

138 (a) Domestic violence, as issued under s. 741.30;

139 (b) Repeat violence, dating violence, or sexual violence,  
140 as issued under s. 784.046; or ~~from committing acts of~~

141 (c) Stalking or cyberstalking, as issued under s. 784.0485.

142 Section 7. Subsections (6) and (7) of section 901.15,  
143 Florida Statutes, are amended to read:

144 901.15 When arrest by officer without warrant is lawful.—A  
145 law enforcement officer may arrest a person without a warrant  
146 when:

147 (6) There is probable cause to believe that the person has  
148 committed a criminal act according to s. 790.233 or according to  
149 s. 39.504, s. 741.31, ~~or~~ s. 784.047, or s. 784.0487 which  
150 violates an injunction for protection entered pursuant to s.  
151 39.504, s. 741.30, ~~or~~ s. 784.046, or s. 784.0485, or a foreign  
152 protection order accorded full faith and credit pursuant to s.  
153 741.315, over the objection of the petitioner, if necessary.

154 (7) There is probable cause to believe that the person has  
155 committed an act of child abuse as provided in s. 39.01; an act



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156 of domestic violence, as defined in s. 741.28; an act of, or  
157 dating violence, repeat violence, or sexual violence as provided  
158 in s. 784.046; or an act of stalking or cyberstalking as  
159 provided in s. 784.0485. The decision to arrest does ~~shall~~ not  
160 require consent of the victim or consideration of the  
161 relationship of the parties. It is the public policy of this  
162 state to strongly discourage arrest and charges of both parties  
163 for domestic violence or dating violence on each other and to  
164 encourage training of law enforcement and prosecutors in these  
165 areas. A law enforcement officer who acts in good faith and  
166 exercises due care in making an arrest under this subsection,  
167 under s. 39.504, s. 741.31(4), ~~or s. 784.047,~~ or s. 784.0487, or  
168 pursuant to a foreign order of protection accorded full faith  
169 and credit pursuant to s. 741.315, is immune from civil  
170 liability that otherwise might result by reason of his or her  
171 action.

172 Section 8. This act shall take effect October 1, 2014.

173  
174 ===== T I T L E A M E N D M E N T =====

175 And the title is amended as follows:

176 Delete everything before the enacting clause  
177 and insert:

178 A bill to be entitled

179 An act relating to protective orders; amending ss.  
180 741.30, 784.046, and 784.0485, F.S.; extending the  
181 effectiveness of certain temporary injunctions in  
182 domestic violence, repeat violence, sexual violence,  
183 dating violence, or stalking proceedings in certain  
184 circumstances; amending ss. 784.047 and 784.0487,



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185 F.S.; providing that it is unlawful for a person to  
186 violate a final injunction for protection against  
187 repeat violence, dating violence, sexual violence,  
188 stalking, or cyberstalking by having in his or her  
189 care, custody, possession, or control any firearm or  
190 ammunition; providing penalties; amending s. 790.233,  
191 F.S.; conforming provisions to changes made by the  
192 act; amending s. 901.15, F.S.; expanding situations in  
193 which an arrest without a warrant is lawful to include  
194 probable cause of repeat violence, sexual violence,  
195 stalking, cyberstalking, or child abuse; providing an  
196 effective date.



503996

LEGISLATIVE ACTION

Senate

.  
. .  
. .  
. .  
. .

House

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The Committee on Criminal Justice (Dean) recommended the following:

**Senate Amendment to Amendment (863916)**

Delete lines 5 - 67

and insert:

Section 1. Paragraph (c) of subsection (5) of section 741.30, Florida Statutes, is amended, and paragraph (d) is added to that subsection, to read:

741.30 Domestic violence; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification



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11 system; enforcement; public records exemption.-

12 (5)

13 (c) Any such ex parte temporary injunction is shall be  
14 effective for a fixed period not to exceed 15 days unless after  
15 a full hearing, a final injunction is issued on the same case.  
16 In that instance, the temporary injunction remains in full force  
17 and effect until the final injunction is served upon the  
18 respondent.

19 (d) A full hearing, as provided by this section, shall be  
20 set for a date no later than the date when the ex parte  
21 temporary injunction ceases to be effective. The court may grant  
22 a continuance of the hearing before or during a hearing for good  
23 cause shown by any party. The need to obtain service of process  
24 constitutes good cause. A temporary, which shall include a  
25 continuance to obtain service of process. Any injunction that is  
26 already served must shall be extended, if necessary, so that it  
27 remains to remain in full force and effect during any period of  
28 continuance.

29 Section 2. Paragraph (c) of subsection (6) of section  
30 784.046, Florida Statutes, is amended, and paragraph (d) is  
31 added to that subsection, to read:

32 784.046 Action by victim of repeat violence, sexual  
33 violence, or dating violence for protective injunction; dating  
34 violence investigations, notice to victims, and reporting;  
35 pretrial release violations; public records exemption.-

36 (6)

37 (c) Any such ex parte temporary injunction is shall be  
38 effective for a fixed period not to exceed 15 days, and-  
39 ~~However,~~ an ex parte temporary injunction granted under



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40 subparagraph (2)(c)2. is effective for 15 days following the  
41 date the respondent is released from incarceration unless after  
42 a full hearing, a final injunction is issued on the same case.  
43 In that instance, the temporary injunction remains in full force  
44 and effect until the final injunction is served upon the  
45 respondent.

46 (d) A full hearing, as provided by this section, shall be  
47 set for a date no later than the date when the ex parte  
48 temporary injunction ceases to be effective. The court may grant  
49 a continuance of the ~~ex parte injunction and the full hearing~~  
50 before or during the a hearing, for good cause shown by any  
51 party. The need to obtain service of process constitutes good  
52 cause. A temporary injunction that is already served must be  
53 extended, if necessary, so that it remains in full force and  
54 effect during any period of continuance.

55 Section 3. Paragraph (c) of subsection (5) of section  
56 784.0485, Florida Statutes, is amended, and paragraph (d) is  
57 added to that subsection, to read:

58 784.0485 Stalking; injunction; powers and duties of court  
59 and clerk; petition; notice and hearing; temporary injunction;  
60 issuance of injunction; statewide verification system;  
61 enforcement.-

62 (5)

63 (c) Any such ex parte temporary injunction is effective for  
64 a fixed period not to exceed 15 days unless after a full  
65 hearing, a final injunction is issued on the same case. In that  
66 instance, the temporary injunction remains in full force and  
67 effect until the final injunction is served upon the respondent.

68 (d) A full hearing, as provided in this section, shall be



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69 set for a date no later than the date when the ex parte  
70 temporary injunction ceases to be effective. The court may grant  
71 a continuance of the hearing before or during the ~~a~~ hearing for  
72 good cause shown by any party. The need to obtain service of  
73 process constitutes good cause. A temporary, ~~which shall include~~  
74 ~~a continuance to obtain service of process. An~~ injunction that  
75 is already served must ~~shall~~ be extended, if necessary, so that  
76 it remains ~~to remain~~ in full force and effect during any period  
77 of continuance.



