

<b>Tab 1 SB 668 by Perry; (Compare to CS/H 00551) Public Nuisances</b>						
783120	A	S	RCS	CJ, Perry	btw L.17 - 18:	04/01 03:07 PM

<b>Tab 2 SB 1656 by Lee (CO-INTRODUCERS) Rouson; (Similar to H 07069) Amendment of Criminal Statutes</b>						
901440	D	S	RCS	CJ, Lee	Delete everything after	04/01 03:10 PM
730154	AA	S	RCS	CJ, Brandes	Delete L.22 - 36:	04/01 03:10 PM

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

**CRIMINAL JUSTICE**  
**Senator Perry, Chair**  
**Senator Brandes, Vice Chair**

**MEETING DATE:** Monday, April 1, 2019  
**TIME:** 1:30—3:30 p.m.  
**PLACE:** *Mallory Horne Committee Room, 37 Senate Building*

**MEMBERS:** Senator Perry, Chair; Senator Brandes, Vice Chair; Senators Bracy, Flores, and Pizzo

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 668</b> Perry (Compare CS/H 551)	Public Nuisances; Providing that the use of a location by a criminal gang, criminal gang members, or criminal gang associates for criminal gang-related activity is a public nuisance; declaring that any place or premises that has been used on more than two occasions within a certain period as the site of specified violations is a nuisance and may be abated or enjoined pursuant to specified provisions, etc.  CJ      04/01/2019 Fav/CS CA RC	Fav/CS Yeas 5 Nays 0
2	<b>SB 1656</b> Lee (Similar H 7069)	Amendment of Criminal Statutes; Providing that an act of the Legislature which reenacts, revises, or amends a criminal statute may not be considered a repeal under a specified provision of the State Constitution; specifying that the reenactment, revision, or amendment of an existing criminal statute only operates prospectively unless expressly provided otherwise in such an act, etc.  JU      03/25/2019 Favorable CJ      04/01/2019 Fav/CS RC	Fav/CS Yeas 3 Nays 1

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/SB 668

INTRODUCER: Criminal Justice Committee and Senator Perry

SUBJECT: Public Nuisances

DATE: April 2, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Jones	CJ	Fav/CS
2.			CA	
3.			RC	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 668 amends s. 823.05, F.S., relating to public nuisances, to:

- Delete the requirement that a criminal gang or member or associate of such gang must use a location “on two or more occasions” for the purpose of engaging in a criminal gang-related activity in order for such use to qualify as a public nuisance that can be abated or enjoined;
- Provide that any place or premises that has been used on more than two occasions within a six-month period as the site of dealing in stolen property, assault, aggravated assault, battery, aggravated battery, burglary, theft, or robbery by sudden snatching, may be declared a public nuisance and may be abated or enjoined; and
- Provide that a rental property that is declared a public nuisance based upon the previously-described circumstances may not be abated or subject to forfeiture under the Florida Contraband Forfeiture Act if the nuisance was committed by someone other than the owner of the property and the property owner commences rehabilitation of the property within 30 days after the property is declared a public nuisance and completes the rehabilitation within a reasonable time thereafter.

Public nuisances are abated pursuant to s. 60.05, F.S. The bill amends this statute to:

- Extend and increase the frequency of notice so a property owner has sufficient time to receive notice and correct the use of the property;
- Allow for shorter notice where the public nuisance presents a danger of immediate and irreparable injury; and
- Provide more detail on what must be provided in the notice and serving the notice.

The abatement or enjoining of a public nuisance described in the bill may result in a cost-savings or cost-avoidance to homeowners or businesses, if they have sustained an economic loss, and a cost-savings or cost-avoidance to local governments if they have sustained an economic loss. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2019.

## II. Present Situation:

### Public Nuisances (s. 823.05, F.S.)

Section 823.05(1), F.S., provides that a person is guilty of maintaining a public nuisance<sup>1</sup> if he or she erects, establishes, continues, or maintains, owns or leases any building, booth, tent or place which tends to annoy the community or injure the health of the community, or become manifestly injurious to the morals or manners of the people as described in s. 823.01, F.S., or any house or place of prostitution, assignation, lewdness or place or building where games of chance are engaged in violation of law or any place where any law of the state is violated. The building, erection, place, tent or booth and the furniture, fixtures, and contents are declared a public nuisance.

Section 823.05(2), F.S., provides that a criminal gang, criminal gang member, or criminal gang associate who engages in the commission of criminal gang-related activity<sup>2</sup> is a public nuisance,<sup>3</sup> and the use of a location on two or more occasions by a criminal gang or member or associate of such gang for the purpose of engaging in criminal gang-related activity is also a public nuisance.<sup>4</sup>

Section 823.05(2), F.S., does not prevent a local governing body from adopting and enforcing laws consistent with ch. 825, F.S., relating to criminal gangs and gang violence.<sup>5</sup> Further, the state, through the Department of Legal Affairs or any state attorney, or any of the state's agencies, instrumentalities, subdivisions, or municipalities having jurisdiction over conduct in violation of a provision of ch. 825, F.S., may institute civil proceedings under s. 823.05(2), F.S.,

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<sup>1</sup> Although s. 823.05(1), F.S., refers to a person being "guilty of maintaining a public nuisance," s. 823.05, F.S., does not make maintaining a public nuisance a crime. However, s. 823.01, F.S., provides that all nuisances that tend to annoy the community, injure the health of the citizens in general, or corrupt the public morals are second degree misdemeanors, except that a violation of s. 823.10, F.S., is a third degree felony. Section 823.10(1), F.S., provides that certain places visited by persons for the purpose of unlawfully using a controlled substance or a drug described in ch. 499, F.S. (Florida Drug and Cosmetic Act), or for the illegal keeping, selling, or delivering of such substance or drug, are a public nuisance. Any person who willfully keeps or maintains, or aids or abets another in keeping or maintaining, such public nuisance commits a third degree felony, if such public nuisance is a warehouse, structure, or building. *Id.*

<sup>2</sup> Section 823.05(2)(a), F.S., defines the terms "criminal gang," "criminal gang member," "criminal gang associate," and "criminal gang-related activity" by reference to the definitions of those terms in s. 874.03, F.S.

<sup>3</sup> Section 823.05(2)(b), F.S. Section 893.138(2)(d), F.S., also provides that any place or premises that has been used by a criminal gang for the purpose of conducting criminal gang activity may be declared a public nuisance if the place or premises has been used on more than two occasions within a six-month period as the site of dealing in stolen property or a violation of ch. 499, F.S. (Florida Drug and Cosmetic Act). Unlike s. 823.05, F.S., a public nuisance described in s. 893.138, F.S., is abated pursuant to procedures provided in that section. Section 893.138(2)-(7), F.S. However, the public nuisance may be enjoined pursuant to s. 60.05, F.S. Section 893.138(9) and (10), F.S.

<sup>4</sup> Section 823.05(2)(c), F.S.

<sup>5</sup> Section 823.05(2)(d), F.S.

and, pending final determination, the circuit court may enter injunctions, prohibitions, or restraining orders, or take such other actions it deems proper.<sup>6</sup>

Section 823.05(3), F.S., provides that a massage establishment as defined in s. 480.033(7), F.S., that operates in violation of s. 480.0475, F.S., or s. 480.0535(2), F.S., is a public nuisance.

### **Abating or Enjoining Public Nuisances (ss. 60.05 and 60.06, F.S.)**

Public nuisances described in s. 823.05, F.S., must be enjoined pursuant to s. 60.05, F.S., or abated pursuant to s. 60.06, F.S.<sup>7</sup> Section 60.05(1), F.S., authorizes the Attorney General, state attorney, city attorney, county attorney, and any citizen to sue in the name of the state to enjoin the nuisance, the person(s) maintaining it, and the owner or agent of the building or ground on which the nuisance exists. The court, based on evidence<sup>8</sup> or affidavit, may issue a temporary injunction enjoining:

- The maintaining of a nuisance;
- The operating and maintaining of the place or premises where the nuisance is maintained;
- The owner or agent of the building or ground upon which the nuisance exists; and
- The conduct, operation, or maintenance of any business or activity operated or maintained in the building or on the premises in connection with the maintenance of the nuisance.<sup>9</sup>

The injunction must specify the activities enjoined and must not preclude the operation of any lawful business not conducive to the maintenance of the alleged nuisance.<sup>10</sup> If the existence of a nuisance is shown at the final hearing, the court must issue a permanent injunction and order the costs to be paid by the persons establishing or maintaining the nuisance.<sup>11</sup> The court must adjudge that the costs are a lien on all personal property found in the place of the nuisance; however, if the property fails to bring enough to pay costs, the lien is on the real estate occupied by the nuisance.<sup>12</sup>

Section 60.06, F.S., requires the court, upon “proper” proof, to order the abatement of all nuisances mentioned in s. 823.05, F.S., and authorizes the court to enforce injunctions by contempt. However, this jurisdiction does not repeal or alter s. 823.01, F.S., which provides criminal penalties for nuisances described in that section.<sup>13</sup>

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<sup>6</sup> Section 823.05(2)(e), F.S.

