

Tab 1	SPB 7012 by CJ; OGSR/Victim of an Incident of Mass Violence					
Tab 2	SB 382 by Bradley; (Compare to CS/H 00043) Compensation for Wrongfully Incarcerated Persons					
653022	D	S	RCS	CJ, Bradley	Delete everything after	03/06 05:56 PM
Tab 3	SB 450 by Ingoglia (CO-INTRODUCERS) Martin; (Identical to CS/H 00555) Jury Recommendations in Death Penalty Cases					
613564	D	S	RCS	CJ, Ingoglia	Delete everything after	03/06 05:56 PM
297178	AA	S	RCS	CJ, Ingoglia	Delete L.45 - 145:	03/06 05:56 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Martin, Chair
Senator Bradley, Vice Chair

MEETING DATE: Monday, March 6, 2023
TIME: 3:30—5:30 p.m.
PLACE: Toni Jennings Committee Room, 110 Senate Building

MEMBERS: Senator Martin, Chair; Senator Bradley, Vice Chair; Senators Ingoglia, Perry, Pizzo, Polsky, Powell, and Yarborough

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
Consideration of proposed bill:			
1	SPB 7012	OGSR/Victim of an Incident of Mass Violence; Amending a provision which provides an exemption from public records requirements for the address of a victim of an incident of mass violence; removing the scheduled repeal of the exemption, etc.	Submitted and Reported Favorably as Committee Bill Yeas 8 Nays 0
2	SB 382 Bradley (Compare CS/H 43)	Compensation for Wrongfully Incarcerated Persons; Revising requirements for when a petition seeking compensation for a wrongful incarceration must be filed; providing that a deceased person's heirs, successors, or assigns do not have standing to file such a petition; revising compensation eligibility requirements for a wrongful incarceration; revising requirements for awarding compensation for a wrongful incarceration, etc. CJ 03/06/2023 Fav/CS ACJ FP	Fav/CS Yeas 8 Nays 0
3	SB 450 Ingoglia (Identical H 555)	Jury Recommendations in Death Penalty Cases; Providing for jury recommendations concerning death sentences, rather than jury determinations of sentences; specifying that a jury recommends a death sentence if at least eight jurors recommend a death sentence; requiring the sentencing court to set forth in writing specified findings if it imposes a death sentence, etc. CJ 03/06/2023 Fav/CS JU RC	Fav/CS Yeas 6 Nays 2

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.)

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

BILL: SPB 7012

INTRODUCER: Criminal Justice Committee

SUBJECT: OGSR/Victim of an Incident of Mass Violence

DATE: March 7, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Cellon	Stokes		CJ Submitted as Comm. Bill/Fav

I. Summary:

SPB 7012 saves from repeal the public records exemption for the address of a victim of an incident of mass violence. The exemption makes the records exempt from public records requirements.

The Open Government Sunset Review Act requires the Legislature to review each public record and each public meeting exemption five years after enactment. The exemption contained in s. 119.071(2)(o), F.S., is scheduled to repeal on October 2, 2023. This bill removes the scheduled repeal to continue the exempt status.

The bill is not expected to impact state and local revenues and expenditures.

The bill takes effect October 1, 2023.

II. Present Situation:

Public Records Law

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

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.³ The Public Records Act states that:

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁴

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁵ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

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

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

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

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

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹¹

³ Public records laws are found throughout the Florida Statutes.

⁴ Section 119.01(1), F.S.

⁵ *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *see also Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

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

⁷ Section 119.07(1)(a), F.S.

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

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ *Id.*

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

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

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁶ with specified exceptions.¹⁷ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.¹⁸ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁹ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;²⁰
- Releasing sensitive personal information would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²¹ or
- It protects trade or business secrets.²²

¹² FLA. CONST., art. I, s. 24(c).

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

¹⁴ *Id.*

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

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

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

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b), F.S.

²⁰ Section 119.15(6)(b)1., F.S.

²¹ Section 119.15(6)(b)2., F.S.

²² Section 119.15(6)(b)3., F.S.

The Act also requires specified questions to be considered during the review process.²³ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁴ If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁵

Public Records Exemption Under Review

In 2018, the Legislature created s. 119.071(2)(o), F.S., which made the address of a victim of an incident of mass violence exempt from public records laws.²⁶ The exemption in s. 119.071(2)(o), F.S., will stand repealed on October 2, 2023, unless reviewed under the Act²⁷ and saved from repeal through reenactment by the Legislature.

As defined in s. 119.071(2)(o), F.S., the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. The term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator.²⁸

In creating the exemption, the Legislature provided a public necessity statement articulating the reasons for the exemption.²⁹ Specifically, the Legislature found:

- After an incident of mass violence has occurred, victims of such an incident are in a vulnerable state as they assist law enforcement with the investigation of the incident and try to recover from the events that occurred.
- In some instances, the victim may have been killed or injured leaving their families to deal with the aftermath of the crime.
- The public availability of such victim’s address may be used to locate the victim or the victim’s family.

²³ Section 119.15(6)(a), F.S. The specified questions are:

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

²⁴ FLA. CONST. art. I, s. 24(c).

²⁵ Section 119.15(7), F.S.

²⁶ Section 119.07(1), F.S., and FLA. CONST. art. I, s. 24(a).

²⁷ Section 119.15, F.S.

²⁸ Section 119.071(2)(o), F.S.

²⁹ Chapter 2018-2, L.O.F.

- The availability of such information has allowed people to take advantage of the victims or their families by subjecting the victims or their families to media intrusions at their homes and other unwelcome intrusions into their privacy.
- Therefore, it is necessary that the address of victims of incidents of mass violence be protected to ensure that persons affected by such incidents are not harassed, taken advantage of, or otherwise subjected to additional pain and suffering.³⁰

In order to determine whether and to what degree the public records exemption under review is being utilized by criminal justice agencies, legislative staff surveyed law enforcement agencies. Additionally, Senate and House of Representatives staff participated in a meeting with the Florida Department of Law Enforcement to discuss the exemption. In the fall of 2022, staff sent questionnaires to a total of 666 agencies.³¹ Forty agencies returned answered questionnaires.³²

Of the 40 responding agencies, only one agency reported an incident of mass violence as defined in the public records exemption, in the approximately five years since the exemption became law.³³ The agency reported a drive-by shooting in 2020 in which one person was killed and seven were wounded.³⁴ The agency further reports that it uses Marsy's Law³⁵ to protect victim information and suggests that the exemption could be repealed.^{36, 37}

Although only one responding law enforcement agency has been in a position to utilize the public records exemption in s. 119.071(2)(o), F.S., 37 agencies responded to the survey question about whether the exemption should be reenacted.³⁸ Of those 37 agencies, a majority of 23 agencies said that the public records exemption should be reenacted; five agencies said the

³⁰ *Id.*

³¹ Staff had the assistance of the Florida Police Chiefs Association and the Florida Sheriff's Association in sending out the survey questionnaires.

³² Open Government Sunset Review Questionnaires, Address of a Victim of an Incident of Mass Violence; responses are on file with the Senate Criminal Justice Committee.

³³ *Id.*

³⁴ *Id.*

³⁵ In 2018, Florida voters passed Marsy's Law, an amendment to the Florida Constitution, to expand victim's rights. FLA. CONST. Art. 1, s. 16(b).

³⁶ Other agencies reported that they would use Marsy's Law or would depend upon both the exemption *and* Marsy's Law under appropriate circumstances. Open Government Sunset Review Questionnaires, Address of a Victim of an Incident of Mass Violence; responses are on file with the Senate Criminal Justice Committee.

³⁷ It appears that there is inconsistency in how different law enforcement agencies have interpreted the requirements of Marsy's Law. While some agencies invoke Marsy's Law and automatically redact victim information, others require the victim to request it. See *The Problem with Marsy's Law in Florida*, Tampa Bay Times, June 7, 2022, available at <https://www.tampabay.com/opinion/2022/06/07/the-problem-with-marsys-law-in-florida-editorial/> (last visited February 24, 2023). There is pending litigation on Marsy's Law in the Florida Supreme Court, but it is unclear whether the court will address the automatic applicability of a victim's right to prevent the disclosure of information or records as provided in FLA. CONST. Art 1, s. 16(b). See, *City of Tallahassee v. Florida Police Benevolent Association, Inc.*, 314 So. 3d 796 (Fla. 1st DCA 2021)(Review granted December 21, 2021).

³⁸ Open Government Sunset Review Questionnaires, Address of a Victim of an Incident of Mass Violence; responses are on file with the Senate Criminal Justice Committee.

exemption should be reenacted with changes;³⁹ and nine agencies thought the exemption should be repealed.⁴⁰

The exemption stands repealed on October 2, 2023, unless it is reviewed and saved from repeal by the Legislature.⁴¹

III. Effect of Proposed Changes:

The bill amends s. 119.071(2)(o), F.S., to save from repeal the current exemption for the address of a victim of mass violence.

The bill deletes the scheduled repeal date of October 2, 2023, thereby maintaining the exemption.

The bill takes effect October 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill continues a current public records exemption beyond its current date of repeal; thus, the bill does not require an extraordinary vote for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill continues a current public records exemption without expansion.

³⁹ One agency suggests there needs to be more “guidance” in this exemption. Two agencies suggested replacing the term “address” with broader language such as “all information that may be used to identify a victim of mass violence.” An additional agency suggested the exemption is “too narrow” and that it should be changed to “two or more” killed or injured. The fifth agency suggested that the exemption could be merged with language from Marsy’s Law.

⁴⁰ Open Government Sunset Review Questionnaires, Address of a Victim of an Incident of Mass Violence; responses are on file with the Senate Criminal Justice Committee.

⁴¹ Section 119.15(7), F.S.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect the address of a victim of mass violence. This bill exempts only the address of a victim of mass violence from the public records requirements. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 119.071 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.

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

FOR CONSIDERATION By the Committee on Criminal Justice

591-00982-23

20237012pb

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 119.071, F.S., which provides an exemption from public records requirements for the address of a victim of an incident of mass violence; removing the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Paragraph (o) of subsection (2) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term "incident of mass violence" means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term "victim" means a person killed or injured during an incident of mass violence, not including the perpetrator. ~~This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect October 1, 2023.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

**Name of Agency or Governmental Entity Completing the Questionnaire:
Blountstown Police Dept.**

**Name and Title of Person Completing the Questionnaire:
Chief Mark Mallory**

**Telephone Number of Person Completing the Questionnaire:
850-447-4545**

**E-mail Address of Person Completing the Questionnaire:
mmallory@blountstownpd.com**

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
none
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
no
3. Has your agency ever received a public record request for the exempt information under review?
If “yes”: no
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018? none
 - b. Please describe the types of entities requesting such information. N/A
 - c. Was the information released? If “yes,” please explain. N/A
4. Does any other state or federal law protect the exempt information under review? If “yes”:
Unknown
 - a. Please provide the specific state or federal citation for each exemption.
unknown
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.
none
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)? yes
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☒ Employment Address
 - ☒ Email Address
 - ☐ Other

b. If “other” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.
6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). No

7. Marsy's Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim's family.
 - a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy's Law, the public record exemption under review, or both? Please explain.
I would use both
 - b. Given that Marsy's Law protects similar victim information to the public record exemption under review, in your agency's opinion, could this exemption be eliminated? Please explain.
Potentially
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
 - ☐ Repeal the public record exemption
 - ☐ Reenact the public record exemption as is
 - xxxx☐ Reenact the public record exemption with changes
- b. If "*reenact the public record exemption with changes*" was selected, please explain any changes your agency recommends. Merge with the language from Marsy's law
9. Please provide any additional comments regarding the public record exemption under review.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term "incident of mass violence" means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term "victim" means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