By Senator Dean

5-00547A-14

2014920\_\_

1 A bill to be entitled  
 2 An act relating to the protection of crime victims;  
 3 creating s. 493.6204, F.S.; requiring a licensed  
 4 private investigator and private investigative agency  
 5 to determine if an individual being investigated is a  
 6 petitioner requesting notification of service of an  
 7 injunction for protection against domestic violence,  
 8 repeat violence, sexual violence, or dating violence  
 9 or is a participant in the Address Confidentiality  
 10 Program for Victims of Domestic Violence within the  
 11 Office of the Attorney General; prohibiting the  
 12 private investigator, the private investigative  
 13 agency, and their agents from releasing such  
 14 petitioner's or participant's personal identifying  
 15 information; providing penalties; amending s. 741.30,  
 16 F.S.; revising the effective period of an ex parte  
 17 temporary injunction for protection against domestic  
 18 violence; amending s. 741.31, F.S.; making technical  
 19 changes; amending s. 784.046, F.S.; revising the  
 20 effective period of an ex parte temporary injunction  
 21 for protection against repeat violence, sexual  
 22 violence, or dating violence; amending s. 784.0485,  
 23 F.S.; revising the effective period of an ex parte  
 24 temporary injunction for protection against stalking;  
 25 amending s. 784.0487, F.S.; providing that a person  
 26 commits a misdemeanor of the first degree if he or she  
 27 violates a final injunction for protection against  
 28 stalking or cyberstalking by having in his or her  
 29 care, custody, possession, or control any firearm or

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30 ammunition; providing penalties; making technical  
 31 changes; amending s. 901.15, F.S.; conforming  
 32 provisions to changes made by the act; expanding  
 33 situations in which an arrest without a warrant is  
 34 lawful to include probable cause for stalking,  
 35 cyberstalking, child abuse, or failing to comply with  
 36 certain protective injunctions; providing an effective  
 37 date.

38  
 39 Be It Enacted by the Legislature of the State of Florida:

40  
 41 Section 1. Section 493.6204, Florida Statutes, is created  
 42 to read:

43 493.6204 Prohibition against releasing information.—If a  
 44 private investigator licensed under this chapter or a private  
 45 investigative agency licensed under this chapter is hired to  
 46 investigate an individual, the private investigator or the  
 47 private investigative agency shall determine if the individual  
 48 is a petitioner requesting notification of service of an  
 49 injunction for protection against domestic violence under s.  
 50 741.30(8)(c) or against repeat violence, sexual violence, or  
 51 dating violence under s. 784.046(8)(c) or if the individual is a  
 52 participant in the Address Confidentiality Program for Victims  
 53 of Domestic Violence under s. 741.465. If the individual is such  
 54 a petitioner or participant, the private investigator, the  
 55 private investigative agency, or their agents may not release to  
 56 anyone the individual's name, social security number, home  
 57 address, employment address, home telephone number, employment  
 58 telephone number, cellular telephone number, or e-mail address

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59 or other electronic means of locating or identifying the  
 60 individual. A violation of this section is a misdemeanor of the  
 61 first degree, punishable as provided in s. 775.082 or s.  
 62 775.083, and the license of such private investigator or private  
 63 investigative agency is subject to suspension or revocation as  
 64 provided in this chapter.

65 Section 2. Paragraph (c) of subsection (5) of section  
 66 741.30, Florida Statutes, is amended to read:

67 741.30 Domestic violence; injunction; powers and duties of  
 68 court and clerk; petition; notice and hearing; temporary  
 69 injunction; issuance of injunction; statewide verification  
 70 system; enforcement; public records exemption.-

71 (5)

72 (c) Any such ex parte temporary injunction is shall be  
 73 effective for a fixed period not to exceed 15 days unless a  
 74 final injunction is issued for the same case which extends the  
 75 effectiveness of the ex parte temporary injunction until the  
 76 final injunction is served. A full hearing, as provided by this  
 77 section, shall be set for a date no later than the date when the  
 78 temporary injunction ceases to be effective. The court may grant  
 79 a continuance of the hearing before or during a hearing for good  
 80 cause shown by any party, which must shall include a continuance  
 81 to obtain service of process. An Any injunction shall be  
 82 extended, if necessary, so that it remains to remain in full  
 83 force and effect during any period of continuance.

84 Section 3. Subsection (4) of section 741.31, Florida  
 85 Statutes, is amended to read:

86 741.31 Violation of an injunction for protection against  
 87 domestic violence.-

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88 (4) (a) A person who willfully violates an injunction for  
 89 protection against domestic violence issued pursuant to s.  
 90 741.30, or a foreign protection order accorded full faith and  
 91 credit pursuant to s. 741.315, by:

92 1. Refusing to vacate the dwelling that the parties share;  
 93 2. Going to, or being within 500 feet of, the petitioner's  
 94 residence, school, or place of employment, or a specified place  
 95 frequented regularly by the petitioner and any named family or  
 96 household member;

97 3. Committing an act of domestic violence against the  
 98 petitioner;

99 4. Committing any other violation of the injunction through  
 100 an intentional unlawful threat, word, or act to do violence to  
 101 the petitioner;

102 5. Telephoning, contacting, or otherwise communicating with  
 103 the petitioner directly or indirectly, unless the injunction  
 104 specifically allows indirect contact through a third party;

105 6. Knowingly and intentionally coming within 100 feet of  
 106 the petitioner's motor vehicle, whether or not that vehicle is  
 107 occupied;

108 7. Defacing or destroying the petitioner's personal  
 109 property, including the petitioner's motor vehicle; or

110 8. Refusing to surrender firearms or ammunition if ordered  
 111 to do so by the court,

112  
 113 commits a misdemeanor of the first degree, punishable as  
 114 provided in s. 775.082 or s. 775.083.

115 (b)1. A person who violates a final injunction for  
 116 protection against domestic violence by having in his or her

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117 care, custody, possession, or control any firearm or ammunition  
 118 ~~violates It is a violation of s. 790.233, and commits a~~  
 119 misdemeanor of the first degree, punishable as provided in s.  
 120 775.082 or s. 775.083, ~~for a person to violate a final~~  
 121 ~~injunction for protection against domestic violence by having in~~  
 122 ~~his or her care, custody, possession, or control any firearm or~~  
 123 ~~ammunition.~~

124 2. It is the intent of the Legislature that the  
 125 disabilities regarding possession of firearms and ammunition are  
 126 consistent with federal law. Accordingly, this paragraph does  
 127 ~~shall~~ not apply to a state or local officer as defined in s.  
 128 943.10(14), holding an active certification, who receives or  
 129 possesses a firearm or ammunition for use in performing official  
 130 duties on behalf of the officer's employing agency, unless  
 131 otherwise prohibited by the employing agency.