<sup>7</sup> Section 823.05(1), (2)(b) and (c), and (3), F.S.

<sup>8</sup> Evidence of the general reputation of the alleged nuisance and place is admissible to prove the existence of a nuisance. Section 60.05(3), F.S.

<sup>9</sup> Section 60.05(2), F.S.

<sup>10</sup> Section 60.05(2), F.S. At least 3 days’ notice in writing shall be given to the defendant of the time and place of application for the temporary injunction. *Id.*

<sup>11</sup> Section 60.05(4), F.S.

<sup>12</sup> *Id.* However, no lien attaches to the real estate of any person other than the person establishing or maintaining the nuisance unless five days’ written notice has been given to the owner or owner’s agent who fails to abate the nuisance within this five-day period. *Id.*

<sup>13</sup> Section 60.06, F.S.

## Real Property and the Florida Contraband Forfeiture Act

The “Florida Contraband Forfeiture Act” (Act)<sup>14</sup> authorizes seizure and civil forfeiture of real property used in violation of the provisions of the Act.<sup>15</sup> The seizure may only occur if the owner of the property is arrested for a criminal offense that forms the basis for determining that the property is a “contraband article” under s. 932.07, F.S.,<sup>16</sup> or when one or more statutorily-specified exceptions to this arrest requirement apply.<sup>17</sup> For example, one specified exception is when the property is not owned by the person arrested for a criminal offense that forms the basis for determining that the property is a “contraband article,” but the owner of the property had actual knowledge of the criminal activity.<sup>18</sup>

As previously noted, s. 823.05, F.S., in part, addresses criminal gang-related activity. Section 874.08, F.S., provides that the following are subject to seizure and forfeiture under the Florida Contraband Forfeiture Act:

- All profits, proceeds, and instrumentalities of criminal gang activity;
- All property used or intended or attempted to be used to facilitate the criminal activity of any criminal gang or of any criminal gang member;
- All profits, proceeds, and instrumentalities of criminal gang recruitment; and
- All property used or intended or attempted to be used to facilitate criminal gang recruitment.

### III. Effect of Proposed Changes:

The bill amends s. 823.05, F.S., relating to public nuisances, to:

- Delete the requirement that a criminal gang or member or associate of such gang must use a location “on two or more occasions” for the purpose of engaging in a criminal gang-related activity in order for such use to qualify as a public nuisance that can be abated or enjoined;
- Provide that any place or premises that has been used on more than two occasions within a six-month period as the site of dealing in stolen property (s. 812.019, F.S.), assault (s. 784.011, F.S.), aggravated assault (s. 784.021, F.S.), battery (s. 784.03, F.S.), aggravated battery (s. 784.045, F.S.), burglary (s. 810.02, F.S.),<sup>19</sup> theft (s. 812.014, F.S.), or robbery by

<sup>14</sup> Sections 932.701-932.7062, F.S. *See* s. 932.701(1), F.S.

<sup>15</sup> Section 932.703(1)(a), F.S. Real property may not be seized or restrained, other than by *lis pendens*, subsequent to a violation of the Florida Contraband Forfeiture Act until the persons entitled to notice are afforded the opportunity to attend the pre-seizure adversarial preliminary hearing. Section 932.703(3)(b), F.S. “A notice of *lis pendens* is an instrument which may be filed with the clerk of the circuit court in connection with actions involving the ownership of, or interest in, property. It is intended to operate as constructive notice to persons dealing with the property that is the subject matter of litigation.” *Op. Att’y Gen. Fla.* 58-135 (1958). Other requirements relating to seizure are specified in s. 923.703, F.S. Forfeiture proceedings are addressed in s. 932.704, F.S., and disposition of liens and forfeited property are addressed in s. 932.7055, F.S.

<sup>16</sup> The definition of “contraband article” in s. 932.701(2), F.S., includes an extensive list of tangible items. One of these items is real property used or attempted to be used as an instrumentality in the commission of, or in aiding or abetting the commission of, any felony, or which is acquired by proceeds obtained as a result of a violation of the Act. Section 932.701(2)(a)6., F.S. *See* s. 932.702, F.S. (unlawful acts involving a contraband article).

<sup>17</sup> Section 932.703(1)(a), F.S.

<sup>18</sup> Section 932.703(1)(a)3., F.S. Evidence that the owner received notification from a law enforcement agency and acknowledged receipt of the notification in writing, that the seized asset had been used in violation of the act on a prior occasion by the arrested person, may be used to establish actual knowledge. *Id.*

<sup>19</sup> Armed burglary is also included in this section. *See* s. 810.02(2)(b), F.S.

sudden snatching (s. 812.131, F.S.), may be declared a public nuisance and may be abated or enjoined as provided in s. 60.05, F.S., or s. 60.06, F.S.; and

- Provide that a rental property that is declared a public nuisance based upon the previously-described circumstances may not be abated or subject to forfeiture under the Florida Contraband Forfeiture Act if the nuisance was committed by someone other than the owner of the property and the property owner commences rehabilitation of the property within 30 days after the property is declared a public nuisance and completes the rehabilitation within a reasonable time thereafter.

The bill also restructures s. 823.05(1), F.S., which defines what constitutes a public nuisance and what may be abated or enjoined as a public nuisance. This is not a substantive change because nothing of a substantive nature is eliminated from or added to that subsection.

Public nuisances are abated pursuant to s. 60.05, F.S. The bill amends this statute to increase the notice requirements from one three-day notice to two notices (if needed) with a total of 25 days to abate the nuisance. The defendant must be given notice (first notice) with a ten-day compliance time frame to abate the nuisance. If the defendant fails to abate the nuisance within these ten days, the defendant must be given written notice (second notice) of the application for temporary injunction if the defendant does not abate the nuisance within 15 days following the original ten-day period. However, the notice period may be waived and shortened to a period of 24 to 72 hours where the nuisance presents an immediate and irreparable danger to a person or to the safety of a community.

Contents of the notice must include:

- If applicable, a description of the building, booth, tent, or place that is declared a public nuisance;
- The activities that led to the public nuisance being declared;
- The actions necessary to abate the public nuisance; and
- A statement that costs will be assessed if abatement of the public nuisance is not completed and if there is a determination by the court that such public nuisance exists.

Required notices must be sent by personal service to the owner at his or her address as it appears on the latest tax assessment roll or to the tenant of such address. If an address is not found for the owner, notices must be sent to the location of the declared nuisance and displayed prominently and conspicuously at such location. The notice timeframe before a lien may attach when the property is owned by someone other than the person causing the public nuisance is extended from five days to 15 days.

The bill is effective July 1, 2019.

#### **IV. Constitutional Issues:**

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

None.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

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

None.

**B. Private Sector Impact:**

The abatement or enjoining of a public nuisance described in the bill may result in a cost-savings or cost-avoidance to homeowners or businesses, if they have sustained an economic loss (e.g., decreased home and business property values and loss of customers) as a result of the presence of the nuisance.

**C. Government Sector Impact:**

The abatement or enjoining of a public nuisance described in the bill may result in a cost-savings or cost-avoidance to local governments if they have sustained an economic loss (e.g., decreased local tax revenues, increased local law enforcement costs, and increased local ordinance or code enforcement costs) as a result of the presence of the nuisance.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 60.05 and 823.05.

**IX. Additional Information:**

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

**CS by Criminal Justice on April 1, 2019:**

The Committee Substitute:

- Extends and increases the frequency of notice so a property owner has sufficient time to receive notice and correct the use of the property;
- Allows for shorter notice where the public nuisance presents a danger of immediate and irreparable injury; and
- Provides more detail on what must be provided in the notice and serving the notice.