**Name of Agency or Governmental Entity Completing the Questionnaire:
Chipley Police Department**

**Name and Title of Person Completing the Questionnaire:
Chief Scott Thompson**

**Telephone Number of Person Completing the Questionnaire:
850-638-6310**

**E-mail Address of Person Completing the Questionnaire:
sthompson@chipleypd.com**

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
None
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
Yes, We manually redact all records
3. Has your agency ever received a public record request for the exempt information under review?
If “yes”:
No
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018?
 - b. Please describe the types of entities requesting such information.
 - c. Was the information released? If “yes,” please explain.
4. Does any other state or federal law protect the exempt information under review? If “yes”:
Unknown
 - a. Please provide the specific state or federal citation for each exemption.
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)?
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☐ Employment Address
 - ☐ Email Address
 - ☐ Other
 - b. If “other” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.
6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). **No**

7. Marsy's Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim's family.
- a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy's Law, the public record exemption under review, or both? Please explain.
We manually redact all records
- b. Given that Marsy's Law protects similar victim information to the public record exemption under review, in your agency's opinion, could this exemption be eliminated? Please explain.
No, I believe that this should remain in place to prevent further exploitation of victims
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
☐ Repeal the public record exemption
☒ Reenact the public record exemption as is
☐ Reenact the public record exemption with changes
- b. If "*reenact the public record exemption with changes*" was selected, please explain any changes your agency recommends.
None
9. Please provide any additional comments regarding the public record exemption under review.
None

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term "incident of mass violence" means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term "victim" means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

Name of Agency or Governmental Entity Completing the Questionnaire:

Clearwater Police Department

Name and Title of Person Completing the Questionnaire:

Chief Daniel Slaughter

Telephone Number of Person Completing the Questionnaire:

(727) 562-4343

E-mail Address of Person Completing the Questionnaire:

Daniel.Slaughter@myclearwater.com

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
Police reports, computer aided dispatch records, recordings of radio traffic.
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
If the victim’s name is released, the address will likely be found through alternative means.
3. Has your agency ever received a public record request for the exempt information under review? If “yes”: **Not for incident of mass violence, no.**
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018?
 - b. Please describe the types of entities requesting such information.
 - c. Was the information released? If “yes,” please explain.
4. Does any other state or federal law protect the exempt information under review? If “yes”: **Yes, Marsy’s Law**
 - a. Please provide the specific state or federal citation for each exemption. **Marsy’s Law**
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)? **Support keeping the exemption as is.**
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☒ Employment Address
 - ☐ Email Address
 - ☐ Other

- b. If “*other*” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.
6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). **No**
7. Marsy’s Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family.
- a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy’s Law, the public record exemption under review, or both? Please explain. **The public record exemption under review. Potentially both, but Marsy’s law would need to be requested by victim or victim’s family in the event of death, and therefore, applying the public record exemption would be available without any action by an outside party.**
- b. Given that Marsy’s Law protects similar victim information to the public record exemption under review, in your agency’s opinion, could this exemption be eliminated? Please explain. **Would prefer to be able to exercise the exemption without having to burden family of a grieving family member with questions on whether they do or do not want to exercise Marsy’s law.**
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
- ☐ Repeal the public record exemption
 - ☒ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes
- b. If “*reenact the public record exemption with changes*” was selected, please explain any changes your agency recommends.
9. Please provide any additional comments regarding the public record exemption under review.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

**Name of Agency or Governmental Entity Completing the Questionnaire:
Clermont Police Department**

**Name and Title of Person Completing the Questionnaire:
Laura Turk-Records Supervisor**

**Telephone Number of Person Completing the Questionnaire:
352-536-8425**

**E-mail Address of Person Completing the Questionnaire:
lturk@clermontfl.org**

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
N/A
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
N/A
3. Has your agency ever received a public record request for the exempt information under review?
If “yes”: N/A
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018?
 - b. Please describe the types of entities requesting such information.
 - c. Was the information released? If “yes,” please explain.
4. Does any other state or federal law protect the exempt information under review? If “yes”:
 - a. Please provide the specific state or federal citation for each exemption.
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)?
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☐ Home Address (i.e. primary dwelling location)
 - ☐ Mailing Address (incl. P.O. Box)
 - ☐ Employment Address
 - ☐ Email Address
 - ☐ Other
 - b. If “other” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.
6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s).N/A

7. Marsy's Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim's family.
 - a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy's Law, the public record exemption under review, or both? Please explain.
We rely on Marsy's Law. We protect all victim information.
 - b. Given that Marsy's Law protects similar victim information to the public record exemption under review, in your agency's opinion, could this exemption be eliminated? Please explain.
Yes
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
 - ☒ Repeal the public record exemption
 - ☐ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes

b. If "*reenact the public record exemption with changes*" was selected, please explain any changes your agency recommends.
9. Please provide any additional comments regarding the public record exemption under review.

We have not had any Mass Violence occurrences.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term "incident of mass violence" means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term "victim" means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

Name of Agency or Governmental Entity Completing the Questionnaire:

Department of Financial Services/Division of Investigative and Forensic Services

Name and Title of Person Completing the Questionnaire:

Kimberly Wachter, Senior Management Analyst Supervisor

Telephone Number of Person Completing the Questionnaire:

(850) 413-4098

E-mail Address of Person Completing the Questionnaire:

Kimberly.wachter@myfloridacfo.com

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption? **Case reports; supplemental reports; witness statements; audio recordings; video recordings; drone footage; photographs; property appraiser reports; court records.**
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain. **Yes. Some of the records our agency includes in our files may be available publicly, such as court records and property records.**
3. Has your agency ever received a public record request for the exempt information under review? If “yes”: **No**
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018?
 - b. Please describe the types of entities requesting such information.
 - c. Was the information released? If “yes,” please explain.
4. Does any other state or federal law protect the exempt information under review? If “yes”:
 - a. Please provide the specific state or federal citation for each exemption. **Marsy's Law (Florida Constitution Article 1, Section 16) could cover this; however, the interpretation of Marsy's Law varies among law enforcement agencies. Many agencies require the victim to request the exemption.**
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information. **If our agency were to receive a request for this information, we would need to determine if Marsy's Law may be applicable or if, perhaps, this involved a domestic situation and 119.071(2)(j)1 would be applicable.**
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)? **This exemption could be merged with 119.071(2)(j)1, however, verbiage such as "upon written request from the victim" should be removed from that exemption to allow for the exemption to be automatic.**
 - d. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)

- ☒ Mailing Address (incl. P.O. Box)
- ☒ Employment Address
- ☐ Email Address
- ☐ Other

b. If “*other*” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.

5. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). **No**
6. Marsy’s Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family.
 - a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy’s Law, the public record exemption under review, or both? Please explain. **We haven't had a request of this type; however, if we did, we would rely upon this public record exemption and would have to determine if Marsy's Law was requested.**
 - b. Given that Marsy’s Law protects similar victim information to the public record exemption under review, in your agency’s opinion, could this exemption be eliminated? Please explain. **Yes; however, not all law enforcement agencies apply Marsy's Law the same. Some agencies, like ours, interpret that Marsy's Law needs to be requested by the victim, whereas under the current public exemption law, the exemption is automatic.**
7. a. Which of the following actions does your agency recommend the Legislature take (please select one):
 - ☒ Repeal the public record exemption
 - ☐ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes

b. If “*reenact the public record exemption with changes*” was selected, please explain any changes your agency recommends.
8. Please provide any additional comments regarding the public record exemption under review.

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

**Name of Agency or Governmental Entity Completing the Questionnaire:
Dunnellon Police Department**

**Name and Title of Person Completing the Questionnaire:
Mary Edmundson, Department Coordinator**

**Telephone Number of Person Completing the Questionnaire:
352-465-8510**

**E-mail Address of Person Completing the Questionnaire:
Medmundson@dunnellonpd.org**

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An "incident of mass violence" is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
At this time, we have had no incidents which would be affected.
2. Can the exempt information be readily obtained by alternative means? If "yes," please explain.
Yes, I would personally redact any information required if an incident occurred.
3. Has your agency ever received a public record request for the exempt information under review?
If "yes": No
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018? 0
 - b. Please describe the types of entities requesting such information.
 - c. Was the information released? If "yes," please explain.
4. Does any other state or federal law protect the exempt information under review? If "yes": No
 - a. Please provide the specific state or federal citation for each exemption.
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.
 - c. In your agency's opinion, could the public record exemption under review be merged with any other exemption(s)?
5. a. The term "address" as used in the public record exemption under review is not defined. Which of the following victim's addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☒ Employment Address
 - ☒ Email Address
 - ☐ Other
 - b. If "other" was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.
6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If "yes," please provide the appropriate citation(s). No

7. Marsy's Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim's family.
- a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy's Law, the public record exemption under review, or both? Please explain. The public records exemption fully protects the victim and therefore we use it.
- b. Given that Marsy's Law protects similar victim information to the public record exemption under review, in your agency's opinion, could this exemption be eliminated? Please explain. As long as Marsy's Law protects the victim as fully as the public records exemption, yes.
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
- ☐ Repeal the public record exemption
 - ☒ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes
- b. If "*reenact the public record exemption with changes*" was selected, please explain any changes your agency recommends.
9. Please provide any additional comments regarding the public record exemption under review.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term "incident of mass violence" means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term "victim" means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

Name of Agency or Governmental Entity Completing the Questionnaire:
Fort Walton Beach Police Department

Name and Title of Person Completing the Questionnaire:
Jamieson Ross, Lieutenant

Telephone Number of Person Completing the Questionnaire:
80-833-9554

E-mail Address of Person Completing the Questionnaire:
jross@fwb.org

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
Offense Reports, Arrest Reports, Computer Aided Dispatch records, Mobile Video Recorder files, Evidence records, GPS records (coordinates), Police radio audio files, Agency email.
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
Possibly police radio scanners during the incident
3. Has your agency ever received a public record request for the exempt information under review?
If “yes”: No
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018?
 - b. Please describe the types of entities requesting such information.
 - c. Was the information released? If “yes,” please explain.
4. Does any other state or federal law protect the exempt information under review? If “yes”:
Unknown
 - a. Please provide the specific state or federal citation for each exemption.
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)?
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☒ Employment Address
 - ☒ Email Address
 - ☐ Other
 - b. If “other” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.

6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). No
7. Marsy’s Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family.
 - a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy’s Law, the public record exemption under review, or both? Please explain. Marsy’s Law appears to cover the Public Record Exemption.
 - b. Given that Marsy’s Law protects similar victim information to the public record exemption under review, in your agency’s opinion, could this exemption be eliminated? Please explain. Because of Marsy’s Law’s breadth, it does not appear the public records exemption is necessary, however, protection of victims should be a focus of the legislature, and as such, repealing any victim protection statutes, in whole or in part, seems nonsensical.
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
 - ☐ Repeal the public record exemption
 - ☒ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes
- b. If “reenact the public record exemption with changes” was selected, please explain any changes your agency recommends.
9. Please provide any additional comments regarding the public record exemption under review.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or

killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

Name of Agency or Governmental Entity Completing the Questionnaire: Florida State University Police Department

Name and Title of Person Completing the Questionnaire: Patti Wilmer-Records Manager

Telephone Number of Person Completing the Questionnaire: 850-644-1610

E-mail Address of Person Completing the Questionnaire: PWilmer@fsu.edu

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
We have records related to the Strozier Library Shooting (3-4 victims) and the Ted Bundy case. While we retain some records, these cases were turned over to TPD and LCSO.
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
unknown
3. Has your agency ever received a public record request for the exempt information under review?
If “yes”: **unknown**
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018? **unknown**
 - b. Please describe the types of entities requesting such information.
 - c. Was the information released? If “yes,” please explain.
4. Does any other state or federal law protect the exempt information under review? If “yes”:
 - a. Please provide the specific state or federal citation for each exemption.
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information. **If requested, we would rely on Marcy’s Law to exempt this information.**
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)? **Marsy’s Law**
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☒ Employment Address
 - ☒ Email Address
 - ☐ Other
 - b. If “other” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.