132 Section 4. Paragraph (c) of subsection (6) of section  
 133 784.046, Florida Statutes, is amended to read:

134 784.046 Action by victim of repeat violence, sexual  
 135 violence, or dating violence for protective injunction; dating  
 136 violence investigations, notice to victims, and reporting;  
 137 pretrial release violations; public records exemption.-

138 (6)

139 (c) Any such ex parte temporary injunction ~~is shall be~~  
 140 effective for a fixed period not to exceed 15 days unless a  
 141 final injunction is issued for the same case which extends the  
 142 effectiveness of the temporary injunction until the final  
 143 injunction is served. However, an ex parte temporary injunction  
 144 granted under subparagraph (2)(c)2. is effective for 15 days  
 145 following the date the respondent is released from incarceration

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146 unless a final injunction is issued for the same case which  
 147 extends the effectiveness of the ex parte temporary injunction  
 148 until the final injunction is served. A full hearing, as  
 149 provided by this section, shall be set for a date no later than  
 150 the date when the temporary injunction ceases to be effective.  
 151 The court may grant a continuance of the ex parte injunction and  
 152 the full hearing before or during a hearing, for good cause  
 153 shown by any party.

154 Section 5. Paragraph (c) of subsection (5) of section  
 155 784.0485, Florida Statutes, is amended to read:

156 784.0485 Stalking; injunction; powers and duties of court  
 157 and clerk; petition; notice and hearing; temporary injunction;  
 158 issuance of injunction; statewide verification system;  
 159 enforcement.-

160 (5)

161 (c) Any such ex parte temporary injunction is effective for  
 162 a fixed period not to exceed 15 days unless a final injunction  
 163 is issued for the same case which extends the effectiveness of  
 164 the ex parte temporary injunction until the final injunction is  
 165 served. A full hearing, as provided in this section, shall be  
 166 set for a date no later than the date when the temporary  
 167 injunction ceases to be effective. The court may grant a  
 168 continuance of the hearing before or during a hearing for good  
 169 cause shown by any party, which must ~~shall~~ include a continuance  
 170 to obtain service of process. An injunction shall be extended,  
 171 if necessary, so that it ~~remains to remain~~ remains in full force and  
 172 effect during any period of continuance.

173 Section 6. Subsection (4) of section 784.0487, Florida  
 174 Statutes, is amended, and subsection (6) is added to that

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175 section, to read:

176 784.0487 Violation of an injunction for protection against  
177 stalking or cyberstalking.—

178 (4) A person who willfully violates an injunction for  
179 protection against stalking or cyberstalking issued pursuant to  
180 s. 784.0485, or a foreign protection order accorded full faith  
181 and credit pursuant to s. 741.315, by:

182 (a) Going to, or being within 500 feet of, the petitioner's  
183 residence, school, or place of employment, or a specified place  
184 frequented regularly by the petitioner and any named family  
185 members or individuals closely associated with the petitioner;

186 (b) Committing an act of stalking against the petitioner;

187 (c) Committing any other violation of the injunction  
188 through an intentional unlawful threat, word, or act to do  
189 violence to the petitioner;

190 (d) Telephoning, contacting, or otherwise communicating  
191 with the petitioner, directly or indirectly, unless the  
192 injunction specifically allows indirect contact through a third  
193 party;

194 (e) Knowingly and intentionally coming within 100 feet of  
195 the petitioner's motor vehicle, whether or not that vehicle is  
196 occupied;

197 (f) Defacing or destroying the petitioner's personal  
198 property, including the petitioner's motor vehicle; or

199 (g) Refusing to surrender firearms or ammunition if ordered  
200 to do so by the court,

201  
202 commits a misdemeanor of the first degree, punishable as  
203 provided in s. 775.082 or s. 775.083.

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204 (6) A person who violates a final injunction for protection  
205 against stalking or cyberstalking by having in his or her care,  
206 custody, possession, or control any firearm or ammunition  
207 violates s. 790.233 and commits a misdemeanor of the first  
208 degree, punishable as provided in s. 775.082 or s. 775.083.

209 Section 7. Subsections (6) and (7) of section 901.15,  
210 Florida Statutes, are amended to read:

211 901.15 When arrest by officer without warrant is lawful.—A  
212 law enforcement officer may arrest a person without a warrant  
213 when:

214 (6) There is probable cause to believe that the person has  
215 committed a criminal act according to s. 790.233 or according to  
216 s. 39.504, s. 741.31, ~~or~~ s. 784.047, or s. 784.0487 which  
217 violates an injunction for protection entered pursuant to s.  
218 39.504, s. 741.30, ~~or~~ s. 784.046, or s. 784.0485, or a foreign  
219 protection order accorded full faith and credit pursuant to s.  
220 741.315, over the objection of the petitioner, if necessary.

221 (7) There is probable cause to believe that the person has  
222 committed an act of domestic violence, ~~as defined in s. 741.28;~~  
223 ~~or~~ dating violence, repeat violence, or sexual violence as  
224 defined ~~provided~~ in s. 784.046; stalking or cyberstalking as  
225 defined in s. 784.048; or abuse as defined in s. 39.01. The  
226 decision to arrest ~~does shall~~ not require consent of the victim  
227 or consideration of the relationship of the parties. It is the  
228 public policy of this state to strongly discourage arrest and  
229 charges of both parties for domestic violence or dating violence  
230 on each other and to encourage training of law enforcement and  
231 prosecutors in these areas. A law enforcement officer who acts  
232 in good faith and exercises due care in making an arrest under

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233 this subsection, under s. 39.504, s. 741.31(4), ~~or~~ s. 784.047,  
234 or s. 784.0487, or pursuant to a foreign order of protection  
235 accorded full faith and credit pursuant to s. 741.315~~7~~, is immune  
236 from civil liability that otherwise might result by reason of  
237 his or her action.

238 Section 8. This act shall take effect October 1, 2014.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/17/14

Meeting Date

Topic Criminal Justice

Bill Number SB 920  
*(if applicable)*

Name Denise Cross

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title \_\_\_\_\_

Address P.O. Box 28117  
*Street*

Phone 904-613-5329

JAX, Fla 32226  
*City State Zip*

E-mail noturndowns@yahoo.com

Speaking:  For  Against  Information

Representing No Flack

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/17/14  
Meeting Date

Topic Protection of Crime Victims

Bill Number 920  
*(if applicable)*

Name Keri Rayborn Silver

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title \_\_\_\_\_

Address PO Box 1565  
Street  
Tallahassee FL 32302  
City State Zip

Phone 850-524-2394

E-mail Keri@raybornconsultants.com

Speaking:  For  Against  Information

Representing Florida Sheriffs Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/19/14  
Meeting Date

Topic CRIMINAL JUSTICE

Bill Number SB 920  
(if applicable)

Name ESTHER J. JORDAN

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title CITIZEN

Address 1447 Royal Ct. LN

Phone ~~904~~ 754 201 9692  
~~904 492 7680264~~

JAX, FL 32209  
City State Zip

E-mail Janet.JORDANJ@aol.com

Speaking:  For  Against  Information

Representing NO-FLAC Yielding my Time To Shirley Reed

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

1207

Meeting Date \_\_\_\_\_

Topic Criminal Justice

Bill Number SB 920 / SB 30  
*(if applicable)*

Name Eunice Barnum

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Citizen / constituent

Address 9121 Spottswood Rd

Phone \_\_\_\_\_

Street

Apal FL 32208

E-mail \_\_\_\_\_

City

State

Zip

Speaking:  For  Against  Information

Representing NO-FLAC

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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*stand your ground*  
SB's 130 & 122