- 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	.	House
Comm: RCS	.	
04/01/2019	.	
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The Committee on Criminal Justice (Perry) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 17 and 18

insert:

Section 1. Section 60.05, Florida Statutes, is amended to read:

60.05 Abatement of nuisances.—

(1) When any nuisance as defined in s. 823.05 exists, the Attorney General, state attorney, city attorney, county attorney, or any citizen of the county may sue in the name of



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11 the state on his or her relation to enjoin the nuisance, the  
12 person or persons maintaining it, and the owner or agent of the  
13 building or ground on which the nuisance exists.

14 (2) The court may allow a temporary injunction without bond  
15 on proper proof being made. If it appears by evidence or  
16 affidavit that a temporary injunction should issue, the court,  
17 pending the determination on final hearing, may enjoin any of  
18 the following:

19 (a) The maintaining of a nuisance.†

20 (b) The operating and maintaining of the place or premises  
21 where the nuisance is maintained.†

22 (c) The owner or agent of the building or ground upon which  
23 the nuisance exists.†

24 (d) The conduct, operation, or maintenance of any business  
25 or activity operated or maintained in the building or on the  
26 premises in connection with or incident to the maintenance of  
27 the nuisance.

28  
29 The injunction shall specify the activities enjoined and shall  
30 not preclude the operation of any lawful business not conducive  
31 to the maintenance of the nuisance complained of.

32 (3) (a) The defendant shall be given written notice to abate  
33 the nuisance within 10 days after the issuance of such notice ~~at~~  
34 ~~least 3 days' notice in writing shall be given defendant of the~~  
35 ~~time and place of application for the temporary injunction. The~~  
36 notice must inform the defendant that an application for  
37 temporary injunction may be filed if the nuisance is not abated.  
38 If the nuisance is not timely abated, the defendant must be  
39 given a second written notice that informs the defendant that an



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40 application for a temporary injunction will be filed if the  
41 nuisance is not abated within 15 days after the end of the  
42 initial 10-day period. This notice also must provide the  
43 location where the application will be filed and the time that  
44 it will be filed. If the nuisance is not timely abated as  
45 provided in the second notice, the application for the temporary  
46 injunction must be filed as indicated in the notice.

47 (b) In addition to the information provided in paragraph  
48 (a), each notice must:

49 1. If applicable, describe the building, booth, tent, or  
50 place that is declared a nuisance;

51 2. State the activities that led to the nuisance being  
52 declared;

53 3. State the actions necessary to abate the nuisance; and

54 4. State that costs will be assessed if abatement of the  
55 nuisance is not completed and if there is a determination by the  
56 court that such nuisance exists.

57 (c) The notices provided in this subsection must be sent by  
58 personal service to the owner at his or her address as it  
59 appears on the latest tax assessment roll or to the tenant of  
60 such address. If an address is not found for the owner, the  
61 notices must be sent to the location of the declared nuisance  
62 and displayed prominently and conspicuously at such location.

63 (d) If a nuisance presents a danger of immediate and  
64 irreparable injury to a person or to the safety of a community,  
65 the notice requirements under paragraph (a) are waived, and only  
66 one notice is required, which must inform the defendant that the  
67 application for a temporary injunction will be filed if the  
68 nuisance is not abated within a designated timeframe of between



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69 24 and 72 hours. The notice also must identify the location  
70 where the application will be filed and time that it will be  
71 filed.

72 (4)~~(3)~~ Evidence of the general reputation of the alleged  
73 nuisance and place is admissible to prove the existence of the  
74 nuisance. No action filed by a citizen shall be dismissed unless  
75 the court is satisfied that it should be dismissed. Otherwise  
76 the action shall continue and the state attorney notified to  
77 proceed with it. If the action is brought by a citizen and the  
78 court finds that there was no reasonable ground for the action,  
79 the costs shall be taxed against the citizen.

80 (5)~~(4)~~ On trial if the existence of a nuisance is shown,  
81 the court shall issue a permanent injunction and order the costs  
82 to be paid by the persons establishing or maintaining the  
83 nuisance and shall adjudge that the costs are a lien on all  
84 personal property found in the place of the nuisance and on the  
85 failure of the property to bring enough to pay the costs, then  
86 on the real estate occupied by the nuisance. A No lien may not  
87 ~~shall~~ attach to the real estate of any other than said persons  
88 unless 15 ~~5~~ days' written notice has been given to the owner or  
89 his or her agent who fails to begin to abate the nuisance within  
90 the 15-day period ~~said 5 days~~. In a proceeding abating a  
91 nuisance pursuant to s. 823.10 or s. 823.05, if a tenant has  
92 been convicted of an offense under chapter 893 or s. 796.07, the  
93 court may order the tenant to vacate the property within 72  
94 hours if the tenant and owner of the premises are parties to the  
95 nuisance abatement action and the order will lead to the  
96 abatement of the nuisance.

97 (6)~~(5)~~ If the action was brought by the Attorney General, a



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98 state attorney, or any other officer or agency of state  
99 government; if the court finds either before or after trial that  
100 there was no reasonable ground for the action; and if judgment  
101 is rendered for the defendant, the costs and reasonable  
102 attorney's fees shall be taxed against the state.

103  
104 ===== T I T L E A M E N D M E N T =====

105 And the title is amended as follows:

106       Between lines 2 and 3

107 insert:

108       60.05, F.S.; revising notice requirements for the  
109       filing of temporary injunctions relating to the  
110       enjoinment of certain nuisances; extending the period  
111       of notice before a lien may attach to certain real  
112       estate; amending s.

By Senator Perry

8-00845A-19

2019668\_\_

A bill to be entitled

An act relating to public nuisances; amending s.

823.05, F.S.; making technical changes; providing that the use of a location by a criminal gang, criminal gang members, or criminal gang associates for criminal gang-related activity is a public nuisance; declaring that any place or premises that has been used on more than two occasions within a certain period as the site of specified violations is a nuisance and may be abated or enjoined pursuant to specified provisions; providing a property owner an opportunity to remedy a nuisance before specified legal actions may be taken against the property under certain circumstances; providing an effective date.

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

Section 1. Section 823.05, Florida Statutes, is amended to read:

823.05 Places and groups engaged in certain activities ~~criminal gang-related activity~~ declared a nuisance; abatement and enjoinder ~~massage establishments engaged in prohibited activity; may be abated and enjoined.~~

(1) A person who erects, establishes, continues, maintains, owns, or leases any of the following is deemed to be maintaining a nuisance, and the building, erection, place, tent, or booth, and the furniture, fixtures, and contents of such structure, are declared a nuisance, and all such places or persons shall be abated or enjoined as provided in ss. 60.05 and 60.06:

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

8-00845A-19

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(a) ~~A~~ Whoever shall erect, establish, continue, or maintain, own or lease any building, booth, tent, or place that which tends to annoy the community or injure the health of the community, or becomes become manifestly injurious to the morals or manners of the people as provided described ~~described~~ in s. 823.01, ~~or~~  
 (b) ~~A~~ any house or place of prostitution, assignation, or lewdness. ~~or~~

(c) A place or building in which persons engage in where games of chance ~~are engaged~~ in violation of law. ~~or~~

(d) ~~A~~ any place where any law of the state is violated, shall be deemed guilty of maintaining a nuisance, and the building, erection, place, tent or booth and the furniture, fixtures, and contents are declared a nuisance. All such places or persons shall be abated or enjoined as provided in ss. 60.05 and 60.06.

(2) (a) As used in this subsection, the terms "criminal gang," "criminal gang member," "criminal gang associate," and "criminal gang-related activity" have the same meanings as provided in s. 874.03.

(b) A criminal gang, criminal gang member, or criminal gang associate who engages in the commission of criminal gang-related activity is a public nuisance. Any and all such persons shall be abated or enjoined as provided in ss. 60.05 and 60.06.

(c) The use of a location ~~on two or more occasions~~ by a criminal gang, criminal gang members, or criminal gang associates for the purpose of engaging in criminal gang-related activity is a public nuisance. Such use of a location as a public nuisance shall be abated or enjoined as provided in ss. 60.05 and 60.06.