6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). **No**
7. Marcy’s Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family.
 - a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marcy’s Law, the public record exemption under review, or both? Please explain. **We will use Marcy’s Law for these type of requests**
 - b. Given that Marcy’s Law protects similar victim information to the public record exemption under review, in your agency’s opinion, could this exemption be eliminated? Please explain. **In my opinion, no. The statute under review is related to “mass violence” and an address exemption. Would it not be a good idea to keep Marcy’s law that will exempt additional information as well?**
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
 - ☐ Repeal the public record exemption
 - ☐ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes
- b. If “*reenact the public record exemption with changes*” was selected, please explain any changes your agency recommends.
9. Please provide any additional comments regarding the public record exemption under review.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the

term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

Name of Agency or Governmental Entity Completing the Questionnaire: Kissimmee Police Department

Name and Title of Person Completing the Questionnaire: Captain Camille Alicea

Telephone Number of Person Completing the Questionnaire: (407) 847-0176 ext. 3125

E-mail Address of Person Completing the Questionnaire: camille.alicea@kissimmee.gov

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
Incident Reports
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
No
3. Has your agency ever received a public record request for the exempt information under review?
If “yes”: **No**
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018?
 - b. Please describe the types of entities requesting such information.
 - c. Was the information released? If “yes,” please explain.
4. Does any other state or federal law protect the exempt information under review? If “yes”:
Maybe
 - a. Please provide the specific state or federal citation for each exemption. **Some exemptions that may also apply depending on the circumstances are Marsy’s Law Fla. Const. Art. 1 s. 16(b)(5), Fla. Stat. ss. 119.071(2)(j)1, 119.071(2)(h)1.a., and 119.071(2)(c). However, these exemptions may not apply in some circumstances when Fla. Stat. s. 119.071(2)(o) does.**
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information. **The agency relies upon each of the provisions cited in the answer to question 4(a) when responding to public records requests.**
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)? The agency believes that this exemption should remain separate from other exemptions.
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
☒ Home Address (i.e. primary dwelling location)

- ☒ Mailing Address (incl. P.O. Box)
- ☐ Employment Address
- ☐ Email Address
- ☐ Other

b. If “*other*” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review. **N/A**

6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). **No.**
7. Marsy’s Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family.
 - a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy’s Law, the public record exemption under review, or both? Please explain. **Both. The agency’s position is that the victim or, in the event of a homicide, the victim’s next of kin must invoke Marsy’s law in order for Fla. Const. Art. I s. 16(b)(5) to apply. As a result, if the victim or victim’s next of kin does not invoke Marsy’s law, the agency would consider whether another provision makes the victim’s information confidential or exempt.**
 - b. Given that Marsy’s Law protects similar victim information to the public record exemption under review, in your agency’s opinion, could this exemption be eliminated? Please explain. **No, please see the response to question 7(a) above.**
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
 - ☐ Repeal the public record exemption
 - ☐ Reenact the public record exemption as is
 - ☒ Reenact the public record exemption with changes
- b. If “*reenact the public record exemption with changes*” was selected, please explain any changes your agency recommends. **The agency finds that this provision is too narrow and recommends that the definition of “incident of mass violence” be changed to “an incident in which two or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.”**
9. Please provide any additional comments regarding the public record exemption under review.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

**Name of Agency or Governmental Entity Completing the Questionnaire:
Lake Alfred Police Department**

**Name and Title of Person Completing the Questionnaire:
Chief Art Bodenheimer**

**Telephone Number of Person Completing the Questionnaire:
863-291-5200**

**E-mail Address of Person Completing the Questionnaire:
abodenheimer@mylakealfred.com**

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
None
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
N/A
3. Has your agency ever received a public record request for the exempt information under review?
If “yes”:No
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018? None
 - b. Please describe the types of entities requesting such information.N/A
 - c. Was the information released? If “yes,” please explain. N/A
4. Does any other state or federal law protect the exempt information under review? If “yes”:
No
 - a. Please provide the specific state or federal citation for each exemption.
N/A
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.
Marsy’s Law
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)?
Marsy’s Law
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☒ Employment Address
 - ☒ Email Address
 - ☐ Other
 - b. If “other” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.
6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). No

7. Marsy's Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim's family.
- a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy's Law, the public record exemption under review, or both? Please explain. Marsy's law. This information falls under acts of violence.
- b. Given that Marsy's Law protects similar victim information to the public record exemption under review, in your agency's opinion, could this exemption be eliminated? Please explain. Yes
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
- ☐ Repeal the public record exemption
 - ☒ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes
- b. If "*reenact the public record exemption with changes*" was selected, please explain any changes your agency recommends.
9. Please provide any additional comments regarding the public record exemption under review.

None noted

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term "incident of mass violence" means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term "victim" means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

Name of Agency or Governmental Entity Completing the Questionnaire:

Lake Mary Police Department

Name and Title of Person Completing the Questionnaire:

Katie Fries, Support Services Manager

Telephone Number of Person Completing the Questionnaire:

407-585-1322

E-mail Address of Person Completing the Questionnaire:

kfries@lakemaryfl.com

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
None
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
N/A
3. Has your agency ever received a public record request for the exempt information under review?
If “yes”:
No
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018?
N/A
 - b. Please describe the types of entities requesting such information.
N/A
 - c. Was the information released? If “yes,” please explain.
N/A
4. Does any other state or federal law protect the exempt information under review? If “yes”:
No
 - a. Please provide the specific state or federal citation for each exemption.
N/A
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.
If we had a record regarding an incident of mass violence, we would use Section 119.071(2)(o).
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)?
No
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)

- ☒ Mailing Address (incl. P.O. Box)
- ☒ Employment Address
- ☒ Email Address
- ☐ Other

b. If “*other*” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.

N/A

6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “*yes*,” please provide the appropriate citation(s).

No

7. Marsy’s Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family.

- a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy’s Law, the public record exemption under review, or both? Please explain.

When we have a record involving an individual that has requested Marsy’s Law, we quote Fl Constitution Article 1, Section 16, B

- b. Given that Marsy’s Law protects similar victim information to the public record exemption under review, in your agency’s opinion, could this exemption be eliminated? Please explain. I believe victims of mass violence may not be in the frame of mind to request/understand Marsy’s Law. Since this is a request that must be made for the exemption to apply, I think it is beneficial to have an exemption already created to protect these victims without requiring them to request the protection.

8. a. Which of the following actions does your agency recommend the Legislature take (please select one):

- ☐ Repeal the public record exemption
- ☒ Reenact the public record exemption as is
- ☐ Reenact the public record exemption with changes

- b. If “*reenact the public record exemption with changes*” was selected, please explain any changes your agency recommends.

N/A

9. Please provide any additional comments regarding the public record exemption under review.

N/A

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

**Name of Agency or Governmental Entity Completing the Questionnaire:
Marion County School Board Police Department**

**Name and Title of Person Completing the Questionnaire:
Dennis P. McFatten Chief of Police**

**Telephone Number of Person Completing the Questionnaire:
352-671-7274**

**E-mail Address of Person Completing the Questionnaire:
dennis.mcfatten@marion.k12.fl.us**

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
 - a. None. The Marion County School Board Police Department relinquish all crimes on School Board property to local law enforcement agencies
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
 - a. Yes. Contact can be made with local law enforcement agencies.
3. Has your agency ever received a public record request for the exempt information under review? If “yes”: No
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018? None
 - b. Please describe the types of entities requesting such information.
 - i. N/A
 - c. Was the information released? If “yes,” please explain.
 - i. N/A
4. Does any other state or federal law protect the exempt information under review? If “yes”:
 - a. N/A
 - b. Please provide the specific state or federal citation for each exemption.
 - i. N/A
 - c. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.
 - i. N/A
 - d. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)?
 - i. N/A
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):

- a. If any information was given by the MCSBPD, all the below information would be exempt. However, all crimes are investigated by other law enforcement agencies. we do not investigate crimes
 - ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☒ Employment Address
 - ☒ Email Address
 - ☒ Other Student records
 - b. If “*other*” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.
6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). No
7. Marsy’s Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family.
 - a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy’s Law, the public record exemption under review, or both? Please explain.
 - i. Both
 1. We would defer all public records request to the law enforcement agency of jurisdiction in Marion County, since they will investigate all mass violence crimes
 2. Marsy’s Law will be adhered to as it relates to the Marion County School Board Police Department
 - b. Given that Marsy’s Law protects similar victim information to the public record exemption under review, in your agency’s opinion, could this exemption be eliminated? Please explain.
 - i.
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
 - ☐ Repeal the public record exemption
 - ☐ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes
 - b. If “*reenact the public record exemption with changes*” was selected, please explain any changes your agency recommends.
9. Please provide any additional comments regarding the public record exemption under review.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

**Name of Agency or Governmental Entity Completing the Questionnaire:
North Miami Police Department**

**Name and Title of Person Completing the Questionnaire:
Maria D Salaverria
Records Supervisor**

**Telephone Number of Person Completing the Questionnaire:
305-891-0294 ext 21113**

**E-mail Address of Person Completing the Questionnaire:
Msalaverria@NorthMiamiPolice.com**

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
Homicides and Aggravated Battery.
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
Yes, once a report is given out to other government agencies there will be no control as to who has access to the information.
3. Has your agency ever received a public record request for the exempt information under review?
If “yes”: No
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018?
 - b. Please describe the types of entities requesting such information.
 - c. Was the information released? If “yes,” please explain.
4. Does any other state or federal law protect the exempt information under review? If “yes”:
Yes
 - a. Please provide the specific state or federal citation for each exemption.
119.071(2)(c)1 – Criminal investigative or criminal intelligence information.
Marsy’s Law
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information. Mainly the ones listed above, unless another exemption applies such in the case of rape, juveniles or law enforcement officers listed as victims.
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)? Yes
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
☒ Home Address (i.e. primary dwelling location)

- ☒ Mailing Address (incl. P.O. Box)
- ☐ Employment Address
- ☒ Email Address
- ☐ Other

b. If “*other*” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.

6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s).
7. Marsy’s Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family.
 - a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy’s Law, the public record exemption under review, or both? Please explain. Both
 - b. Given that Marsy’s Law protects similar victim information to the public record exemption under review, in your agency’s opinion, could this exemption be eliminated? Please explain. As we understand it Marsy’s law applies only when the victim request their information be exempt. Therefore if our agency does not received the victim’s request and no other exemption applies at the time of the request then the agency will have to release the requested information.
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
 - ☐ Repeal the public record exemption
 - ☒ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes
 - b. If “*reenact the public record exemption with changes*” was selected, please explain any changes your agency recommends.
9. Please provide any additional comments regarding the public record exemption under review.