Meeting Date \_\_\_\_\_

Topic Criminal Justice

Bill Number SB 920 *Crime Victim*  
(if applicable)

Name Shirley A. Reed

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Citizen

Address 2150 Emerson St #240  
Street

Phone 904-396-4337

Jacksonville, FL 32207  
City State Zip

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing NO-FLAC

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

03/17/11

Meeting Date

Topic Criminal Justice

SB 130/122  
Bill Number SB 920 -  
*(if applicable)*

Name Berman E. Vivas

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Citizen

Address 1378 Rensselaer Ave

Phone 904-314-6123

Street

Jacksonville FL 32205

City

State

Zip

E-mail qvivas927@gmail.com

Speaking:  For  Against  Information

Representing SELF

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

N/A

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

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

S-001 (10/20/11)



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Environmental Preservation and  
Conservation, *Chair*  
Appropriations Subcommittee on Criminal and  
Civil Justice  
Appropriations Subcommittee on General  
Government  
Children, Families, and Elder Affairs  
Criminal Justice  
Gaming  
Military Affairs, Space, and Domestic Security

**SENATOR CHARLES S. DEAN, SR.**  
5th District

February 11, 2014

The Honorable Greg Evers  
308 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chairman Evers,

I respectfully request you place Senate Bill 920, relating to Protection of Crime Victims, on your Criminal Justice Committee agenda at your earliest convenience.

If you have any concerns, please do not hesitate to contact me personally.

Sincerely,

A handwritten signature in cursive script that reads "Charles S. Dean".

Charles S. Dean  
State Senator District 5

cc: Amanda Cannon, Staff Director

**REPLY TO:**

- 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
- 311 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005
- 315 SE 25th Avenue, Ocala, Florida 34471-2689 (352) 873-6513

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**DON GAETZ**  
President of the Senate

**GARRETT RICHTER**  
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.)

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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BILL: SB 1406

INTRODUCER: Senator Abruzzo

SUBJECT: Care for Retired Law Enforcement Dogs

DATE: March 14, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 1406 creates the Care for Retired Law Enforcement Dogs Program. The program will provide reimbursement for up to \$1,500 of annual veterinary costs associated with caring for a retired law enforcement dog.

Recurring funds in the amount of \$300,000 is appropriated to the Florida Department of Law Enforcement from the General Revenue Fund to fund the program for the 2014-15 fiscal year.

**II. Present Situation:**

As the bill states, in recent years, law enforcement dogs have become an integral part of many law enforcement efforts statewide, including suspect apprehension through tracking and searching, evidence location, drug and bomb detection, and search and rescue operations. Law enforcement agencies agree that the use of law enforcement dogs is an extremely cost-effective means for crime control and that these dogs possess skills and abilities that frequently exceed that of existing technology.

Section 843.19, F.S., sets forth the following criminal law violations involving police dogs and other service animals:

- Any person who intentionally and knowingly, without lawful cause or justification, causes great bodily harm, permanent disability, or death to, or uses a deadly weapon upon, a police dog, fire dog, SAR dog, or police horse commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- Any person who actually and intentionally maliciously touches, strikes, or causes bodily harm to a police dog, fire dog, SAR dog, or police horse commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, F.S.
- Any person who intentionally or knowingly maliciously harasses, teases, interferes with, or attempts to interfere with a police dog, fire dog, SAR dog, or police horse while the animal is

in the performance of its duties commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, F.S.

Just one example of a law enforcement dog's invaluable service is Koda, who worked with the Leon County Sheriff's Office. K9 Koda was shot and killed in January 2013 as he attempted to immobilize a subject following a vehicle pursuit. Deputies pursued a vehicle several blocks until the vehicle crashed into a ditch. The subject continued to flee on foot and then opened fire on K9 Koda and deputies. Two deputies returned fire and wounded the subject before taking him into custody. It was later determined that the subject was wanted on warrants for attempted first degree murder, aggravated battery with a deadly weapon, and discharging a firearm from a vehicle.<sup>1</sup>

### III. Effect of Proposed Changes:

The bill creates the Care for Retired Law Enforcement Dogs Program (program) within the Florida Department of Law Enforcement (FDLE). The program is funded from the General Revenue Fund with the sum of \$300,000, recurring funds, beginning in the 2014-2015 fiscal year. The funds will be appropriated to the FDLE Operating Trust Fund. FDLE will hold the funds in a separate depository account for the corporation under contract with FDLE to administer the program.

The program will provide up to \$1,500 to any former handler or adopter of a retired law enforcement dog for reimbursement of veterinary care provided to the dog. The former handler or adopter must submit a valid invoice from a veterinarian in this state for reimbursement to occur. When the annual funding for the program is depleted, reimbursements must be discontinued for the remainder of the year.

“Retired law enforcement dog” is defined by the bill as a dog that has received certification in obedience and apprehension work from a certifying organization, such as the National Police Canine Association.<sup>2</sup> The dog must have been in the service of or employed by a law enforcement agency in this state for the purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders, but the dog no longer serves in the capacity of a law enforcement dog.

The bill defines “law enforcement agency” as a state or local public agency that has primary responsibility for the prevention and detection of crime or the enforcement of the penal, traffic, highway, regulatory, game, immigration, postal, customs, or controlled substance laws.

The bill adopts the term “veterinarian” from s. 474.202, F.S. Subsection (11) of s. 474.202, F.S., defines “veterinarian” as a health care practitioner who is licensed to engage in the practice of

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<sup>1</sup> Read more: <http://www.odmp.org/k9/1497-k9-koda#ixzz2vrveuHYu>

<sup>2</sup> [www.npca.net](http://www.npca.net) (last visited March 13, 2014). The National Police Canine Association is one of many such organizations in the country including The Florida Law Enforcement Canine Association (FLECA) which is a 501(c)(3) non-profit organization dedicated to the training and certification of Florida's Law Enforcement Canine Teams according to the website, <http://www.flecak9.com/>. Additionally, the FDLE provides a 400 hour K-9 Team training course and proficiency exam.

veterinary medicine in Florida under the authority of this chapter.<sup>3</sup> The bill refers to ss. 474.202(9) and (13), F.S., in defining “veterinary care.”<sup>4</sup> The bill also lists the following veterinary services:

- annual wellness examinations,
- vaccines,
- internal and external parasite prevention treatments,
- testing and treatment of illnesses and diseases,
- prescribing and dispensing medications,
- emergency care and surgeries,
- care provided in specialties of veterinary medicine such as veterinary oncology, and euthanasia, when provided by a veterinarian, and
- the term also includes cremation.

FDLE is directed to contract with a not-for-profit corporation to administer and manage the program. The corporation must be organized under ch. 617, F.S.<sup>5</sup>

The contract with FDLE is to be entered into with a not-for-profit corporation that:

- Is dedicated to the protection and care of retired law enforcement dogs.
- Holds tax-exempt status under the Internal Revenue code as a s. 501(c)(3) organization.<sup>6</sup>
- Has held tax-exempt status for at least 5 years.
- Agrees to be subject to review and audit at the discretion of the Auditor General to ensure accurate accounting and disbursement of state funds.