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

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59 (d) Nothing in this subsection shall prevent a local  
60 governing body from adopting and enforcing laws consistent with  
61 this chapter relating to criminal gangs and gang violence. Where  
62 local laws duplicate or supplement this chapter, this chapter  
63 shall be construed as providing alternative remedies and not as  
64 preempting the field.

65 (e) The state, through the Department of Legal Affairs or  
66 any state attorney, or any of the state's agencies,  
67 instrumentalities, subdivisions, or municipalities having  
68 jurisdiction over conduct in violation of a provision of this  
69 chapter may institute civil proceedings under this subsection.  
70 In any action brought under this subsection, the circuit court  
71 shall proceed as soon as practicable to the hearing and  
72 determination. Pending final determination, the circuit court  
73 may at any time enter such injunctions, prohibitions, or  
74 restraining orders, or take such actions, including the  
75 acceptance of satisfactory performance bonds, as the court may  
76 deem proper.

77 (3) A massage establishment as defined in s. 480.033(7)  
78 that operates in violation of s. 480.0475 or s. 480.0535(2) is  
79 declared a nuisance and may be abated or enjoined as provided in  
80 ss. 60.05 and 60.06.

81 (4) (a) Any place or premises that has been used on more  
82 than two occasions within a 6-month period as the site of any of  
83 the following violations is declared a nuisance and may be  
84 abated or enjoined as provided in ss. 60.05 and 60.06:

85 1. Section 812.019, relating to dealing in stolen property.

86 2. Section 784.011, s. 784.021, s. 784.03, or s. 784.045,  
87 relating to assault and battery.

Page 3 of 4

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

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88 3. Section 810.02, relating to burglary.

89 4. Section 812.014, relating to theft.

90 5. Section 812.131, relating to robbery by sudden  
91 snatching.

92 (b) Notwithstanding any other law, a rental property that  
93 is declared a nuisance under this subsection may not be abated  
94 or subject to forfeiture under the Florida Contraband Forfeiture  
95 Act if the nuisance was committed by someone other than the  
96 owner of the property and the property owner commences  
97 rehabilitation of the property within 30 days after the property  
98 is declared a nuisance and completes the rehabilitation within a  
99 reasonable time thereafter.

100 Section 2. This act shall take effect July 1, 2019.

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)

4/1/19

Meeting Date

SB 668

Bill Number (if applicable)

Topic Gangs

Amendment Barcode (if applicable)

Name Greg Pound

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

Address 9166 Sunrise Dr.

Phone \_\_\_\_\_

Street

Largo Fl. 33773

Email \_\_\_\_\_

City

State

Zip

Speaking:  For  Against  Information

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

Representing Saving Families

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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

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BILL: CS/SB 1656

INTRODUCER: Criminal Justice Committee and Senators Lee and Rouson

SUBJECT: Amendment of Criminal Statutes

DATE: April 2, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Stallard</u>	<u>Cibula</u>	<u>JU</u>	<b>Favorable</b>
2.	<u>Erickson</u>	<u>Jones</u>	<u>CJ</u>	<b>Fav/CS</b>
3.	_____	_____	<u>RC</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1656 creates a general savings statute for criminal statutes. Typically, a general savings statute prevents the repeal of a criminal statute from abating pending criminal prosecutions, unless the repealing act expressly provides for abatement. "Abatement" means no further prosecution for the criminal violation.

The bill defines a "criminal statute" as a statute, whether substantive or procedural, dealing in any way with a crime or its punishment, defining a crime or a defense to a crime, or providing for the punishment of a crime.

The bill specifies legislative intent to preclude:

- Application of the common law doctrine of abatement to a reenactment or an amendment of a criminal statute; and
- Construction of a reenactment or amendment as a repeal or an implied repeal of a criminal statute for purposes of Article X, Section 9 of the State Constitution (Florida's constitutional savings clause).

The bill also states that, except as expressly provided in an act of the Legislature or as provided in two specified exceptions, the reenactment or amendment of a criminal statute operates prospectively and does not affect or abate any of the following:

- The prior operation of the statute or a prosecution or enforcement under the criminal statute;

- A violation of the criminal statute based on any act or omission occurring before the effective date of the act; and
- A prior penalty, prior forfeiture, or prior punishment incurred or imposed under the statute.

The first exception is a retroactive amelioration exception that provides that if a penalty, forfeiture, or punishment for a violation of a criminal statute is reduced by a reenactment or an amendment of a criminal statute, the penalty, forfeiture, or punishment, if not already imposed, must be imposed according to the statute as amended.

The second exception relates to defenses and provides that the general savings statute does not limit the retroactive effect of any defense to a criminal statute enacted or amended by the Legislature to any criminal case that has not yet reached final judgment.

Finally, the bill provides that a reference to any other chapter, part, section, or subdivision of the Florida Statutes in a criminal statute or a reference within a criminal statute constitutes a general reference under the doctrine of incorporation by reference.

The bill is effective upon become a law.

## II. Present Situation:

### Common Law Doctrines of Abatement and Retroactive Amelioration

“At common law, the unqualified repeal of a criminal statute resulted in the abatement<sup>1</sup> of all prosecutions which had not been made final.”<sup>2</sup> “Abatement by repeal included a statute’s repeal and re-enactment with different penalties. And the rule applied even when the penalty was reduced. To avoid such results, legislatures frequently indicated an intention not to abate *pending prosecutions* by including in the repealing statute a specific clause stating that prosecutions of offenses under the repealed statute were not to be abated.”<sup>3</sup> The absence of this “specific clause,” which is referred to as a “savings clause,” could result in actions contrary to legislative intent.<sup>4</sup> “To demonstrate that intent, a legislative body will rely upon an express savings clause and its progeny -- the general savings statute or the constitutional savings clause, or some

<sup>1</sup> “Abatement” means “no further prosecution for the [criminal] violation.” *Landen v. U.S.*, 299 F. 75, 78 (6th. Cir. 1924).

<sup>2</sup> Comment, *Today’s Law and Yesterday’s Crime: Retroactive Application of Ameliorative Criminal Legislation*, 121 U. Pa. L. Rev. 120, 121 (1972) (footnote omitted).

<sup>3</sup> *Bradley v. U.S.*, 410 U.S. 605, 607-608 (1973) (citations omitted) (emphasis provided by staff). Further, savings clauses addressed an anomaly resulting from the interplay between the common law abatement doctrine and the constitutional prohibition against ex post facto laws, which are prohibited by the U.S. Constitution and Florida’s Constitution. *See* U.S. CONST. art. 1, s. 9, cl. 3 and FLA. CONST. art. I, s. 10. “For a criminal law to be ex post facto it must be retrospective, that is, it must apply to events that occurred before its enactment; and it must alter the definition of criminal conduct or increase the penalty by which a crime is punishable.” *Victorino v. State*, 241 So.3d 48, 50 (Fla. 2018) (citation omitted). The anomaly occurs when “the old statute in existence when the crime is committed is thereafter amended so as to increase the punishment, and there is no saving clause. The prosecution not reduced to final judgment is barred. This is so because the accused cannot be punished under the new law since to do so would be ex post facto, and he cannot be punished under the old law because it has been repealed without a saving clause.” *In re Estrada*, 63 Cal.2d 740, 747 (1965) (citation omitted).

<sup>4</sup> “In the absence of a specific savings clause in the legislation that effectuates the repeal, the theory of abatement carries an obvious potential for injustice: the prospect that crimes committed before the effective date of a statutory amendment would go entirely unpunished even though (as evidenced by the terms of the new legislation) the legislature quite obviously had no intention of removing the conduct at issue from the ambit of criminal law.” *State v. Carpentino*, 166 N.H. 9, 14 (2014).

combination of the three.”<sup>5</sup> As a result of this savings legislation, there was a “shifting of the legislative presumption from one of abatement to one of non-abatement in the absence of contrary legislative intent.”<sup>6</sup>

Retroactive ameliorations of penalties may be provided by law,<sup>7</sup> or otherwise construed to be authorized by some courts,<sup>8</sup> but “[t]he majority of general savings statutes do not account explicitly for ameliorative changes” and “[m]ost courts have interpreted this omission to eliminate the common law amelioration doctrine.”<sup>9</sup> Until recently, Article X, Section 9 of the State Constitution (Florida’s constitutional savings clause) expressly prohibited any repeal or amendment of a criminal statute that affected prosecution or punishment for any crime previously committed, and therefore, the Florida Legislature was “powerless to lessen penalties for past transgressions; to do so would require constitutional revision.”<sup>10</sup>

Savings clauses have been described as “but a canon of statutory construction to aid in interpreting statutes to ascertain legislative intent” and “not an end in itself”<sup>11</sup> or as “intended only as a rule of construction, which must give way if the legislature has unambiguously expressed an intent contrary to the statutory ‘default’ position it establishes.”<sup>12</sup> However, the “more favored view” in applying general savings statutes is to “constru[e] the provisions not merely as ‘rules of construction to be applied only to resolve a question of the legislative intent,’ but as ‘positive legislation which should be given effect as though they were incorporated into every future enactment involving a substantive right.’”<sup>13</sup>

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<sup>5</sup> S. David Mitchell, *In with the New, Out with the Old: Expanding the Scope of Retroactive Amelioration*, 37 Am J. Crim. L. 1, 6-7 (2009) (citations omitted).