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

**Name of Agency or Governmental Entity Completing the Questionnaire:
Pensacola Police Department**

**Name and Title of Person Completing the Questionnaire:
Christine Shorette, Records Supervisor**

**Telephone Number of Person Completing the Questionnaire:
850-436-5414**

**E-mail Address of Person Completing the Questionnaire:
cshorette@cityofpensacola.com**

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
 - a. Offense/Incident Reports
 - b. Arrest Reports
 - c. Audio/Body/dash cam footage
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
 - a. No
3. Has your agency ever received a public record request for the exempt information under review?
If “yes”: No
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018?
 - b. Please describe the types of entities requesting such information.
 - c. Was the information released? If “yes,” please explain.
4. Does any other state or federal law protect the exempt information under review? If “yes”:
 - a. Please provide the specific state or federal citation for each exemption.
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)?
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☒ Employment Address
 - ☒ Email Address
 - ☐ Other
 - b. If “other” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.

6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). **No**
7. Marsy’s Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family.
 - a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy’s Law, the public record exemption under review, or both? Please explain.
 - i. We have not claimed this exemption as of this date but would use the exemption under review rather than Marsy’s Law.
 - b. Given that Marsy’s Law protects similar victim information to the public record exemption under review, in your agency’s opinion, could this exemption be eliminated? Please explain.
 - i. No, it should not be eliminated. Marsy’s Law is slightly different in wording and the exemption under review is more encompassing/protective.
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
 - ☐ Repeal the public record exemption
 - ☒ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes

b. If “*reenact the public record exemption with changes*” was selected, please explain any changes your agency recommends.
9. Please provide any additional comments regarding the public record exemption under review.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence”

means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

Name of Agency or Governmental Entity Completing the Questionnaire:
Port St. Lucie Police Department

Name and Title of Person Completing the Questionnaire:
John Bolduc, Chief of Police

Telephone Number of Person Completing the Questionnaire:
772-344-4278

E-mail Address of Person Completing the Questionnaire:
jbalduc@cityofpsl.com

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption? [None](#)
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
[We have not had an incident of mass violence in our jurisdiction.](#)
3. Has your agency ever received a public record request for the exempt information under review?
[No](#) If “yes”:
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018?
 - b. Please describe the types of entities requesting such information.
 - c. Was the information released? If “yes,” please explain.
4. Does any other state or federal law protect the exempt information under review? If “yes”:
[Not that I am aware of.](#)
 - a. Please provide the specific state or federal citation for each exemption.
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)?
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☒ Employment Address
 - ☒ Email Address
 - ☐ Other
 - b. If “other” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.
6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). [No](#)

7. Marsy's Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim's family.
 - a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy's Law, the public record exemption under review, or both? Please explain. *N/A, but Marsey's Law would suffice.*
 - b. Given that Marsy's Law protects similar victim information to the public record exemption under review, in your agency's opinion, could this exemption be eliminated? Please explain. *Yes, Marsy's Law already protects victims.*
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
 - ☒ Repeal the public record exemption
 - ☐ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes
 - b. If "*reenact the public record exemption with changes*" was selected, please explain any changes your agency recommends.
9. Please provide any additional comments regarding the public record exemption under review.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term "incident of mass violence" means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term "victim" means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

Name of Agency or Governmental Entity Completing the Questionnaire:
Sebring Police Department

Name and Title of Person Completing the Questionnaire:
Lt. Thomas Gilliard

Telephone Number of Person Completing the Questionnaire:
863-471-5107

E-mail Address of Person Completing the Questionnaire:
thomasgilliard@mysebring.com

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
Homicide
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
No
3. Has your agency ever received a public record request for the exempt information under review?
If “yes”: Yes
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018? Approximately 5
 - b. Please describe the types of entities requesting such information. News outlets
 - c. Was the information released? If “yes,” please explain. No
4. Does any other state or federal law protect the exempt information under review? If “yes”: Yes
 - a. Please provide the specific state or federal citation for each exemption. Marsy’s law
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information. Article 1 Section 16 of the Florida Constitution
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)? Unknown
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☒ Employment Address
 - ☐ Email Address
 - ☐ Other
 - b. If “other” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.

6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). No
7. Marsy’s Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family.
 - a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy’s Law, the public record exemption under review, or both? Please explain. Marsy’s Law
 - b. Given that Marsy’s Law protects similar victim information to the public record exemption under review, in your agency’s opinion, could this exemption be eliminated? Please explain. We have relied on Marsy’s Law
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
 - ☐ Repeal the public record exemption
 - ☒ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes
- b. If “*reenact the public record exemption with changes*” was selected, please explain any changes your agency recommends.
9. Please provide any additional comments regarding the public record exemption under review.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with

s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

Name of Agency or Governmental Entity Completing the Questionnaire: UCF Police Dept.

Name and Title of Person Completing the Questionnaire: Shawna Meyers-Records Supervisor

Telephone Number of Person Completing the Questionnaire: 407-799-8128

E-mail Address of Person Completing the Questionnaire: shawna.meyers@ucf.edu

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption? **None**
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
N/A
3. Has your agency ever received a public record request for the exempt information under review? If “yes”: **N/A**
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018? **N/A**
 - b. Please describe the types of entities requesting such information. **N/A**
 - c. Was the information released? If “yes,” please explain. **N/A**
4. Does any other state or federal law protect the exempt information under review? If “yes”: **Yes**
 - a. Please provide the specific state or federal citation for each exemption.
****Active Criminal Investigation- Section 119.071(2) (c) 1, F.S. would protect the information until the investigation is completed.**
****Marsy’s Law would protect the information, but only for those victims that make that specific request.**
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.
****The statute under review and/or the two mentioned above.**
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)?
****It could possibly be merged with Victims of Sexual Offenses or Child Abuse: 119.071(2)(h), which would exempt the complete identity of victims; or Victim Confidentiality: 119.071(2)(j)1, which would exempt the information for 5 years upon request.**
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)

- ☒ Employment Address
- ☒ Email Address
- ☐ Other

b. If “*other*” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review. **N/A**

6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). **No**
7. Marsy’s Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family.
 - a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy’s Law, the public record exemption under review, or both? Please explain.
****We would use the law under review, since it covers all victims involved.**
 - b. Given that Marsy’s Law protects similar victim information to the public record exemption under review, in your agency’s opinion, could this exemption be eliminated? Please explain.
****We would say no, it could not be eliminated. If you only use Marsy’s Law then there is potential for some of the victims to not request confidentiality, which would leave their information open, which in turn could lead someone to interview them and find out the names of other individuals involved without their consent.**
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
 - ☐ Repeal the public record exemption
 - ☒ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes

b. If “*reenact the public record exemption with changes*” was selected, please explain any changes your agency recommends.
9. Please provide any additional comments regarding the public record exemption under review.

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An "incident of mass violence" is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

Name of Agency or Governmental Entity Completing the Questionnaire:

VENICE POLICE DEPT.

Name and Title of Person Completing the Questionnaire:

ERIC HILL, POLICE CAPTAIN

Telephone Number of Person Completing the Questionnaire:

941-882-7582

E-mail Address of Person Completing the Questionnaire:

ehill@venice-fl.gov

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An "incident of mass violence" is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
NONE EXIST.
2. Can the exempt information be readily obtained by alternative means? If "yes," please explain.
N/A
3. Has your agency ever received a public record request for the exempt information under review?
If "yes": *NO*
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018?
 - b. Please describe the types of entities requesting such information.
 - c. Was the information released? If "yes," please explain.
4. Does any other state or federal law protect the exempt information under review? If "yes":
MARSH'S LAW
 - a. Please provide the specific state or federal citation for each exemption.
FLORIDA CONSTITUTION, ARTICLE I, SECTION 16(5).
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.
ANY INFO THAT COULD BE USED TO ~~LOCATE~~ LOCATE A CRIME VICTIM.
 - c. In your agency's opinion, could the public record exemption under review be merged with any other exemption(s)?
YES, MARSH'S LAW.
5. a. The term "address" as used in the public record exemption under review is not defined. Which of the following victim's addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☒ Employment Address
 - ☐ Email Address
 - ☐ Other
 - b. If "other" was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.
6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If "yes," please provide the appropriate citation(s).

7. Marsy's Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim's family.
 - a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy's Law, the public record exemption under review, or both? Please explain.
ARTICLE I, SECTION 16 (5)
 - b. Given that Marsy's Law protects similar victim information to the public record exemption under review, in your agency's opinion, could this exemption be eliminated? Please explain.
YES.
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
 - ☒ Repeal the public record exemption
 - ☐ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes
- b. If "*reenact the public record exemption with changes*" was selected, please explain any changes your agency recommends.
9. Please provide any additional comments regarding the public record exemption under review.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term "incident of mass violence" means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term "victim" means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

**Name of Agency or Governmental Entity Completing the Questionnaire:
Baker County Sheriff’s Office**

**Name and Title of Person Completing the Questionnaire:
Christina Faircloth, Records Clerk**

**Telephone Number of Person Completing the Questionnaire:
904-259-0252**

**E-mail Address of Person Completing the Questionnaire:
cfaircloth@bakerso.com**

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
None
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
N/A
3. Has your agency ever received a public record request for the exempt information under review?
If “yes”: N/A
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018?
 - b. Please describe the types of entities requesting such information.
 - c. Was the information released? If “yes,” please explain.
4. Does any other state or federal law protect the exempt information under review? If “yes”: N/A
 - a. Please provide the specific state or federal citation for each exemption.
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)?
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply): N/A
 - ☐ Home Address (i.e. primary dwelling location)
 - ☐ Mailing Address (incl. P.O. Box)
 - ☐ Employment Address
 - ☐ Email Address
 - ☐ Other
 - b. If “other” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.

6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). No
7. Marsy’s Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family.
 - a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy’s Law, the public record exemption under review, or both? Please explain. N/A
 - b. Given that Marsy’s Law protects similar victim information to the public record exemption under review, in your agency’s opinion, could this exemption be eliminated? Please explain. Yes, as Marsy’s Law covers all victims, regardless of crime, it supersedes the Mass Victims exemption.
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
 - ☒ Repeal the public record exemption
 - ☐ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes
 - b. If “*reenact the public record exemption with changes*” was selected, please explain any changes your agency recommends.
9. Please provide any additional comments regarding the public record exemption under review.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the

perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

Name of Agency or Governmental Entity Completing the Questionnaire:

Charlotte County Sheriff's Office

Name and Title of Person Completing the Questionnaire:

Kerri Towsey, Records Supervisor

Telephone Number of Person Completing the Questionnaire:

941-575-5236

E-mail Address of Person Completing the Questionnaire:

ktowsey@ccsofl.net

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?

We have not had any mass violence incidents in our county thankfully.

2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.

No, the requester needs to be in a Public Records request and the request is then thoroughly reviewed for exemptions. The PIO department may receive requests, but they should be reviewing for exemption the same as the Records Unit does. We also protect victims of all crimes in our county under the Marsy's Law Exemption (including law enforcement if they are the victim of a crime).

3. Has your agency ever received a public record request for the exempt information under review? If “yes”:

- a. What is the approximate number of requests your agency has received for such information each year beginning since 2018?

The agency has not had any mass violence crimes. We do receive about 10,000 records request a year and all are reviewed thoroughly for exempt and confidential information.

- b. Please describe the types of entities requesting such information.

For general records request the requester can be the media, the public, family. But we have not had any mass violence cases.

- c. Was the information released? If “yes,” please explain.

Request that we receive are generally for case reports, internal affairs investigations, personnel files, background checks, crash reports, body worn cameras, E911 calls, CAD reports. We have not had any mass violence crimes in our county.

4. Does any other state or federal law protect the exempt information under review? If “yes”:

- a. Please provide the specific state or federal citation for each exemption.