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<sup>3</sup> Other references include: (6) “Limited-service veterinary medical practice” means offering or providing veterinary services at any location that has a primary purpose other than that of providing veterinary medical service at a permanent or mobile establishment permitted by the board; provides veterinary medical services for privately owned animals that do not reside at that location; operates for a limited time; and provides limited types of veterinary medical services.

(7) “Mobile veterinary establishment” and “mobile clinic” mean a mobile unit which contains the same treatment facilities as are required of a permanent veterinary establishment or which has entered into a written agreement with another veterinary establishment to provide any required facilities not available in the mobile unit. The terms do not refer to the use of a car, truck, or other motor vehicle by a veterinarian making a house call. s. 474.202, F.S.

<sup>4</sup> (9) “Practice of veterinary medicine” means diagnosing the medical condition of animals and prescribing, dispensing, or administering drugs, medicine, appliances, applications, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease thereof; performing any manual procedure for the diagnosis of or treatment for pregnancy or fertility or infertility of animals; or representing oneself by the use of titles or words, or undertaking, offering, or holding oneself out, as performing any of these functions. The term includes the determination of the health, fitness, or soundness of an animal.

(13) “Veterinary medicine” includes, with respect to animals, surgery, acupuncture, obstetrics, dentistry, physical therapy, radiology, theriogenology, and other branches or specialties of veterinary medicine. s. 474.202, F.S.

<sup>5</sup> “Corporation not for profit” means a corporation no part of the income or profit of which is distributable to its members, directors, or officers, except as otherwise provided under this chapter. s. 617.01401(5), F.S.

<sup>6</sup> Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office. 26 U.S.C.A. s. 501(c)(3).

- Demonstrates the ability to effectively and efficiently disseminate information and assist former handlers and adopters of retired law enforcement dogs in understanding what the bill provides.
- Receives administrative fees, including salaries and benefits, not to exceed 10 percent of appropriated funds.

Funds held in the separate depository account for the corporation administering the program, must revert to FDLE if the contract between the corporation and FDLE expires or is terminated. All unexpended funds will be certified forward on July 1 of each year. The fund balance for the program may not exceed \$400,000.

The provisions in the bill become effective July 1, 2014.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons who have adopted retired law enforcement dogs or former handlers who have kept their dogs after the dog's retirement may benefit from the program created by the bill if they are reimbursed for related veterinary costs.

C. Government Sector Impact:

At the time of the writing of this Bill Analysis it was unknown whether FDLE anticipated any fiscal impact resulting from the contract oversight and fund management required by the bill.

#### **VI. Technical Deficiencies:**

None.



**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates an unnumbered section of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.

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

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LEGISLATIVE ACTION

Senate

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House

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The Committee on Criminal Justice (Altman) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 943.69, Florida Statutes, is created to  
read:

943.69 Care for Retired Law Enforcement Dogs Program Act.-

(1) SHORT TITLE.-This section may be cited as the "Care for  
Retired Law Enforcement Dogs Program Act."

(2) DEFINITIONS.-As used in this section, the term:



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11           (a) "Law enforcement agency" means a lawfully established  
12 state or local public agency having primary responsibility for  
13 the prevention and detection of crime or the enforcement of the  
14 penal, traffic, highway, regulatory, game, immigration, postal,  
15 customs, or controlled substance laws.

16           (b) "Retired law enforcement dog" means any dog that was in  
17 the service of or employed by a law enforcement agency in this  
18 state for the principal purpose of aiding in the detection of  
19 criminal activity, enforcement of laws, or apprehension of  
20 offenders but that no longer serves in the capacity of a law  
21 enforcement dog. The retired law enforcement dog must have  
22 received certification in obedience and apprehension work from a  
23 certifying organization such as the National Police Canine  
24 Association or other certifying organization.

25           (c) "Veterinarian" has the same meaning as provided in s.  
26 474.202, Florida Statutes.

27           (d) "Veterinary care" means any veterinary medical service  
28 described in s. 474.202(9) or s. 474.202(13), Florida Statutes.  
29 The term includes annual wellness examinations, vaccines,  
30 internal and external parasite prevention treatments, testing  
31 and treatment of illnesses and diseases, medications, emergency  
32 care and surgeries, specialties of veterinary medicine such as  
33 veterinary oncology, and euthanasia, if each of the services is  
34 provided by a veterinarian. The term also includes cremation.

35           (3) LEGISLATIVE FINDINGS.— The Legislature finds that:

36           (a) Law enforcement dogs have become an integral part of  
37 many law enforcement efforts statewide, including suspect  
38 apprehension through tracking and searching, evidence location,  
39 drug and bomb detection, and search and rescue operations;



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40 (b) Law enforcement agencies agree that the use of law  
41 enforcement dogs is an extremely cost-effective means for crime  
42 control and that these dogs possess skills and abilities that  
43 frequently exceed that of existing technology;

44 (c) The work of law enforcement dogs is often dangerous and  
45 can cause these dogs to incur injuries at a rate higher than the  
46 rate of injuries that occurs with nonworking dogs; and

47 (d) Law enforcement dogs provide significant contributions  
48 to the residents of this state.

49 (4) ESTABLISHMENT OF PROGRAM.—The Care for Retired Law  
50 Enforcement Dogs Program is created within the Department of Law  
51 Enforcement to provide a stable funding source for former  
52 handlers and adopters of retired law enforcement dogs to provide  
53 veterinary care for these dogs.

54 (5) ADMINISTRATION.—The Department of Law Enforcement shall  
55 contract with a corporation not for profit organized under  
56 chapter 617, Florida Statutes, to administer and manage the Care  
57 for Retired Law Enforcement Dogs Program. Notwithstanding the  
58 competitive sealed bid procedures required under chapter 287,  
59 Florida Statutes, the department shall enter into a contract  
60 with a corporation that:

61 (a) Is dedicated to the protection or care of retired law  
62 enforcement dogs;

63 (b) Holds exempt status under s. 501(a) of the Internal  
64 Revenue Code as an organization described in s. 501(c)(3) of the  
65 Internal Revenue Code;

66 (c) Has held its exempt status for at least 5 years;

67 (d) Agrees to be subject to review and audit at the  
68 discretion of the Auditor General to ensure accurate accounting



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69 and disbursement of state funds; and

70 (e) Demonstrates the ability to effectively and efficiently  
71 disseminate information and assist former handlers and adopters  
72 of retired law enforcement dogs in understanding the provisions  
73 of this section.

74 (6) FUNDING.—

75 (a) The corporation shall be the disbursing authority for  
76 funds appropriated by the Legislature to the Department of Law  
77 Enforcement for the Care for Retired Law Enforcement Dogs  
78 Program. These funds shall be disbursed upon receipt of:

79 1. Valid documentation from the law enforcement agency the  
80 dog retired from verifying that the dog was in the service of or  
81 employed by such agency; and

82 2. A valid invoice, submitted by the former handler or  
83 adopter of a retired law enforcement dog, from a veterinarian  
84 for veterinary care provided in the state to a retired law  
85 enforcement dog.