<sup>6</sup> Comment, *Today’s Law and Yesterday’s Crime: Retroactive Application of Ameliorative Criminal Legislation*, 121 U. Pa. L. Rev. 120, 127 (1972).

<sup>7</sup> See, e.g., Ohio Rev. Code s. 1.58(B) (“[i]f the penalty, forfeiture, or punishment for any offense is reduced by a reenactment or amendment of a statute, the penalty, forfeiture, or punishment, if not already imposed, shall be imposed according to the statute as amended”) and W.Va. Code s. 2-2-8 (“if any penalty or punishment be mitigated by the new law, such new law may, with the consent of the party affected thereby, be applied to any judgment pronounced after it has taken effect”).

<sup>8</sup> See, e.g., *People v. Oliver*, 1 N.Y.2d 152 (1956) (finding legislative intent for a retroactive amelioration, notwithstanding New York’s general savings statute precluding such amelioration and the fact that retroactive application was not specified in the legislation).

<sup>9</sup> Eileen L. Morrison, *Resurrecting the Amelioration Doctrine: A Call to Action for Courts and Legislatures*, 95 Boston U. L. Rev. 335, 349 (footnotes omitted). “When a legislature engages in legislative retroactive amelioration, it attaches an ameliorative amendment exception to the general savings statute to give retroactive effect to ameliorative sentencing changes[.]” S. David Mitchell, *In with the New, Out with the Old: Expanding the Scope of Retroactive Amelioration*, 37 Am J. Crim. L. 1, 9 (2009) (footnote omitted). An example of a retroactive ameliorative change is retroactive application of a reduced penalty.

<sup>10</sup> Comment, *Today’s Law and Yesterday’s Crime: Retroactive Application of Ameliorative Criminal Legislation*, 121 U. Pa. L. Rev. 120, 129 (1972).

<sup>11</sup> *State v. Cummings*, 386 N.W.2d 468, 471 (1986).

<sup>12</sup> *State v. Carpentino*, 166 N.H. at 14.

<sup>13</sup> *Iowa Dept. of Transp. v. Iowa Dist. Court for Scott County Supreme Court of Iowa*, 587 N.W.2d 781, 788 (1998), quoting 1A Norman J. Singer, *Sutherland Statutory Construction* s. 23.37, at 432 (5th ed.1993). A general savings statute can “save the necessity of the burdensome formality of attaching an identical saving clause to all repealing legislation.” *State v. Shepherd*, 202 Iowa 437 (1926).

## The History of Florida's Constitutional Savings Clause

Florida and two other states have a constitutional savings clause.<sup>14</sup> However, prior to 1885, Florida did not have one. In 1885, Florida adopted Article III, Section 32 of the State Constitution. This constitutional amendment was the predecessor to Article X, Section 9 of the State Constitution.<sup>15</sup> Article III, Section 32 provided:

The repeal or amendment of any criminal statute shall not affect the prosecution or punishment of any crime committed before such repeal or amendment.<sup>16</sup>

The Florida Supreme Court has discussed the origin of this savings clause:

[In *Ex parte Pells*, 28 Fla. 67 (1891),] [w]e explained that article III, section 32 originated after the Court decided the case of *Higgenbotham v. State*, 19 Fla. 557 (1882). In *Higgenbotham*, the Court invalidated a conviction of assault with intent to commit murder because the assault statute was repealed after the crime was committed but before prosecution took place, and there was no savings clause in the statute to allow the then-pending prosecution to proceed. Under those circumstances, we reasoned, “no further proceedings can, after the repealing law takes effect, be taken under the law so repealed.” *Ex parte Pells*, 28 Fla. at 73, 9 So. at 834. We then inferred that the people of Florida approved article III, Section 32, in 1885 to provide a constitutional savings clause, thereby negating the effect of the *Higgenbotham* holding. *See also Sigsbee v. State*, 43 Fla. 524, 529, 30 So. 816, 817 (1901).<sup>17</sup>

In 1968, Florida adopted Article X, Section 9 of the State Constitution, which was substantially similar to Article III, Section 32, and provided:

Repeal or amendment of a criminal statute shall not affect prosecution or punishment for any crime previously committed.

In 2018, Florida adopted the following amendment to Article X, Section 9 of the State Constitution:

Repeal ~~or amendment~~ of a criminal statute shall not affect prosecution ~~or punishment~~ for any crime ~~previously~~ committed before such repeal.

Revised Article X, Section 9 of the State Constitution only prohibits applying the repeal of a criminal statute to any crime committed before such repeal if this retroactive application “affects

<sup>14</sup> Oklahoma and New Mexico. *See* OKLA. CONST. art. V, s. 54 and N.M. CONST. art. IV, s. 33.

<sup>15</sup> *State v. Watts*, 558 So.2d 994, 999 (Fla. 1990). It appears that at various times Florida had a general savings statute for criminal laws. *See Reynolds v. State*, 33 Fla. 301, 303 (Fla. 1894) (describing Section 2523, Rev. Stat.) and *Castle v. State*, 330 So.2d 10, 11 (Fla. 1976) (describing s. 775.12, F.S. (1973)).

<sup>16</sup> “The effect of this constitutional provision is to give to all criminal legislation a prospective effectiveness; that is to say, the repeal or amendment, by subsequent legislation, of a pre-existing criminal statute, does not become effective, either as a repeal or as an amendment of such pre-existing statute, in so far as offenses are concerned that have already been committed prior to the taking effect of such repealing or amending law.” *Raines v. State*, 42 Fla. 141, 145 (1900). “Courts have interpreted this section the same as its successor provision in the 1968 revision.” *State v. Watts*, 558 So.2d at 999 n. 5.

<sup>17</sup> *State v. Watts*, 558 So.2d at 999.

prosecution.” The revised constitutional savings clause does not expressly prohibit retroactive application of a repeal that does not affect prosecution, a repeal that affects punishment, or an amendment of a criminal statute that affects prosecution or punishment.

The elimination of the expressed prohibition on certain retroactive applications is not a directive to the Legislature to retroactively apply what was formerly prohibited. As the Florida Supreme Court recently stated: “... [T]here will no longer be any provision in the Florida Constitution that would prohibit the Legislature from applying an amended criminal statute retroactively to pending prosecutions or sentences. However, nothing in our constitution does or will require the Legislature to do so, and the repeal of the prohibition will not require that they do so.”<sup>18</sup>

### Terms Used in Florida’s Constitutional Savings Clause

For purposes of the constitutional savings clause, the Florida Supreme Court has defined the term “criminal statute” broadly: “In *Washington v. Dowling*, 92 Fla. 601, 109 So. 588 (1926), this Court provided the following definition for the words ‘criminal statute’: ‘[A]n act of the Legislature as an organized body relating to crime or punishment ... defining crime, treating of its nature, or providing for its punishment.’ *Id.*, 109 So. at 591.”<sup>19</sup>

In regard to Article X, Section 9 of the State Constitution, the Florida Supreme Court does not appear to have ever clearly indicated whether a “criminal statute” also includes its parts or provisions and whether an amendment can “repeal” those parts or provisions. An amendment can modify a part or provision of a statute but it can also eliminate or nullify it. In several cases unrelated to Article X, Section 9 of the State Constitution, the Court and several Florida appellate courts have described amendments repealing or effectively repealing subsections or paragraphs of statutes.<sup>20</sup> However, courts do not always describe an amendment deleting a provision as a repeal or causing a repeal.<sup>21</sup>

<sup>18</sup> *Jimenez v. Jones*, 261 So.3d 502, 504 (Fla. 2018).