We apply Marsy's Law Exemption to all victims of crimes in our county. We review each request thoroughly and apply all exemptions we can. Each request is different, and it depends on what the request is for and what status the case is (Open/Closed Arrest). We would apply active investigation, E911 exemption for the 911 caller to the caller's name and address. Marsy's law to the victim, witnesses depending on the case type and status, medical information. There are many exemptions depending on what is the report and the case status.

- b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.
 - c. In your agency's opinion, could the public record exemption under review be merged with any other exemption(s)?
5. a. The term "address" as used in the public record exemption under review is not defined. Which of the following victim's addresses does your agency interpret as being protected under the exemption (please select all that apply):
- ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☒ Employment Address
 - ☒ Email Address
 - ☒ Other

b. If "other" was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.

Anything that would identify the victim will be redacted with the appropriate exemption applied.

6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If "yes," please provide the appropriate citation(s).
7. Marsy's Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim's family.
- a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy's Law, the public record exemption under review, or both? Please explain.

We have not had any mass violence crimes. We currently use Marsy's law or E911 if the victim called 911 or both. If we did have a mass violence incident, we would most likely use the victim of mass violence exemption.

- b. Given that Marsy's Law protects similar victim information to the public record exemption under review, in your agency's opinion, could this exemption be eliminated? Please explain.

Depends on how long mass violence exemption would protect the victims. Marsy's law is five (5) years.

8. a. Which of the following actions does your agency recommend the Legislature take (please select one):

- ☐ Repeal the public record exemption
☒ Reenact the public record exemption as is
Reenact the public record exemption with changes

- b. If “*reenact the public record exemption with changes*” was selected, please explain any changes your agency recommends.

9. Please provide any additional comments regarding the public record exemption under review.

What if the victim(s)/person(s) was injured or killed unintentionally / by accident. I feel that even if it was not criminal and was just an accident that those victims should also be protected.

Example: Accidental fire that several people died. Why should their names be released?

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

Name of Agency or Governmental Entity Completing the Questionnaire: *Columbia County Sheriff's Office*

Name and Title of Person Completing the Questionnaire: *Major Katina Dicks*

Telephone Number of Person Completing the Questionnaire: *(386) 758-1370*

E-mail Address of Person Completing the Questionnaire: *Katina.dicks@columbiasheriff.org*

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption? *N/A*
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
3. Has your agency ever received a public record request for the exempt information under review?
If “yes”: *No*
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018?
 - b. Please describe the types of entities requesting such information.
 - c. Was the information released? If “yes,” please explain.
4. Does any other state or federal law protect the exempt information under review? If “yes”: *No*
 - a. Please provide the specific state or federal citation for each exemption.
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)?
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☒ Employment Address
 - ☒ Email Address
 - ☐ Other
 - b. If “other” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.

6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). *No*
7. Marsy’s Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family.
 - a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy’s Law, the public record exemption under review, or both? Please explain. *We have not yet had this request, but would follow statute.*
 - b. Given that Marsy’s Law protects similar victim information to the public record exemption under review, in your agency’s opinion, could this exemption be eliminated? *Please explain. No, as it pertains to reporting information via a separate mechanism.*
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
 - ☐ Repeal the public record exemption
 - ☒ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes
- b. If “reenact the public record exemption with changes” was selected, please explain any changes your agency recommends.
9. Please provide any additional comments regarding the public record exemption under review.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the

perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

Name of Agency or Governmental Entity Completing the Questionnaire:

FLAGLER COUNTY SHERIFF’S OFFICE

Name and Title of Person Completing the Questionnaire:

WENDEE HARTMAN, RECORDS SUPERVISOR

Telephone Number of Person Completing the Questionnaire:

386-586-4816

E-mail Address of Person Completing the Questionnaire:

WHARTMAN@FLAGLERSHERIFF.COM

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
THANK GOD WE HAVE NOT HAD A MASS SHOOTING & HAD TO USE THIS EXEMPTION
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
3. Has your agency ever received a public record request for the exempt information under review? If “yes”: **NO**
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018? **0**
 - b. Please describe the types of entities requesting such information.
 - c. Was the information released? If “yes,” please explain.
4. Does any other state or federal law protect the exempt information under review? If “yes”:
 - a. Please provide the specific state or federal citation for each exemption.
I BELIEVE MARSY LAW COULD ACCOMPLISH THE SAME THING
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)? **MARSY LAW**
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☒ Employment Address
 - ☒ Email Address
 - ☒ Other
 - b. If “other” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.

PHONE NUMBERS

6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s).
7. Marsy’s Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family.
 - a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy’s Law, the public record exemption under review, or both? Please explain.
 - b. Given that Marsy’s Law protects similar victim information to the public record exemption under review, in your agency’s opinion, could this exemption be eliminated? Please explain.
YES
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
 - ☒ Repeal the public record exemption
 - ☐ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes
 - b. If “*reenact the public record exemption with changes*” was selected, please explain any changes your agency recommends.
9. Please provide any additional comments regarding the public record exemption under review.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the

perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

**Name of Agency or Governmental Entity Completing the Questionnaire:
Franklin County Sheriff’s Office**

**Name and Title of Person Completing the Questionnaire:
Dana M Pavon Chief of Human Resources**

**Telephone Number of Person Completing the Questionnaire:
850-670-4807**

**E-mail Address of Person Completing the Questionnaire:
d.pavon@franklinsheriff.com**

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption? No
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
3. Has your agency ever received a public record request for the exempt information under review? If “yes”:
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018?
 - b. Please describe the types of entities requesting such information.
 - c. Was the information released? If “yes,” please explain.
4. Does any other state or federal law protect the exempt information under review? If “yes”:
 - a. Please provide the specific state or federal citation for each exemption.
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)?
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☒ Employment Address
 - ☒ Email Address
 - ☐ Other
 - b. If “other” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.
6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). No

7. Marsy's Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim's family.
 - a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy's Law, the public record exemption under review, or both? Please explain. Both redact to protect the victim
 - b. Given that Marsy's Law protects similar victim information to the public record exemption under review, in your agency's opinion, could this exemption be eliminated? Please explain.
No
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
 - ☐ Repeal the public record exemption
 - ☐ Reenact the public record exemption as is
 - ☒ Reenact the public record exemption with changes
 - b. If "*reenact the public record exemption with changes*" was selected, please explain any changes your agency recommends. We would suggest to always protect the victim, because depending on the situation or circumstance they may fail to sign the Marsy Law Packet in the effect of this we should then take the precaution to always protect their identity no matter their age (juvenile or adult).
9. Please provide any additional comments regarding the public record exemption under review.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term "incident of mass violence" means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term "victim" means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with

s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

**Name of Agency or Governmental Entity Completing the Questionnaire:
GILCHRIST COUNTY SHERIFF’S OFFICE**

**Name and Title of Person Completing the Questionnaire:
REBECCA GROOM, HR/RECORDS**

**Telephone Number of Person Completing the Questionnaire:
352-463-3410**

**E-mail Address of Person Completing the Questionnaire:
RGROOM@GCSO.US**

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption? **N/A**
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
LOOKING UP CASE IN RMS.
3. Has your agency ever received a public record request for the exempt information under review?
If “yes”: **N/A**
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018? **N/A**
 - b. Please describe the types of entities requesting such information. **N/A**
 - c. Was the information released? If “yes,” please explain. **N/A**
4. Does any other state or federal law protect the exempt information under review? If “yes”: **N/A**
 - a. Please provide the specific state or federal citation for each exemption.
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)?
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☒ Employment Address
 - ☒ Email Address
 - ☐ Other
 - b. If “other” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review. **RATHER BE SAFE THAN SORRY WHEN IT COMES TO VICTIMS. ALL INFORMATION SHOULD BE REDACTED.**

6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). N/A
7. Marsy’s Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family.
 - a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy’s Law, the public record exemption under review, or both? Please explain. **BOTH, NO INFORMATION GOES OUT.**
 - b. Given that Marsy’s Law protects similar victim information to the public record exemption under review, in your agency’s opinion, could this exemption be eliminated? Please explain. **IF DUPLICATE, YES IT SHOULD BE ELIMINATED**
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
 - ☐ Repeal the public record exemption
 - ☒ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes

b. If “*reenact the public record exemption with changes*” was selected, please explain any changes your agency recommends.
9. Please provide any additional comments regarding the public record exemption under review.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
Homicide case with multiple victims, Aggravated assault cases where the perpetrator shot into a dwelling or vehicle with multiple people inside.

2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.

Yes, order from the court(s).

3. Has your agency ever received a public record request for the exempt information under review? If “yes”:

I am not aware of any requests since August 2014, when I was promoted to Records Manager, where this exemption was applied to a public records response.

a. What is the approximate number of requests your agency has received for such information each year beginning since 2018?

b. Please describe the types of entities requesting such information.

c. Was the information released? If “yes,” please explain.

• Does any other state or federal law protect the exempt information under review? If “yes”: **No laws that I am aware of concerning the release of law enforcement records. We rely on the Public Record Guide and the Government in the Sunshine Manual as well as the staff attorney for certain interpretations.**

d. Please provide the specific state or federal citation for each exemption.

e. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.

f. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)? **Yes, Marsy’s Law.**

4. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):

☒ Home Address (i.e. primary dwelling location)

☒ Mailing Address (incl. P.O. Box)

- ☒ Employment Address
- ☒ Email Address
- ☐ Other

b. If “*other*” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.

5. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). **No**
6. Marsy’s Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family.
 - a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy’s Law, the public record exemption under review, or both? Please explain. **Marsy’s Law, as interpreted by our prior staff attorney, is automatically applied to all victims of crimes, so we apply this exemption to all offenses when being released for public record requests.**
 - b. Given that Marsy’s Law protects similar victim information to the public record exemption under review, in your agency’s opinion, could this exemption be eliminated? Please explain. **It depends on how each agency handles Marsy’s Law. Yes for us. Our agency would have the ability to “double exempt” the victims of mass incidents due to automatically applying Marsy’s Law to crime victims. Other agencies may require crime victims to file for a Marsy’s Law exemption if they want their information exempted. This would result in the necessity for both exemptions to exist. It depends on each individual agency and their policies/practices.**
7. a. Which of the following actions does your agency recommend the Legislature take (please select one): **Question for Atty. Peacock.**
 - ☐ Repeal the public record exemption
 - ☒ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes

b. If “*reenact the public record exemption with changes*” was selected, please explain any changes your agency recommends.
8. Please provide any additional comments regarding the public record exemption under review.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

**Name of Agency or Governmental Entity Completing the Questionnaire:
Highlands County Sheriff’s Office**

**Name and Title of Person Completing the Questionnaire:
Lizette Peralta, Records Management Director**

**Telephone Number of Person Completing the Questionnaire:
(863) 402-7232**

**E-mail Address of Person Completing the Questionnaire:
lperalta@highlandssheriff.org**

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
None currently.
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
Not applicable.
3. Has your agency ever received a public record request for the exempt information under review? If “yes”: No, it has not. **Not applicable.**
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018? **Not applicable.**
 - b. Please describe the types of entities requesting such information. **Not applicable.**
 - c. Was the information released? If “yes,” please explain. **Not applicable.**
4. Does any other state or federal law protect the exempt information under review? If “yes”: **Yes.**
 - a. Please provide the specific state or federal citation for each exemption.
Marsy’s Law amends Art. I, s. 16 of the Constitution to add several provisions relating to victim rights; Subsection (b)(5).
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information. **If Marsy’s Law was not requested then Section 119.071(2)(o), F.S., would be used/cited.**
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)? **No, as other public records exemptions may be specific to the nature of a crime (i.e.: Sex Offenses, Abuse Offenses, Domestic Violence, etcetera) and/or must be requested in writing by the victim, parent, guardian, legal representative or next of kin.**
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e., primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☒ Employment Address