86 (b) Annual disbursements to any former handler or adopter  
87 of a retired law enforcement dog are limited to \$1,500 per  
88 retired law enforcement dog. A former handler or adopter of a  
89 retired law enforcement dog may not accumulate unused funds from  
90 one year for use in a future year.

91 (c) A former handler or adopter of a retired law  
92 enforcement dog who seeks reimbursement for veterinary services  
93 shall not receive reimbursement if funds for the Care for  
94 Retired Law Enforcement Dogs Program are depleted in the year  
95 for which the reimbursement is sought.

96 (d) Funds appropriated for the Care for Retired Law  
97 Enforcement Dogs Program shall be held in the Operating Trust



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98 Fund of the Department of Law Enforcement in a separate  
99 depository account in the name of the corporation and subject to  
100 the provisions of the contract with the department. The contract  
101 must provide:

102 1. The corporation must receive administrative fees,  
103 including salaries and benefits, not to exceed 10 percent of  
104 appropriated funds; and

105 2. That any funds held in the separate depository account  
106 in the name of the corporation must revert to the department if  
107 the contract expires or is terminated.

108 (e) Notwithstanding s. 216.301, Florida Statutes, and  
109 pursuant to s. 216.351, Florida Statutes, the Executive Office  
110 of the Governor shall, on July 1 of each year, certify forward  
111 all unexpended funds appropriated pursuant to this section.  
112 However, in no event shall the fund balance for the Care for  
113 Retired Law Enforcement Dogs Program exceed \$400,000.

114 (7) RULEMAKING AUTHORITY.- The department shall adopt rules  
115 and forms pursuant to ss. 120.536(1) and 120.54 to implement the  
116 requirements of this section.

117 Section 2. Beginning in the 2014-2015 fiscal year and each  
118 year thereafter, the sum of \$300,000 in recurring funds is  
119 appropriated from the General Revenue Fund to the Department of  
120 Law Enforcement for the purpose of implementing the Care for  
121 Retired Law Enforcement Dogs Program as created by this act.

122 Section 3. This act shall take effect July 1, 2014

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

125 And the title is amended as follows:

126 Delete everything before the enacting clause



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127 and insert:

128                                   A bill to be entitled

129           An act relating to care for retired law enforcement dogs;  
130 creating s. 943.69, F.S.; providing a short title; providing  
131 definitions; providing legislative findings; creating the Care  
132 for Retired Law Enforcement Dogs Program within the Department  
133 of Law Enforcement; requiring the department to contract with a  
134 corporation not for profit to administer the program and  
135 providing criteria therefor; providing specific procedures for  
136 how funds will be disbursed for the veterinary care of eligible  
137 retired law enforcement dogs; limiting the amount of funds  
138 available for any eligible retired law enforcement dog in any  
139 one year; providing for the deposit of program funds; providing  
140 for the reversion of funds to the department under certain  
141 circumstances; providing for the carryforward of unexpended  
142 appropriations for use in the program up to certain limits;  
143 providing rulemaking authority; providing an annual  
144 appropriation; providing an effective date.

By Senator Abruzzo

25-01460-14

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A bill to be entitled

An act relating to care for retired law enforcement dogs; providing a short title; providing definitions; creating the Care for Retired Law Enforcement Dogs Program within the Department of Law Enforcement; requiring the department to contract with a not-for-profit corporation meeting specified criteria to administer the program; providing specific procedures for disbursement of funds for the veterinary care of eligible retired law enforcement dogs; limiting the amount of annual funds available for an eligible retired law enforcement dog; providing for the deposit of program funds; providing for the reversion of funds to the department under certain circumstances; providing for the carryforward of unexpended appropriations for use in the program up to certain limits; providing an annual appropriation; providing an effective date.

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

Section 1. (1) SHORT TITLE.—This section may be cited as the "Care for Retired Law Enforcement Dogs Program Act."

(2) DEFINITIONS.—As used in this section, the term:

(a) "Law enforcement agency" means a state or local public agency that has primary responsibility for the prevention and detection of crime or the enforcement of the penal, traffic, highway, regulatory, game, immigration, postal, customs, or controlled substance laws.

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

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(b) "Retired law enforcement dog" means any dog that was in the service of or employed by a law enforcement agency in this state for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders but that no longer serves in the capacity of a law enforcement dog. The retired law enforcement dog must have received certification in obedience and apprehension work from a certifying organization, such as the National Police Canine Association.

(c) "Veterinarian" has the same meaning as provided in s. 474.202, Florida Statutes.

(d) "Veterinary care" means any veterinary medical service described in s. 474.202(9) or s. 474.202(13), Florida Statutes, and includes annual wellness examinations, vaccines, internal and external parasite prevention treatments, testing and treatment of illnesses and diseases, prescribing and dispensing medications, emergency care and surgeries, care provided in specialties of veterinary medicine such as veterinary oncology, and euthanasia, when provided by a veterinarian. The term also includes cremation.

(3) ESTABLISHMENT OF PROGRAM.—

(a) In recent years, law enforcement dogs have become an integral part of many law enforcement efforts statewide, including suspect apprehension through tracking and searching, evidence location, drug and bomb detection, and search and rescue operations. Law enforcement agencies agree that the use of law enforcement dogs is an extremely cost-effective means for crime control and that these dogs possess skills and abilities that frequently exceed that of existing technology.

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



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59 (b) Recognizing that the work of law enforcement dogs is  
 60 often dangerous and can cause these dogs to incur injuries at a  
 61 rate higher than the rate of injuries that occurs with  
 62 nonworking dogs, and recognizing the significant contributions  
 63 that law enforcement dogs provide to the residents of this  
 64 state, the Care for Retired Law Enforcement Dogs Program is  
 65 created within the Department of Law Enforcement to provide a  
 66 stable funding source to allow former handlers and adopters of  
 67 retired law enforcement dogs to provide them with veterinary  
 68 care.

69 (4) ADMINISTRATION.—The Department of Law Enforcement shall  
 70 contract with a not-for-profit corporation organized under  
 71 chapter 617, Florida Statutes, to administer and manage the Care  
 72 for Retired Law Enforcement Dogs Program. Notwithstanding the  
 73 competitive sealed bid procedures required under chapter 287,  
 74 Florida Statutes, the department shall enter into a contract  
 75 with a corporation that:

76 (a) Is dedicated to the protection or care of retired law  
 77 enforcement dogs.

78 (b) Holds tax-exempt status under s. 501(a) of the Internal  
 79 Revenue Code as an organization described in s. 501(c)(3) of the  
 80 code.

81 (c) Has held its tax-exempt status for at least 5 years.

82 (d) Agrees to be subject to review and audit at the  
 83 discretion of the Auditor General to ensure accurate accounting  
 84 and disbursement of state funds.

85 (e) Demonstrates the ability to effectively and efficiently  
 86 disseminate information and assist former handlers and adopters  
 87 of retired law enforcement dogs in understanding the provisions

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88 of this section.

89 (f) Receives administrative fees, including salaries and  
 90 benefits, not to exceed 10 percent of appropriated funds.