<sup>19</sup> *Smiley v. State*, 966 So. 2d 330, 337 (Fla. 2007).

<sup>20</sup> See, e.g., *In re Rogers’ Estate*, 171 So.2d 428, 429-430 (Fla. 2d DCA 1965) (court noting that, in 1959, subsection (3) of s. 731.35, F.S., “the dower statute,” was “repealed”); *State v. Lindsay*, 284 So.2d 377, 378 n. 1 (Fla. 1973) (Florida Supreme Court noting that ch. 72-179, L.O.F., “repealed Subsections (2) and (3) of Section 39.01”); *Smith v. Smathers*, 372 So.2d 427, 429 (Fla. 1979) (Florida Supreme Court holding that “Sections 13 and 66 of Chapter 77-175, Laws of Florida, are [constitutionally] invalid only to the extent they repeal the write-in voting procedure contained in Sections 99.203, 101.011(2), and 101.151(5)(a) and (b), Florida Statutes (1975)”); *L. Ross, Inc. v. R.W. Roberts Constr. Co., Inc.*, 466 So.2d 1096, 1097 (Fla. 5th DCA 1985) (footnote omitted), *approved*, 481 So.2d 484 (Fla. 1986) (court stating that “[t]his case involves the retroactive application of a statutory amendment which repealed a limitation in the amount of attorney’s fees made recoverable by statute in certain actions”); *Clayton v. Willis*, 489 So.2d 813, 818 (Fla. 5th DCA 1986), *review denied*, 500 So.2d 546 (Fla. 1986) (court noting that “[i]n 1979, the legislature repealed subsection (c), Chapter 79-163, s. 10, Laws of Florida”); *State v. Richardson*, 915 So.2d 86, 89 (Fla. 2005) (Florida Supreme Court noting that in its previous decision it “held that the Legislature had effectively repealed the sequential conviction rule because the then current version of the statute, which had recently been significantly amended in 1988, did not contain the sequential conviction requirement”); *Image Data, L.L.C. v. Sullivan*, 739 So. 2d 725, 727 n. 6 (Fla. 5th DCA 1999) (court describing HB 1015 (1999) as “repealing subsections (5) and (6) of section 322.142, Florida Statutes”); and *Gabriele, v. Sch. Bd. of Manatee County*, 114 So.3d 477, 479 n. 1 (Fla. 2d DCA 2013) (court noting that “[t]he legislature repealed paragraphs (a), (b), and (c) of subsection (3) of section 1012.33 effective July 1, 2011. Ch. 2011-37, s. 19, at 504, Laws of Fla.”).

<sup>21</sup> See, e.g., *Macchione v. State*, 123 So. 3d 114 (Fla. 2013) (describing various amendments to s. 836.10, F.S., including the deletion of language, without describing any of the changes as a repeal).

If an amendment can repeal a part or provision of a criminal statute than questions may arise regarding retroactive applications of some amendments. Provided are three examples:

- *Retroactive application of an amendment that eliminates any criminal penalty attached to prohibited conduct.* Retroactive application of this type of amendment appears to “affect prosecution” because there is no longer any “crime” to prosecute.
- *Retroactive application of an amendment that eliminates some criminal penalties for a crime but does not decriminalize prohibited conduct.* An example of this type of amendment is an amendment that eliminates mandatory minimum terms or mandatory fines for drug trafficking but retains criminal penalties provided for the felony degree of the drug trafficking offense.
- *Retroactive application of an amendment modifying an element of an offense that is tied to the criminal penalty provided for that offense.* An example of this type of amendment is an amendment that increases the threshold amount for charging grand theft or charging drug trafficking. Applied prospectively, this type of amendment precludes charging offenders who do not meet the amended threshold, though they may have met the threshold under the law before its amendment. It is unclear if retroactive application of this type of amendment would have a similar impact on pending prosecutions or uncharged offenses for acts committed before the effective date of the amendment.<sup>22</sup>

There is little guidance on what retroactive repeals “affect prosecution” in violation of Article X, Section 9 of the State Constitution, other than the Florida Supreme Court indicating that purely procedural changes do not “affect prosecution.” The Court has construed the constitutional savings clause as “saving” substantive rights and liabilities. “Remedial statutes or statutes relating to remedies or modes of procedure, which do not create new or take away vested rights but only operate in furtherance of the remedy or confirmation of rights already existing, do not come within the legal conception of a retrospective law, or the general rule against retrospective operation of statutes.”<sup>23</sup> However, “a statute that achieves ‘remedial purpose by creating substantive new rights or imposing new legal burdens’ is treated as a substantive change in the law.”<sup>24</sup>

### III. Effect of Proposed Changes:

The bill creates s. 775.022, F.S., which is a general savings statute for criminal statutes. Typically, a general savings statute prevents the repeal of a criminal statute from abating pending criminal prosecutions, unless the repealing act expressly provides for abatement. “Abatement” means no further prosecution for the criminal violation.

<sup>22</sup> In *State v. Sampson*, 120 N.H. 251, 254 (1980), the New Hampshire Supreme Court noted that if the court adopted the defendant’s theory that an amendment increasing the theft threshold should be retroactively applied to him, it “would not just be holding that the legislature intended to retroactively impose a less severe punishment for acts still criminal, but as in this case, to excuse the conduct altogether.” In *Rushing v. State*, 192 So.2d 1113, 1116 (2016), a Mississippi appellate court stated that legislation’s “new ‘tiers’ of punishment are inextricably tied to the new or amended elements of the offenses.” “That is, we cannot retroactively apply the amendment to sentences without also retroactively applying the amendments to the elements of the offenses. For a defendant convicted of selling cocaine, we cannot determine which new sentencing range would apply without first determining how much cocaine the defendant sold.” *Id.*

<sup>23</sup> *City of Lakeland v. Catinella*, 129 So.2d 133, 136 (Fla. 1961).

<sup>24</sup> *Smiley v. State*, 966 So.2d at 334, quoting *Arrow Air v. Walsh*, 645 So.2d 422, 424 (Fla. 1994).

The bill defines a “criminal statute” as a statute, whether substantive or procedural, dealing in any way with a crime or its punishment, defining a crime or a defense to a crime, or providing for the punishment of a crime. This definition is similar to the broad definition of “criminal statute” provided by the Florida Supreme Court in *Washington v. Dowling*.<sup>25</sup> The definition also indicates legislative intent to provide the provisions of the general savings statute to substantive and procedural changes to criminal statutes.

The bill specifies legislative intent to preclude:

- Application of the common law doctrine of abatement to a reenactment or an amendment of a criminal statute; and
- Construction of a reenactment or amendment as a repeal or an implied repeal<sup>26</sup> of a criminal statute for purposes of Article X, Section 9 of the State Constitution (Florida’s constitutional savings clause).

The bill also states that, except as expressly provided in an act of the Legislature or as provided in two specified exceptions, the reenactment or amendment of a criminal statute operates prospectively and does not affect or abate any of the following:

- The prior operation of the statute or a prosecution or enforcement under the criminal statute;
- A violation of the criminal statute based on any act or omission occurring before the effective date of the act; and
- A prior penalty, prior forfeiture, or prior punishment incurred or imposed under the statute.

The first exception is a retroactive amelioration exception that provides that if a penalty, forfeiture, or punishment for a violation of a criminal statute is reduced by a reenactment or an amendment of a criminal statute, the penalty, forfeiture, or punishment, if not already imposed, must be imposed according to the statute as amended. This means the penalty, forfeiture, or punishment reduction must be imposed retroactively if the sentence has not been imposed, including the situation in which the sentence is imposed after the effective date of the amendment. However, nothing in the general savings statute precludes the Legislature from providing for a more extensive retroactive application either to legislation in the future or legislation that was enacted prior to the effective date of the general savings statute. This is because the general savings statute specifically provides for a legislative exception to the default position of prospectivity. The Legislature only has to “expressly provide” for this retroactive application.

The first exception is similar to the retroactive amelioration exception in the general savings statutes of Iowa, Ohio, and Texas.<sup>27</sup> Florida courts will be able to look at the jurisprudence of these states to determine how the courts of these states have interpreted their retroactive amelioration exception.