☒ Email Address

☐ Other

- b. If “*other*” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review. **Not applicable.**
6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). **Not currently.**
7. Marsy’s Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family.
- a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy’s Law, the public record exemption under review, or both? Please explain. **If Marsy’s Law is requested for the incident, then both exemptions would be applied. Marsy’s Law isn’t applicable unless it’s requested by the victim(s), parent, guardian, legal representative, or next of kin.**
- b. Given that Marsy’s Law protects similar victim information to the public record exemption under review, in your agency’s opinion, could this exemption be eliminated? Please explain. **It should not be eliminated as Marsy’s Law must be requested by the victim, parent, guardian, legal representative, or next of kin while the other statutory citation is automatically applied pursuant to law. A request isn’t required by the victim(s)**
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
- ☐ Repeal the public record exemption
- ☒ Reenact the public record exemption as is
- ☐ Reenact the public record exemption with changes
- b. If “*reenact the public record exemption with changes*” was selected, please explain any changes your agency recommends. **N/A**
9. Please provide any additional comments regarding the public record exemption under review. **The statutory citation provides law enforcement agencies the discretion of releasing the information or preventing its disclosure as exempt.**

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records. —

(2) AGENCY INVESTIGATIONS. —

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

Name of Agency or Governmental Entity Completing the Questionnaire:

Name and Title of Person Completing the Questionnaire:

Telephone Number of Person Completing the Questionnaire:

E-mail Address of Person Completing the Questionnaire:

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
Investigative reports created by sworn law enforcement personnel.
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
By subpoena.
3. Has your agency ever received a public record request for the exempt information under review?
If “yes”: Yes
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018?
2018 - None
2019 - None
2020 - 1 (drive-by shooting with 8 victims, 1 deceased and 7 wounded).
2021 - None
2022 (to date) - None
 - b. Please describe the types of entities requesting such information.
Only one instance, and victim information was released to the next of kin (victim’s mother).
 - c. Was the information released? If “yes,” please explain. Yes, in the situations below.
Yes, the deceased information was released. The other seven victim’s information was not.
4. Does any other state or federal law protect the exempt information under review? If “yes”: Yes
 - a. Please provide the specific state or federal citation for each exemption.
Marsy’s Law
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.
Victim information is only released to the victim, legal representative, parent or guardian of minor victim or next of kin of a homicide victim.
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)? Yes.

5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
- ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☒ Employment Address
 - ☒ Email Address
 - ☐ Other
- b. If “other” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.
6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). No.
7. Marsy’s Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family.
- a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy’s Law, the public record exemption under review, or both? Please explain.
Our agency relies on Marsy’s Law to protect victim information.
- b. Given that Marsy’s Law protects similar victim information to the public record exemption under review, in your agency’s opinion, could this exemption be eliminated? Please explain.
Yes.
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
- ☒ Repeal the public record exemption
 - ☐ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes
- b. If “reenact the public record exemption with changes” was selected, please explain any changes your agency recommends.
9. Please provide any additional comments regarding the public record exemption under review.
None.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

Name of Agency or Governmental Entity Completing the Questionnaire:

Lake County Sheriff’s Office

Name and Title of Person Completing the Questionnaire:

Lieutenant John Herrell, Public Information Officer

Telephone Number of Person Completing the Questionnaire:

(352) 267-0410

E-mail Address of Person Completing the Questionnaire:

john.herrell@lcsso.org

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?

Offense reports, arrest reports, 911 calls, and evidence such as body camera video or photographs.

2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.

Not that I’m aware of.

3. Has your agency ever received a public record request for the exempt information under review? If “yes”: No.

- a. What is the approximate number of requests your agency has received for such information each year beginning since 2018?

- b. Please describe the types of entities requesting such information.

- c. Was the information released? If “yes,” please explain.

4. Does any other state or federal law protect the exempt information under review? If “yes”:

Yes...

- a. Please provide the specific state or federal citation for each exemption.

Marsy’s Law.

- b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information

We would most likely rely upon Marsy’s Law due to the fact if Marsy’s Law protections are invoked, we would be required to withhold the information. According to the verbiage of the 119.071 exemption, the information is merely that—it is only “exempt” from the mandatory disclosure requirements of the Public Records Act. In other words, the agency isn’t required to withhold the “exempt” information unless it is labeled as “confidential” (for instance, notice how 119.071(2)(n) labels personal identifying information of victims of sexual harassment as both confidential and therefore exempt). It is at the discretion of the agency whether to release exempt information, or withhold it. Marsy’s Law would require the information be withheld.

- c. In your agency's opinion, could the public record exemption under review be merged with any other exemption(s)? Yes...Marsy's Law.
5. a. The term "address" as used in the public record exemption under review is not defined. Which of the following victim's addresses does your agency interpret as being protected under the exemption (please select all that apply):
- ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☒ Employment Address
 - ☐ Email Address
 - ☐ Other
- b. If "other" was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.
6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If "yes," please provide the appropriate citation(s).
- No.
7. Marsy's Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim's family.
- a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy's Law, the public record exemption under review, or both? Please explain.
- We would most likely rely upon Marsy's Law due to the fact if Marsy's Law protections are invoked, we would be required to withhold the information. According to the verbiage of the 119.071 exemption, the information is merely that—it is only "exempt" from the mandatory disclosure requirements of the Public Records Act. In other words, the agency isn't required to withhold the "exempt" information unless it is labeled as "confidential" (for instance, notice how 119.071(2)(n) labels personal identifying information of victims of sexual harassment as both confidential and therefore exempt). It is at the discretion of the agency whether to release exempt information or withhold it. Marsy's Law would require the information be withheld.
- b. Given that Marsy's Law protects similar victim information to the public record exemption under review, in your agency's opinion, could this exemption be eliminated? Please explain.
- Yes. The two laws are redundant. In addition, Marsy's Law would provide greater protection due to the fact it would require the information to be withheld (see further explanation in 7., a. above).

8. a. Which of the following actions does your agency recommend the Legislature take (please select one):

- ☒ Repeal the public record exemption
☐ Reenact the public record exemption as is
X Reenact the public record exemption with changes

- b. If “*reenact the public record exemption with changes*” was selected, please explain any changes your agency recommends.

Either repeal it or reenact it and label the information as confidential. Another option is to repeal it and clarify that the victim privacy protections in Marsy’s law are automatic and do not need to be specifically invoked by a victim.

9. Please provide any additional comments regarding the public record exemption under review.

Nothing further.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

Name of Agency or Governmental Entity Completing the Questionnaire: Lee County Sheriff's Office

Name and Title of Person Completing the Questionnaire: Katie Walter, Public Affairs secretary

Telephone Number of Person Completing the Questionnaire: 239-777-1500

**E-mail Address of Person Completing the Questionnaire:
KWalter@sheriffleefl.org**

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
Name, DOB, SSN, home address
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
No
3. Has your agency ever received a public record request for the exempt information under review? If “yes”:
We do not readily track this data or any data related to the following questions.
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018?
 - b. Please describe the types of entities requesting such information.
 - c. Was the information released? If “yes,” please explain.
4. Does any other state or federal law protect the exempt information under review? If “yes”:
No
 - a. Please provide the specific state or federal citation for each exemption.
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)?
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)
 - ☐ Mailing Address (incl. P.O. Box)
 - ☐ Employment Address
 - ☐ Email Address
 - ☐ Other
 - b. If “other” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.

6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). **No**
7. Marsy’s Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family.
 - a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy’s Law, the public record exemption under review, or both? Please explain.
 - b. Given that Marsy’s Law protects similar victim information to the public record exemption under review, in your agency’s opinion, could this exemption be eliminated? Please explain.
8. a. Which of the following actions does your agency recommend the Legislature take (please select one): **N/A**
 - ☐ Repeal the public record exemption
 - ☐ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes
- b. If “*reenact the public record exemption with changes*” was selected, please explain any changes your agency recommends.
9. Please provide any additional comments regarding the public record exemption under review.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

Name of Agency or Governmental Entity Completing the Questionnaire: [Leon County Sheriff's Office](#)

Name and Title of Person Completing the Questionnaire: [Director Elethia P. Chase](#)

Telephone Number of Person Completing the Questionnaire: [850-606-3328](#)

E-mail Address of Person Completing the Questionnaire: chasee@leoncountyfl.gov

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption? *If we experienced an incident of mass violence in Leon County, it would affect our responses to public records requests related to the criminal investigation of the incident, as well as any non-criminal records, such as emails, etc.*
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain. *Media, witnesses, etc.*
3. Has your agency ever received a public record request for the exempt information under review? If “yes”: *No.*
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018?
 - b. Please describe the types of entities requesting such information.
 - c. Was the information released? If “yes,” please explain.
4. Does any other state or federal law protect the exempt information under review? *Yes, somewhat.* If “yes”:
 - a. Please provide the specific state or federal citation for each exemption. *Marsy’s law (Florida Constitution) or witness to murder (119.071(2)(m)).*
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information. *Marsy’s Law reads “The right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family or which could disclose confidential or privileged information of the victim.” Witness to murder exemption reads, “Information that reveals the personal identifying information of a witness to a murder, as described in s. 782.04, F.S., is confidential for 2 years after the date on which the murder is observed by the witness.”*
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)? *No.*
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)

- ☒ Mailing Address (incl. P.O. Box)
- ☒ Employment Address (Only in cases where an existing exemption/confidentiality would apply, such as in the case of sex crimes, child abuse, Marsy's law, spouse/children of certain agency personnel, etc. In many cases, employment address is not exempt as worded.)
- ☒ Email Address
- ☐ Other

b. If "other" was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.

6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If "yes," please provide the appropriate citation(s). No.
7. Marsy's Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim's family.
 - a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy's Law, the public record exemption under review, or both? Please explain. Both. We do not pick one. If they both apply, we use the provisions of both.
 - b. Given that Marsy's Law protects similar victim information to the public record exemption under review, in your agency's opinion, could this exemption be eliminated? Please explain. I don't believe so. Our agency interprets Marsy's law as an exemption claimed by the victim, not an exemption we automatically claim for them.
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
 - ☐ Repeal the public record exemption
 - ☒ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes

b. If "reenact the public record exemption with changes" was selected, please explain any changes your agency recommends.
9. Please provide any additional comments regarding the public record exemption under review. N/A

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

**Name of Agency or Governmental Entity Completing the Questionnaire:
Liberty County Sheriff's Office**

**Name and Title of Person Completing the Questionnaire:
Vanell Summers, Analyst/Grants under direction of Sheriff Money**

**Telephone Number of Person Completing the Questionnaire:
850-643-5615**

**E-mail Address of Person Completing the Questionnaire:
vsummers@libertycountysheriff.org**

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?

Criminal records

2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
Yes, electronically through records management system
3. Has your agency ever received a public record request for the exempt information under review?
If “yes”: **No**

- a. What is the approximate number of requests your agency has received for such information each year beginning since 2018? **0**

- b. Please describe the types of entities requesting such information.

- c. Was the information released? If “yes,” please explain.

4. Does any other state or federal law protect the exempt information under review? If “yes”:

- a. Please provide the specific state or federal citation for each exemption.