91 (5) FUNDING.—

92 (a) The corporation shall be the disbursing authority for  
 93 funds appropriated by the Legislature to the Department of Law  
 94 Enforcement for the Care for Retired Law Enforcement Dogs  
 95 Program. These funds shall be disbursed upon receipt of a valid  
 96 invoice, submitted by the former handler or adopter of a retired  
 97 law enforcement dog, from a veterinarian in this state for  
 98 veterinary care provided to a retired law enforcement dog.

99 (b) Annual disbursements to any former handler or adopter  
 100 of a retired law enforcement dog are limited to \$1,500 per  
 101 retired law enforcement dog. A former handler or adopter of a  
 102 retired law enforcement dog may not accumulate unused funds from  
 103 one year for use in a future year.

104 (c) A former handler or adopter of a retired law  
 105 enforcement dog who seeks reimbursement for veterinary services  
 106 may not receive reimbursement if funds for the Care for Retired  
 107 Law Enforcement Dogs Program are depleted in the year for which  
 108 the reimbursement is sought.

109 (d) Funds appropriated for the Care for Retired Law  
 110 Enforcement Dogs Program shall be held in the Operating Trust  
 111 Fund of the Department of Law Enforcement in a separate  
 112 depository account in the name of the corporation and subject to  
 113 the provisions of the contract with the department. The contract  
 114 must provide that any funds held in the separate depository  
 115 account in the name of the corporation must revert to the  
 116 department if the contract expires or is terminated.

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117 Notwithstanding s. 216.301, Florida Statutes, and pursuant to s.  
118 216.351, Florida Statutes, the Executive Office of the Governor  
119 shall, on July 1 of each year, certify forward all unexpended  
120 funds appropriated pursuant to this section. However, the fund  
121 balance for the Care for Retired Law Enforcement Dogs Program  
122 may not exceed \$400,000.

123 Section 2. Beginning in the 2014-2015 fiscal year and each  
124 year thereafter, the sum of \$300,000 in recurring funds is  
125 appropriated from the General Revenue Fund to the Department of  
126 Law Enforcement for the purpose of implementing the Care for  
127 Retired Law Enforcement Dogs Program as created by this act.

128 Section 3. This act shall take effect July 1, 2014.

**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.)

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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BILL: SB 550

INTRODUCER: Senator Hukill

SUBJECT: Traveling Across County Lines to Commit a Felony Offense

DATE: March 14, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Cannon	CJ	<b>Pre-meeting</b>
2.			CA	
3.			ACJ	
4.			AP	

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**I. Summary:**

SB 550 creates s. 843.22, F.S., which makes it a third degree felony for a person who resides in Florida to travel any distance and cross a Florida county boundary with the intent to commit a felony offense in a Florida county that is not their residence.

**II. Present Situation:**

According to Martin County Sheriff William Snyder, there has been a recent phenomenon in Martin County, and most Florida counties, where traveling burglars dubbed “the pillowcase burglars” break into houses near the interstate, stuff the most valuable items into pillowcases and immediately flee to another county. According to Snyder, traditional methods of law enforcement such as using local pawn shop databases, confidential informants, normal proactive police patrols, or targeted patrols based on time in place of burglary are less effective because of the burglars’ speedy departure from the county of the burglary.<sup>1</sup>

**Bail Determinations**

Pretrial release is an alternative to incarceration that allows arrested defendants to be released from jail while they await disposition of their criminal charges.<sup>2</sup> Generally, pretrial release is granted by releasing a defendant on their own recognizance, by requiring the defendant to post bail, and/or by requiring the defendant to participate in a pretrial release program.<sup>3</sup>

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<sup>1</sup> *Sheriff Enlists Legislative Help To Crack Down On Growing Problem: ‘Pillowcase Burglars,’* Sascha Cordner, December 8, 2013.

<sup>2</sup> Report No. 10-08, “*Pretrial Release Programs’ Compliance with New Reporting Requirements is Mixed,*” Office of Program Policy Analysis & Government Accountability, January 2010 (on file with Criminal Justice Committee).

<sup>3</sup> *Id.*

Bail requires an accused to pay a set sum of money to the sheriff to secure his or her release. If a defendant released on bail fails to appear before the court at the appointed place and time, the bail is forfeited. The purpose of a bail determination in criminal proceedings is to ensure the appearance of the criminal defendant at subsequent proceedings and to protect the community against unreasonable danger.<sup>4</sup> Courts must consider certain things when determining whether to release a defendant on bail, and what bail should be (e.g., the nature and circumstances of the offense charged, the weight of the evidence against the defendant, the defendant's family ties, length of residence in the community, employment history, financial resources, and mental condition, etc.).<sup>5</sup>

### III. Effect of Proposed Changes:

The bill creates s. 843.22, F.S., which makes it a third degree felony for a person who resides in Florida to travel any distance and across a Florida county boundary with the intent to commit a felony offense in a Florida county that is not their residence.

The bill defines "county of residence" as the county within Florida which a person resides. Evidence of a person's county includes but is not limited to:

- The address on a person's driver license or state identification card;
- Records of real property or mobile home ownership;
- Records of a lease agreement for residential property;
- The county in which a person's motor vehicle is registered;
- The county in which a person is enrolled in an educational institution; and
- The county in which a person is employed.

The bill defines "felony offense" as an attempt, solicitation, or conspiracy to commit: battery; stalking; kidnapping; sexual battery; lewdness; prostitution; arson; burglary; theft; robbery; carjacking; home-invasion robbery; trafficking in a controlled substance; and racketeering.

The bill amends s. 903.046(1), F.S., to prohibit those charged with traveling across county lines with the intent to commit a felony from being released on bail until first appearance to ensure the full participation of the prosecutor and the protection of the public.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

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<sup>4</sup> Section 903.046, F.S.

<sup>5</sup> *Id.*

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference met on January 30, 2014, and determined the bill will have an insignificant negative impact on state prison beds because the bill creates a new third degree felony offense. The bill may also have a negative jail bed impact because it prohibits persons charged under s. 843.22, F.S., from being released on bail until first appearance. However, since first appearance must occur within 24 hours of arrest, the impact on local jails will likely be insignificant.

According to the Department of Corrections (DOC), there will be a \$3,400 fiscal impact on the agency's technology systems due to the need for a new offense code and additional changes to existing codes and tables. DOC estimates 40 hours of work at \$85.00 an hour.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The DOC states that depending on the offender's total Criminal Punishment Code sentencing points, the additional third degree felonies could result in multiple or longer sentences for supervision offenders and/or an increase in the inmate population.

**VIII. Statutes Affected:**

This bill substantially amends section 903.046 of the Florida Statutes.

This bill creates section 843.22 of the Florida Statutes.

**IX. Additional Information:**

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

None.

- B. **Amendments:**

None.

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

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By Senator Hukill

8-00792-14

2014550\_\_

1 A bill to be entitled  
 2 An act relating to traveling across county lines to  
 3 commit a felony offense; creating s. 843.22, F.S.;  
 4 defining the terms "county of residence" and "felony  
 5 offense" for the purpose of the crime of traveling  
 6 across county lines with the intent to commit a felony  
 7 offense; providing a criminal penalty; amending s.  
 8 903.046, F.S.; adding the crime of traveling across  
 9 county lines with the intent to commit a felony  
 10 offense to the factors a court must consider in  
 11 determining whether to release a defendant on bail;  
 12 providing an effective date.