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<sup>25</sup> 109 So. at 591. See “Present Situation” section of this analysis for a discussion of terms in the constitutional savings clause.

<sup>26</sup> The Florida Supreme Court has previously indicated that the “standard [is] that implied repeals are disfavored and should only be found in cases where there is a ‘positive repugnancy’ between the two statutes or ‘clear legislative intent’ indicating that the Legislature intended the repeal[.]” *Flo-Sun, Inc. v. Kirk*, 783 So.2d 1029, 1036 (Fla. 2001).

<sup>27</sup> Iowa Code s. 4.13, Ohio Rev. Code s. 1.58, and Tex. Gov’t Code s. 311.031.

The second exception relates to defenses and provides that the general savings statute does not limit the retroactive effect of any defense to a criminal statute enacted or amended by the Legislature to any criminal case that has not yet reached final judgment.

Finally, the bill provides that a reference to any other chapter, part, section, or subdivision of the Florida Statutes in a criminal statute or a reference within a criminal statute constitutes a general reference under the doctrine of incorporation by reference. Therefore, future changes to these criminal statutes will automatically apply to statutes that cross-reference these statutes.

The bill is effective upon becoming a law.

#### **IV. Constitutional Issues:**

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

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

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

None.

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

None.

##### **D. State Tax or Fee Increases:**

None.

##### **E. Other Constitutional Issues:**

None identified.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

None.

##### **C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 775.022 of the Florida Statutes.

**IX. Additional Information:**

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

**CS by Criminal Justice on April 1, 2019:**

The Committee Substitute:

- Modifies and broadens the definition of “criminal statute” for purposes of the general savings statute created by the bill;
- Provides legislative intent to preclude application of the common law doctrine of abatement to a reenactment or amendment to a criminal statute;
- Provides legislative intent to preclude construction of a reenactment or amendment as a repeal or an implied repeal of a criminal statute for purposes of Article X, Section 9 of the State Constitution;
- Provides for retroactive application of a penalty reduction to cases in which the sentence was not imposed before the effective date of the act;
- Provides that the general savings statute does not limit the retroactive effect of any defense to a criminal statute enacted or amended by the Legislature to any criminal case that has not yet reached final judgment; and
- Provides that a reference to any other chapter, part, section, or subdivision of the Florida Statutes in a criminal statute or a reference within a criminal statute constitutes a general reference under the doctrine of incorporation by reference.

- B. **Amendments:**

None.



901440

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2019	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 775.022, Florida Statutes, is created to  
read:

775.022 Effect of reenactment or amendment of criminal  
statutes; references in criminal statutes.-

(1) It is the intent of the Legislature that:

(a) This section preclude the application of the common law



901440

11 doctrine of abatement to a reenactment or an amendment of a  
12 criminal statute; and

13 (b) An act of the Legislature reenacting or amending a  
14 criminal statute not be considered a repeal or an implied repeal  
15 of such statute for purposes of s. 9, Art. X of the State  
16 Constitution.

17 (2) As used in this section, the term "criminal statute"  
18 means a statute, whether substantive or procedural, dealing in  
19 any way with a crime or its punishment, defining a crime or a  
20 defense to a crime, or providing for the punishment of a crime.

21 (3) Except as expressly provided in an act of the  
22 Legislature or as provided in subsection (4), the reenactment or  
23 amendment of a criminal statute operates prospectively and does  
24 not affect or abate any of the following:

25 (a) The prior operation of the statute or a prosecution or  
26 enforcement thereunder.

27 (b) A violation of the statute based on any act or omission  
28 occurring before the effective date of the act.

29 (c) A prior penalty, prior forfeiture, or prior punishment  
30 incurred or imposed under the statute.

31 (4) If a penalty, forfeiture, or punishment for a violation  
32 of a criminal statute is reduced by a reenactment or an  
33 amendment of a criminal statute, the penalty, forfeiture, or  
34 punishment, if not already imposed, must be imposed according to  
35 the statute as amended.

36 (5) A reference to any other chapter, part, section, or  
37 subdivision of the Florida Statutes in a criminal statute or a  
38 reference within a criminal statute constitutes a general  
39 reference under the doctrine of incorporation by reference.



901440

40 Section 2. This act shall take effect upon becoming a law.

41

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

43 And the title is amended as follows:

44 Delete everything before the enacting clause

45 and insert:

46 A bill to be entitled

47 An act relating to criminal statutes; creating s.

48 775.022, F.S.; providing legislative intent; defining

49 the term "criminal statute"; specifying that the

50 reenactment or amendment of a criminal statute

51 operates prospectively and does not affect or abate

52 specified circumstances; providing exceptions;

53 providing that a reference to any other chapter, part,

54 section, or subdivision of the Florida Statutes in a

55 criminal statute or a reference within a criminal

56 statute constitutes a general reference under the

57 doctrine of incorporation by reference; providing an

58 effective date.



730154

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2019	.	
	.	
	.	
	.	

---

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

**Senate Amendment to Amendment (901440)**

Delete lines 22 - 36  
and insert:  
Legislature or as provided in subsections (4) and (5) the  
reenactment or amendment of a criminal statute operates  
prospectively and does not affect or abate any of the following:  
(a) The prior operation of the statute or a prosecution or  
enforcement thereunder.  
(b) A violation of the statute based on any act or omission



730154

11 occurring before the effective date of the act.

12 (c) A prior penalty, prior forfeiture, or prior punishment  
13 incurred or imposed under the statute.

14 (4) If a penalty, forfeiture, or punishment for a violation  
15 of a criminal statute is reduced by a reenactment or an  
16 amendment of a criminal statute, the penalty, forfeiture, or  
17 punishment, if not already imposed, must be imposed according to  
18 the statute as amended.

19 (5) This section shall not apply to limit the retroactive  
20 effect of any defense to a criminal statute enacted or amended  
21 by the Legislature to any criminal case that has not yet reached  
22 final judgment.

23 (6) A reference to any other chapter, part, section, or

By Senator Lee

20-01376B-19

20191656\_\_

1 A bill to be entitled  
 2 An act relating to amendment of criminal statutes;  
 3 creating s. 775.022, F.S.; defining the term "criminal  
 4 statute"; providing that an act of the Legislature  
 5 which reenacts, revises, or amends a criminal statute  
 6 may not be considered a repeal under a specified  
 7 provision of the State Constitution; specifying that  
 8 the reenactment, revision, or amendment of an existing  
 9 criminal statute only operates prospectively unless  
 10 expressly provided otherwise in such an act; providing  
 11 an effective date.  
 12

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

15 Section 1. Section 775.022, Florida Statutes, is created to  
 16 read:

17 775.022 Effect of reenactment, revision, or amendment of  
 18 criminal statutes.-

19 (1) As used in this section, the term "criminal statute"  
 20 means chapters 775-896 and any other law of this state which  
 21 prohibits an act or omission and provides a criminal penalty,  
 22 regardless of the degree of the offense.

23 (2) Any act of the Legislature reenacting, revising, or  
 24 amending a criminal statute may not be considered a repeal of  
 25 such statute for purposes of s. 9, Art. X of the State  
 26 Constitution.

27 (3) Except as expressly provided in an act of the  
 28 Legislature, the reenactment, revision, or amendment by law of  
 29 an existing criminal statute operates prospectively and does not

Page 1 of 2

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

20-01376B-19

20191656\_\_

30 affect or abate any of the following:

31 (a) The prior operation of the statute or any prosecution  
 32 or enforcement thereunder.

33 (b) Any violation of the statute based on any act or  
 34 omission occurring prior to the effective date of the act.

35 (c) Any prior penalty, prior forfeiture, or prior  
 36 punishment incurred or imposed under the statute.