Florida State Statute 119.071

(j)1. Any document that reveals the identity, home or employment telephone number, home or employment address, or personal assets of the victim of a crime and identifies that person as the victim of a crime, which document is received by any agency that regularly receives information from or concerning the victims of crime, is exempt from s. [119.07\(1\)](#) and s. 24(a), Art. I of the State Constitution. Any information not otherwise held confidential or exempt from s. [119.07\(1\)](#) which reveals the home or employment telephone number, home or employment address, or personal assets of a person who has been the victim of sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated battery, or domestic violence is exempt from s. [119.07\(1\)](#) and s. 24(a), Art. I of the State Constitution, upon written request by the victim, which must include official verification that an applicable crime has occurred. Such information shall cease to be exempt 5 years after the receipt of the written request. Any state or federal agency that is authorized to have access to such documents by any provision of law shall be granted such access in the furtherance of such agency’s statutory duties, notwithstanding this section.

- b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.

See above

- c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)?

5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
- ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☒ Employment Address
 - ☒ Email Address
 - ☐ Other
- b. If “*other*” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.
6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). **No**
7. Marsy’s Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family.
- a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy’s Law, the public record exemption under review, or both? Please explain. **We have not experienced any acts of mass violence.**
- b. Given that Marsy’s Law protects similar victim information to the public record exemption under review, in your agency’s opinion, could this exemption be eliminated? Please explain. **Victim information is already protected by both Marsy’s Law and Statute 119.071. No need for further exemptions.**
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
- ☒ Repeal the public record exemption
 - ☐ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes
- b. If “*reenact the public record exemption with changes*” was selected, please explain any changes your agency recommends.
9. Please provide any additional comments regarding the public record exemption under review.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

Name of Agency or Governmental Entity Completing the Questionnaire:

Madison County Sheriff's Office

Name and Title of Person Completing the Questionnaire:

**Tammy Olive
Records/Warrants Clerk**

Telephone Number of Person Completing the Questionnaire:

850-973-4151

E-mail Address of Person Completing the Questionnaire:

Tammy.tuten@mcsso-fl.org

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
None
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
No
3. Has your agency ever received a public record request for the exempt information under review?
If “yes”: **No**
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018? **None**
 - b. Please describe the types of entities requesting such information.
None
 - c. Was the information released? If “yes,” please explain.
No
4. Does any other state or federal law protect the exempt information under review? If “yes”:
Not to my knowledge
 - a. Please provide the specific state or federal citation for each exemption.
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information. **When responding to a Records request MCSO relies upon Chapter 119 for exemptions.**
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)? **No**
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☒ Employment Address
 - ☒ Email Address
 - ☐ Other
 - b. If “other” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.

6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). **No**
7. Marsy’s Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family.
 - a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy’s Law, the public record exemption under review, or both? Please explain. **MCSO has not had an incident of mass violence in our county**
 - b. Given that Marsy’s Law protects similar victim information to the public record exemption under review, in your agency’s opinion, could this exemption be eliminated? Please explain. **No due to the fact the word victim has different meanings.**
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
 - ☐ Repeal the public record exemption as is
 - ☒ Reenact the public record exemption
 - ☐ Reenact the public record exemption with changes
- b. If “*reenact the public record exemption with changes*” was selected, please explain any changes your agency recommends.
9. Please provide any additional comments regarding the public record exemption under review.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the

perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

Name of Agency or Governmental Entity Completing the Questionnaire: **Manatee County Sheriff’s Office.**

Name and Title of Person Completing the Questionnaire: **Yiu Chan – Records Unit Manager**

Telephone Number of Person Completing the Questionnaire: **941-747-3011 ext 2230**

E-mail Address of Person Completing the Questionnaire: **yiou.chan@manateesherriff.com**

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
[Offense Incident reports](#)
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
[Not by members of the public. Exempt information is distributed to governmental and criminal justice agencies in the furtherance of their duties.](#)
3. Has your agency ever received a public record request for the exempt information under review? If “yes”: [No](#)
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018?
 - b. Please describe the types of entities requesting such information.
 - c. Was the information released? If “yes,” please explain.
4. Does any other state or federal law protect the exempt information under review? If “yes”: [yes](#)
 - a. Please provide the specific state or federal citation for each exemption. [Marsy’s Law and exemptions under 119.071\(4\)\(d\)2a through 119.071\(4\)\(d\)2u if applicable.](#)
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information. [Answer is same as 4a. Exempt information such as the victims’ address\(es\) would be exempt/redacted based off of the items cited in the answer to 4.a.](#)
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)? [No, the exemption appears to target a specific set of victims regardless if they file for Marsy’s Law or is exempt due to the nature of their employment or relationship to an employee.](#)
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)

- ☒ Employment Address
- ☐ Email Address
- ☐ Other

b. If “*other*” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review. *N/A*

6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). *No, not aware.*
7. Marsy’s Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family.
 - a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy’s Law, the public record exemption under review, or both? Please explain. *Both, only if the victim or victim’s family completes a Marsy’s law confidentiality form. If the form is not completed indicating they want to exert their right to confidentiality, the exemption under review would be utilized in it’s place and only the address of the victim’s will be redacted.*
 - b. Given that Marsy’s Law protects similar victim information to the public record exemption under review, in your agency’s opinion, could this exemption be eliminated? Please explain. *No, this is because MCSO has decided that the right to confidentiality under Marsy’s law must be enacted by the victim or victim’s family. In addition, the way Marsy’s law victim’s information are kept confidential is different than that of the statute under review and 119.071(4)(d)2a through 119.071(4)(d)2u. Marsy’s law exemptions are approached as if their personal identifying information were exempt, which is much more than just the address of the victim. This includes things such as their name, dob, address, phone number, last names of their cohabitants, etc. The intent/purpose of Marsy’s law is clearer than the statute under review while giving less specifics on what to redact. However, due to knowing what the intent/purpose is, we were able to do our best in exempting information that could be construed as being “used to locate or harass the victim or the victim’s family”.*
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
 - ☐ Repeal the public record exemption
 - ☒ Reenact the public record exemption as is
 - ☒ Reenact the public record exemption with changes
- b. If “*reenact the public record exemption with changes*” was selected, please explain any changes your agency recommends. *Provide more guidance as to what information is exempt if the intent is to provide more confidentiality for the victim. The statute under review appears to clearly target a specific set of victims, but the purpose/intent is not stated, so*

MCSO would approach it by exempting only the “address” of the victim as that is what’s specified in the statute.

9. Please provide any additional comments regarding the public record exemption under review.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

Name of Agency or Governmental Entity Completing the Questionnaire:

Marion County Sheriff’s Office

Name and Title of Person Completing the Questionnaire:

Timothy McCourt, Staff Attorney

Telephone Number of Person Completing the Questionnaire:

(352) 369-6758

E-mail Address of Person Completing the Questionnaire:

tmccourt@marionso.com

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?

Primarily law enforcement incident reports and computer assisted dispatch (CAD) reports associated both with the incident of mass violence but also with other incidents where they have had law enforcement contact (i.e., if they were a witness to, victim of, or perpetrator of an unrelated crime).

To the extent that the victim of an incident of mass violence has an address elsewhere on file with this agency (i.e., if they were previously an inmate of our jail, their address may appear in jail files unrelated to the incident of mass violence.)

2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.

Possibly. I could see that somebody whose address was otherwise not exempt from disclosure under public records law may have records revealing their address with other governmental entities (i.e., property appraiser, clerk of court, supervisor of elections) that may be accessible by anybody who knew their name.

3. Has your agency ever received a public record request for the exempt information under review?

Not to our knowledge. I spoke with our Records Manager who does not recall an instance of this occurring. We have had (thankfully) few incidents occur that would meet the definition of an instance of mass violence.

If “yes”:

a. What is the approximate number of requests your agency has received for such information each year beginning since 2018?

b. Please describe the types of entities requesting such information.

c. Was the information released? If “yes,” please explain.

4. Does any other state or federal law protect the exempt information under review? If “yes”:

a. Please provide the specific state or federal citation for each exemption.

As noted below, Marsy's Law (Article I, s. 16(b) – (e), FLA. CONST) provides similar protection for victim addresses.

Additionally, any other law that exempted a person's address from disclosure on account of their employment (§119.071(4), Fla. Stat.) would cause a victim of mass violence's address to be exempt from public records disclosure. Disclosure on this basis would be unrelated to their status as a victim of mass violence.

b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.

If we were required to respond to a public records request that contained the address of a person who is the victim of mass violence, we would assert any and all available exemptions. We would assert the Marsy's Law exemption as to all information that could be used to locate or harass them or their family *only* if the victim, their next of kin, or their attorney requested we do so.

c. In your agency's opinion, could the public record exemption under review be merged with any other exemption(s)?

No. While Marsy's Law may appear to exempt the same information, I do not believe it could be merged. See answer to #7 for explanation.

5. a. The term "address" as used in the public record exemption under review is not defined. Which of the following victim's addresses does your agency interpret as being protected under the exemption (please select all that apply):

- ☒ Home Address (i.e. primary dwelling location)
- ☒ Mailing Address (incl. P.O. Box)
- ☐ Employment Address
- ☐ Email Address
- ☐ Other

I would construe "address" as being something broader than a "home address," which is used elsewhere in s. 119.071 and is defined to include both dwelling location and mailing address. PO Box is not necessarily covered by "mailing address" but would seem to be a logical extension of the term address. I would not include "employment address;" had the legislature intended to exempt this information, I believe they would have included "place of employment" in the language of the exemption. Email address is not part of how an "address" is typically defined and I would not interpret this statute to include an email address.

b. If "other" was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.

6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If "yes," please provide the appropriate citation(s).

No.

7. **Marsy's Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim's family.**

- a. **Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy's Law, the public record exemption under review, or both? Please explain.**

Both. We would assert any and all available exemptions.

- b. **Given that Marsy's Law protects similar victim information to the public record exemption under review, in your agency's opinion, could this exemption be eliminated? Please explain.**

No. This exemption is self-executing and can be asserted by a records custodian even in the absence of the request of a victim or their next of kin unlike Marsy's Law, which requires that some action must be taken by the victim to assert the right. In re Amendments to Florida Rule of Gen. Practice & Judicial Admin. 2.423, 334 So. 3d 292, 294 (Fla. 2021)(Canady, C.J., concurring)

8. a. **Which of the following actions does your agency recommend the Legislature take (please select one):**

- ☐ Repeal the public record exemption
☒ Reenact the public record exemption as is
☐ Reenact the public record exemption with changes

- b. **If "*reenact the public record exemption with changes*" was selected, please explain any changes your agency recommends.**

9. **Please provide any additional comments regarding the public record exemption under review.**

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term "incident of mass violence" means an incident in which four or more people, not including the perpetrator, are severely injured or

killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

Name of Agency or Governmental Entity Completing the Questionnaire:

Okaloosa County Sheriff’s Office

Name and Title of Person Completing the Questionnaire:

Regina Godwin, Records Manager

Telephone Number of Person Completing the Questionnaire:

850-609-4095

E-mail Address of Person Completing the Questionnaire:

rgodwin@sheriff-okaloosa.org

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption? **None**
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
3. Has your agency ever received a public record request for the exempt information under review?
If “yes”: **NO**
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018? **None**
 - b. Please describe the types of entities requesting such information.
 - c. Was the information released? If “yes,” please explain.
4. Does any other state or federal law protect the exempt information under review? If “yes”:
 - a. Please provide the specific state or federal citation for each exemption.
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)? **No**
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☒ Employment Address
 - ☐ Email Address
 - ☐ Other
 - b. If “other” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.