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

15 Section 1. Section 843.22, Florida Statutes, is created to  
 16 read:  
 17

18 843.22 Traveling across county lines with intent to commit  
 19 a felony offense.-

20 (1) As used in this section, the term:

21 (a) "County of residence" means the county within this  
 22 state in which a person resides. Evidence of a person's county  
 23 of residence includes, but is not limited to:

24 1. The address on a person's driver license or state  
 25 identification card;

26 2. Records of real property or mobile home ownership;

27 3. Records of a lease agreement for residential property;

28 4. The county in which a person's motor vehicle is  
 29 registered;

Page 1 of 3

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

8-00792-14

2014550\_\_

30 5. The county in which a person is enrolled in an  
 31 educational institution; and  
 32 6. The county in which a person is employed.  
 33 (b) "Felony offense" means any of the following felony  
 34 offenses, including an attempt, solicitation, or conspiracy to  
 35 commit such offense:  
 36 1. Battery as provided in chapter 784.  
 37 2. Stalking as provided in s. 784.048.  
 38 3. Kidnapping as defined in s. 787.01.  
 39 4. Sexual battery as defined in s. 794.011.  
 40 5. Lewdness as defined in s. 796.07.  
 41 6. Prostitution as defined in s. 796.07.  
 42 7. Arson as provided in s. 806.01.  
 43 8. Burglary as defined in s. 810.02.  
 44 9. Theft as provided in s. 812.014.  
 45 10. Robbery as defined in s. 812.13.  
 46 11. Carjacking as defined in s. 812.133.  
 47 12. Home-invasion robbery as defined in s. 812.135.  
 48 13. Trafficking in a controlled substance as provided in s.  
 49 893.135.  
 50 14. Racketeering as provided in chapter 895.  
 51 (2) A person who travels any distance with the intent to  
 52 commit a felony offense in a county in this state other than the  
 53 person's county of residence commits an additional felony of the  
 54 third degree, punishable as provided in s. 775.082, s. 775.083,  
 55 or s. 775.084.

56 Section 2. Paragraph (1) of subsection (2) of section  
 57 903.046, Florida Statutes, is amended to read:  
 58 903.046 Purpose of and criteria for bail determination.-

Page 2 of 3

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

8-00792-14

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59 (2) When determining whether to release a defendant on bail  
60 or other conditions, and what that bail or those conditions may  
61 be, the court shall consider:

62 (1) Whether the crime charged is a violation of s. 843.22  
63 or chapter 874 or alleged to be subject to enhanced punishment  
64 under chapter 874. If any such violation is charged against a  
65 defendant or if the defendant is charged with a crime that is  
66 alleged to be subject to such enhancement, he or she is ~~shall~~  
67 not be eligible for release on bail or surety bond until the  
68 first appearance on the case in order to ensure the full  
69 participation of the prosecutor and the protection of the  
70 public.

71 Section 3. This act shall take effect October 1, 2014.



THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/17/14

Meeting Date

Topic Traveling across county lines

Name Glenn Theobald

Job Title Chief of Staff - Legal Advisor

Address 800 SE Monterey Rd.

Street

Stuart FL 34997

City

State

Zip

Bill Number SB 550  
(if applicable)

Amendment Barcode \_\_\_\_\_  
(if applicable)

Phone (772) 220-7024

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing Martin County Sheriff's Office

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/17/14  
Meeting Date

Topic Traveling Across County Lines to Commit a Felony Offense Bill Number 550  
(if applicable)

Name Keri Rayborn Silver Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title \_\_\_\_\_

Address PO Box 1565 Phone 850-524-2394  
Street

Tallahassee FL 32302  
City State Zip

E-mail Keri@raybornconsultants.com

Speaking:  For  Against  Information

Representing Florida Sheriffs Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/17/15  
Meeting Date

Topic Criminal Justice

Bill Number SB550  
*(if applicable)*

Name Denise Cross

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Citizen

Address PO Box 28117  
*Street*  
Jax FL 32224  
*City State Zip*

Phone 904-613-5329

E-mail noturndowns@yahoo.com

Speaking:  For  Against  Information

Representing No Flack

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:  
Appropriations Subcommittee on Finance and  
Tax, *Chair*  
Appropriations  
Appropriations Subcommittee on Education  
Commerce and Tourism  
Communications, Energy, and Public Utilities  
Community Affairs  
Governmental Oversight and Accountability

JOINT COMMITTEE:  
Joint Committee on Public Counsel Oversight

SENATOR DOROTHY L. HUKILL

8th District

January 14, 2014

The Honorable Greg Evers  
510 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399

Re: Senate Bill 550 – Traveling Across County Lines to Commit a Felony Offense

Dear Chairman Evers:

Senate Bill 550, relating to Traveling Across County Lines to Commit a Felony Offense, has been referred to the Criminal Justice Committee. I am requesting your consideration to include SB 550 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dorothy L. Hukill".

Dorothy L. Hukill, District 8

cc: Amanda Cannon, Staff Director of the Criminal Justice Committee  
Sue Arnold, Administrative Assistant of the Criminal Justice Committee

REPLY TO:

- 209 Dunlawton Avenue, Unit 17, Port Orange, Florida 32127 (386) 304-7630 FAX: (888) 263-3818
- Ocala City Hall, 110 SE Watula Avenue, 3rd Floor, Ocala, Florida 34471 (352) 694-0160

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

DON GAETZ  
President of the Senate

GARRETT RICHTER  
President Pro Tempore

# CourtSmart Tag Report

Room: LL 37

Caption: SSenaRSenate Criminal Justice

Case:

Judge:

Type:

Started: 3/17/2014 4:41:17 PM

Ends: 3/17/2014 5:59:10 PM

Length: 01:17:54

4:41:21 PM Meeting to Order - Roll Call  
4:44:11 PM Tab 1 - CS/SB's 130 & 122 by Judiciary / Simmons / Smith—Use of Deadly Force  
4:44:50 PM Senator Simmons presents the bill.  
5:06:48 PM Senator Smith speaks on the bill.  
5:10:37 PM Barcode #219914  
5:12:49 PM Senator Atiman speaks on the amendment.  
5:16:03 PM Stacy Scott, Florida Public Defender Assoc. Inc., Gainesville, FL  
5:22:07 PM Marion Hammer, NRA  
5:28:34 PM Willie Meggs, State Attorney 2nd Circuit speaks on amendment.  
5:39:16 PM Roll Call on Barcode #219914.  
5:40:05 PM Back on the bill.  
5:40:30 PM Congresswoman Corrine Brown, Washington, D.C.  
5:43:29 PM Rep. Bobby Scott, Newport News, VA speaks on the bill.  
5:52:47 PM Germon E. Vivas, Jacksonville, FL  
5:55:59 PM Eunice Barnum, Jacksonville, FL  
5:56:19 PM Shirley N. Reed, Jacksonville, FL  
5:58:32 PM Roll Call  
5:58:40 PM Meeting Adjourned