37 Section 2. This act shall take effect upon becoming a law.

Page 2 of 2

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

THE FLORIDA SENATE

APPEARANCE RECORD

375 - 1:30pm

1656

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

4/1/19

Meeting Date

Bill Number (if applicable)

901440

Amendment Barcode (if applicable)

Topic Retroactivity of Ameliorative Criminal Justice Reforms

Name Kara Gross

Job Title Legislative Director

Address 4343 W. Flagler St

Phone 786-363-4436

Street

Miami

FL

33134

Email kgross@aclufl.org

City

State

Zip

Speaking:  For  Against  Information

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

Representing ACLU 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.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

4/1/19

Meeting Date

1656

Bill Number (if applicable)

901440

Amendment Barcode (if applicable)

Topic Criminal Statutes

Name Richard Martin

Job Title General Counsel, Florida Attorney General

Address PL-01, The Capitol

Phone 850-245-0140

Street

Tallahassee

City

FL

State

32399

Zip

Email Richard.martin@myfloridalegal.com

legal.com

Speaking:  For  Against  Information

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

Representing Florida Attorney General

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

04/02/2019  
Meeting Date

SB 1656  
Bill Number (if applicable)

Topic CRIMINAL STATUTES

901440  
Amendment Barcode (if applicable)

Name CESAR GRAJALES

Job Title DIRECTOR OF COALITIONS

Address 200 W COLLEGE AVE  
Street

Phone 786.260.9283

TALLAHASSEE FL  
City State Zip

Email cgrajales@belibee.org

Speaking:  For  Against  Information

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

Representing AMERICAN FOR PROSPERITY

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)

1656

4/1/19  
Meeting Date

Bill Number (if applicable)

901440

Amendment Barcode (if applicable)

Topic Retractive Crime Justice

Name Scott McCoy

Job Title Senior Policy Counsel

Address P.O. Box 10788

Phone 850-521-3042

Street  
Tally FL 32302  
City State Zip

Email scott.mccoy@spkcenter.org

Speaking:  For  Against  Information

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

Representing Southern Poverty Law Center

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/2019

Meeting Date

1656

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Linda Hernandez

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

Address \_\_\_\_\_

Phone 813-365-8834

Street

Email mrsdherandez7@aol.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing Self

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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)

April 1, 2015  
Meeting Date

SR 1682  
Bill Number (if applicable)

Topic Retrospective Amendment (criminal) statutes Amendment Barcode (if applicable)

Name J.J. DAIK

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

Address 1330 Steenbok Dr  
Street  
Holiday, FL 34690  
City State Zip

Phone \_\_\_\_\_

Email JJDaiak@gmail.com

Speaking:  For  Against  Information

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

Representing Self

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

4/1/2019  
Meeting Date

1656  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name PAUL C. AEROUX

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

Address 4765 Arrow Road

Phone 407-443-1459

Street

ORLANDO

City

FL

State

32812

Zip

Email XWOREHT@GMAIL.COM

Speaking:  For  Against  Information

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

Representing FLORIDA CAPES

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

4-1-19

Meeting Date

1656

Bill Number (if applicable)

Topic Savings Clause

Amendment Barcode (if applicable)

Name Greg Newborn

Job Title State Policy Director

Address PO Box 142933

Phone 352.682.2542

Street

Gainesville

State

FL

Zip

Email gnewborn@fammm.org

Speaking:  For  Against  Information

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

Representing FAMM

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

4-1-19

Meeting Date

1656

Bill Number (if applicable)

Topic Savings Clause

Amendment Barcode (if applicable)

Name Chelsea Murphy

Job Title Florida Director

Address \_\_\_\_\_  
Street

Phone \_\_\_\_\_

City

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Right on Crime

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

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

04/01/2019  
Meeting Date

SB 1656  
Bill Number (if applicable)

Topic CRIMINAL JUSTICE

Amendment Barcode (if applicable)

Name CESAR GRAJALES

Job Title DIRECTOR OF COALITIONS

Address 200 W COLLEGE AVE  
Street

Phone 786.260.9283

TALLAHASSEE FL  
City State Zip

Email cgrajales@belibde.org

Speaking:  For  Against  Information

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

Representing AMERICANS FOR PROSPERITY

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/19

Meeting Date

SB 1656

Bill Number (if applicable)

Topic Amendment of Criminal Statutes

Amendment Barcode (if applicable)

Name Phil Archer

Job Title State Attorney

Address 2725 Judge Fran Jamieson Way

Phone (321) 657-5575

Street

Viera

Fl.

City

State

Zip

Email

Speaking: [ ] For [ ] Against [ ] Information

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

Representing FPAA

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

4/1/19

1656

*Meeting Date*

*Bill Number (if applicable)*

Topic Amendment of Criminal Statutes

*Amendment Barcode (if applicable)*

Name Chief Gary Hester

Job Title Government Affairs

Address 2636 Mitcham Drive

Phone 850-219-3631

*Street*

Tallahassee

FL

32308

Email ghester@fpca.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Police Chiefs Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

April 1, 2019

*Meeting Date*

SB 1656

*Bill Number (if applicable)*

Topic Amendment of Criminal Statutes

*Amendment Barcode (if applicable)*

Name Audrey Jennings Hudgins

Job Title Mother and Advocate

Address 23650 Aucilla Landing Road

Phone (850) 347-2941

*Street*

Lamont

Fl.

32336

Email audreyhudgins2019@gmail.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Operation Overtime

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

4-1-2019

Meeting Date

1656

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Amy McCourt

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

Address 2255 SE Morningside Blvd

Phone 954 253 4928

Street

Port Saint Lucie

City

FL

State

34952

Zip

Email amy.floridacares@gmail.com

Speaking:  For  Against  Information

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

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/19

Meeting Date

SB 1656

Bill Number (if applicable)

Topic SB 1656

Amendment Barcode (if applicable)

Name Laurette Philipsen

Job Title

Address 7240 Westwind drive

Street

Port Lacey FL 34668

City

State

Zip

727-484-0237  
Phone

disneygrandma@aol.com  
Email Act.com

Speaking:  For  Against  Information

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

Representing Florida Cares a my self

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/1/2019  
Meeting Date

1056  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Erica Medina

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

Address 2295 Underwood Ave  
Street  
Saint Cloud FL 34771  
City State Zip

Phone 407-212-0904

Email Erica.1007medina@gmail.com

Speaking:  For  Against  Information

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

Representing Self

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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)

4/1/2019  
Meeting Date

1656  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Natacha Toro

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

Address 5725 Cardinal Guard Ave.  
Street

Phone 407-953-5042

Orlando Fl. 32839  
City State Zip

Email NatachaToro5@gmail.com

Speaking:  For  Against  Information

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

Representing Self

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/14/14)



*The Florida Senate*

## Committee Agenda Request

**To:** Senator Keith Perry, Chair  
Committee on Criminal Justice

**Subject:** Committee Agenda Request

**Date:** March 26, 2019

---

I respectfully request that **Senate Bill #1656**, relating to Amendment of Criminal Statutes, be placed on the:

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

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

---

Senator Tom Lee  
Florida Senate, District 20

# CourtSmart Tag Report

Room: LL 37

Case No.:

Type:

Caption: Senate Criminal Justice Committee

Judge:

Started: 4/1/2019 1:33:52 PM

Ends: 4/1/2019 2:53:33 PM Length: 01:19:42

1:33:52 PM Meeting called to order  
1:33:54 PM Roll call  
1:33:56 PM Tab 1- SB 668 by Senator Perry; Public Nuisances  
1:34:36 PM Amendment Barcode 783120  
1:35:13 PM Speaker Greg Pound from Saving Families  
1:36:56 PM Roll call for SB 668  
1:37:55 PM Recording Paused  
1:45:33 PM Recording Resumed  
1:45:51 PM Tab 2- SB 1656 by Senator Lee; Amendment of Criminal Statutes  
1:46:58 PM Amendment Barcode 901440  
1:47:52 PM Amendment to the Amendment Barcode 730154  
1:53:07 PM Back on Amendment Barcode 901440 as amended  
1:56:14 PM Close on Amendment Barcode 901440  
1:57:52 PM Back on SB 1656 as amended  
1:58:52 PM Speaker Paul CoHeroux from Florida Cares  
2:01:46 PM Speaker JJ Daiak  
2:05:45 PM Speaker Linda Hernandez  
2:13:06 PM Speaker Gregg Newburn from FAMM  
2:17:48 PM Speaker Natacha Toro  
2:19:43 PM Speaker Erica Medina  
2:22:29 PM Speaker Laurette Philipsen from Florida Cares  
2:27:08 PM Speaker Amy McCourt  
2:30:15 PM Speaker Audrey Hudgins from Operation Overtime  
2:37:23 PM Speaker Richard Martin from Florida Attorney General to answer a question  
2:47:57 PM Debate on SB 1656  
2:48:58 PM Close on SB 1656  
2:52:14 PM Roll call on SB 1656  
2:53:14 PM Meeting adjourned