6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General Opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). **No**
7. Marsy’s Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family.
 - a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy’s Law, the public record exemption under review, or both? Please explain. **Public Exemption Under Review**
 - b. Given that, Marsy’s Law protects similar victim information to the public record exemption under review, in your agency’s opinion, could this exemption be eliminated? Please explain.

No. The public exemption law under review allows for the automatic exemption where our agency requires a Victim to request, in writing, that they would like us to apply Marsy’s Law.
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
 - ☐ Repeal the public record exemption
 - ☒ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes

b. If “*reenact the public record exemption with changes*” was selected, please explain any changes your agency recommends.
9. Please provide any additional comments regarding the public record exemption under review.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

Name of Agency or Governmental Entity Completing the Questionnaire:

Orange County Sheriff’s Office

Name and Title of Person Completing the Questionnaire:

***Austin Moore, General Counsel
On behalf of Sheriff John Mina***

Telephone Number of Person Completing the Questionnaire:

407-254-7288

E-mail Address of Person Completing the Questionnaire:

Austin.moore@ocfl.net

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
We only have two events that would potentially be affected by this statute and both of those happened prior to the enactment of the legislation. At OCSO we don't retroactively apply this exemption. So we've never applied this particular exemption.
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
N/A
3. Has your agency ever received a public record request for the exempt information under review?
If “yes”:
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018?
 - b. Please describe the types of entities requesting such information.
 - c. Was the information released? If “yes,” please explain.
4. Does any other state or federal law protect the exempt information under review? If “yes”:
 - a. Please provide the specific state or federal citation for each exemption.
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.
 - c. In your agency's opinion, could the public record exemption under review be merged with any other exemption(s)?
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim's addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☐ Employment Address
 - ☐ Email Address
 - ☐ Other
 - b. If “other” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.

6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s).

No

7. Marsy’s Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family.

- a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy’s Law, the public record exemption under review, or both? Please explain.

If we were confronted with this situation we would cite to Marsy’s Law and the statutory exemption. However, Marsy’s Law appears to be much more robust than the statute, so more information would be subject to redaction pursuant to Marsy’s Law.

- b. Given that Marsy’s Law protects similar victim information to the public record exemption under review, in your agency’s opinion, could this exemption be eliminated? Please explain.

Yes, see above.

8. a. Which of the following actions does your agency recommend the Legislature take (please select one):

- ☐ Repeal the public record exemption
☐ Reenact the public record exemption as is
☒ Reenact the public record exemption with changes

- b. If “reenact the public record exemption with changes” was selected, please explain any changes your agency recommends.

If they keep the exemption, it should exempt more than just the address. I would suggest exempting any identifying information and also recordings/photos that depict the death or injury.

9. Please provide any additional comments regarding the public record exemption under review.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

**Name of Agency or Governmental Entity Completing the Questionnaire:
Pasco Sheriff’s Office**

**Name and Title of Person Completing the Questionnaire:
Lindsay Moore, Esq.
Bureau Chief, Management Services and General Counsel**

**Telephone Number of Person Completing the Questionnaire:
(727) 844-7701**

**E-mail Address of Person Completing the Questionnaire:
Lmoore@pascosheriff.org**

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
Incident reports, CAD reports, body worn camera videos, audio/video recordings, photos, and witness statements.
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
Not to my knowledge.
3. Has your agency ever received a public record request for the exempt information under review? If “yes”: **Not to my knowledge.**
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018?
 - b. Please describe the types of entities requesting such information.
 - c. Was the information released? If “yes,” please explain.
4. Does any other state or federal law protect the exempt information under review? If “yes”:
 - a. Please provide the specific state or federal citation for each exemption. **Marsy’s Law (Article I, s. 16(b) – (e), FLA. CONST.)**
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information. **Marsy’s Law and Section 119.071(2)(o)**
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)? **Please see response to #7 below.**
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☐ Employment Address
 - ☐ Email Address
 - ☐ Other

- b. If “*other*” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review. **N/A**
6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “*yes*,” please provide the appropriate citation(s). **Not to my knowledge.**
7. Marsy’s Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family.
- a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy’s Law, the public record exemption under review, or both? Please explain. **If both exemptions applied, our agency would cite to both as is our normal protocol when information requested falls within more than one public records exemption.**
- b. Given that Marsy’s Law protects similar victim information to the public record exemption under review, in your agency’s opinion, could this exemption be eliminated? Please explain. **Some agencies take the position that Marsy’s Law is not an automatic exemption and a victim must proactively request their information be exempted from disclosure; therefore, if the statutory mass violence victim exemption were eliminated, a victim’s information may not be redacted by an agency taking the position that Marsy’s Law is not an automatic right if the victim has not proactively requested their information be exempted.**
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
- ☐ Repeal the public record exemption
 - ☒ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes
- b. If “*reenact the public record exemption with changes*” was selected, please explain any changes your agency recommends.
9. Please provide any additional comments regarding the public record exemption under review.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

Name of Agency or Governmental Entity Completing the Questionnaire: Polk County Sheriff’s Office

Name and Title of Person Completing the Questionnaire: Anne Gibson, Director Office of Legal Affairs

Telephone Number of Person Completing the Questionnaire: 863-298-6351

E-mail Address of Person Completing the Questionnaire: AGibson@polksheriff.org

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
The agency holds records, including but not limited to, incident reports, arrest reports, computer aided dispatch (CAD) reports, search warrants, 911 audio, and witness statements.
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
No
3. Has your agency ever received a public record request for the exempt information under review? If “yes”: **Yes**
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018?
The Polk County Sheriff’s Office receives numerous request for information on a daily basis. We do not track how many requests are received based on category of information requested.
 - b. Please describe the types of entities requesting such information.
This information has been requested by such entities including but not limited to criminal defendants, attorneys, media, victims and their family members, and other citizens.
 - c. Was the information released? If “yes,” please explain.
No, The Polk County Sheriff’s Office does not release exempt information.
4. Does any other state or federal law protect the exempt information under review? If “yes”: **Yes**
 - a. Please provide the specific state or federal citation for each exemption.
Article I Sec 16 (Fla. Const.) “Marsy’s Law”. However, we recognize that due to the way Marsy’s Law is written not all agencies share our interpretation.
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.
The Polk County Sheriff’s Office would cite both exemptions.

- c. In your agency's opinion, could the public record exemption under review be merged with any other exemption(s)?

No, § 119.071(2)(o) F.S. provides the public records exemption from the requirements of §119.07. Additionally, we cannot rely solely on Marsy's Law until it is clarified via case law, or the Florida Legislature chooses to adopt clarifying language in the Florida Statute addressing the provisions contained in the Florida Constitution.

5. a. The term "address" as used in the public record exemption under review is not defined. Which of the following victim's addresses does your agency interpret as being protected under the exemption (please select all that apply):

- ☒ Home Address (i.e. primary dwelling location)
- ☒ Mailing Address (incl. P.O. Box)
- ☒ Employment Address
- ☐ Email Address
- ☐ Other

- b. If "other" was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.

6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If "yes," please provide the appropriate citation(s).

No

7. Marsy's Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim's family.

- a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy's Law, the public record exemption under review, or both? Please explain.

The Polk County Sheriff's Office would cite both provisions. Please see response to question 4.c.

- b. Given that Marsy's Law protects similar victim information to the public record exemption under review, in your agency's opinion, could this exemption be eliminated? Please explain.
No, please see response to question 7.a.

8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
- ☐ Repeal the public record exemption
 - ☒ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes
- b. If “*reenact the public record exemption with changes*” was selected, please explain any changes your agency recommends.
9. Please provide any additional comments regarding the public record exemption under review.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

Name of Agency or Governmental Entity Completing the Questionnaire:
Seminole County Sheriff's Office

Name and Title of Person Completing the Questionnaire: **Mary Ann Klein- General Counsel**

Telephone Number of Person Completing the Questionnaire: **321 320-3694**

E-mail Address of Person Completing the Questionnaire: **maklein@seminolesheriff.org**

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
Investigative Reports, Victim advocate paperwork, victim notification paperwork, any agency case documentation containing this information.
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
Unknown
3. Has your agency ever received a public record request for the exempt information under review?
If “yes”: **No**
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018?
 - b. Please describe the types of entities requesting such information.
 - c. Was the information released? If “yes,” please explain.
4. Does any other state or federal law protect the exempt information under review? If “yes”:
Unknown
 - a. Please provide the specific state or federal citation for each exemption.
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)?
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☒ Employment Address
 - ☒ Email Address
 - ☒ Other
 - b. If “other” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review. **Phone numbers**

6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). **No**
7. Marsy’s Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family.
 - a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy’s Law, the public record exemption under review, or both? Please explain. **If we had such a request we would rely on both.**
 - b. Given that Marsy’s Law protects similar victim information to the public record exemption under review, in your agency’s opinion, could this exemption be eliminated? Please explain. **No because many agencies require the victim to invoke such a right. If the victim has not invoked then Marsy’s law would not protect the information.**
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
 - ☐ Repeal the public record exemption
 - ☐ Reenact the public record exemption as is
 - ☒ Reenact the public record exemption with changes

b. If “reenact the public record exemption with changes” was selected, please explain any changes your agency recommends. **If the intent is to protect the victim, then instead of limiting to address, it could be rewritten to exempt all information that may be used to identify a victim of mass violence.**
9. Please provide any additional comments regarding the public record exemption under review.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with

s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

Name of Agency or Governmental Entity Completing the Questionnaire:

St. Lucie County Sheriff's Office

Name and Title of Person Completing the Questionnaire:

Stephanie Wills, Records Supervisor/Records Custodian

Telephone Number of Person Completing the Questionnaire:

772-462-7300

E-mail Address of Person Completing the Questionnaire:

wills@stluciesheriff.com

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption?
NONE
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
N/A
3. Has your agency ever received a public record request for the exempt information under review?
If “yes”: **NO**
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018? **N/A**
 - b. Please describe the types of entities requesting such information. **N/A**
 - c. Was the information released? If “yes,” please explain. **N/A**
4. Does any other state or federal law protect the exempt information under review? If “yes”:
NO
 - a. Please provide the specific state or federal citation for each exemption.
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)?
NO
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☒ Employment Address
 - ☒ Email Address
 - ☐ Other
 - b. If “other” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.
6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). **NO**

7. Marsy's Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim's family.
- a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy's Law, the public record exemption under review, or both? Please explain. **BOTH – They both pertain to protecting the victim.**
- b. Given that Marsy's Law protects similar victim information to the public record exemption under review, in your agency's opinion, could this exemption be eliminated? Please explain. **NO**
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
- ☐ Repeal the public record exemption
 - ☒ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes
- b. If "*reenact the public record exemption with changes*" was selected, please explain any changes your agency recommends.
9. Please provide any additional comments regarding the public record exemption under review.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term "incident of mass violence" means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term "victim" means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**House of Representatives Government Operations Subcommittee
Senate Committee on Criminal Justice
September 1, 2022**

**Open Government Sunset Review Questionnaire
(Address of a Victim of an Incident of Mass Violence)**

PLEASE RETURN THIS QUESTIONNAIRE BY SEPTEMBER 28, 2022, TO:

**Roberta Skinner
Attorney
Government Operations Subcommittee
Roberta.Skinner@myfloridahouse.gov
Phone: (850) 717-4890**

**Connie Cellon
Attorney
Committee on Criminal Justice
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192**

In 2018, the Legislature created a public record exemption in section 119.071(2)(o), F.S., for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

This public record exemption stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act (section 119.15, F.S.).

To assist committee staff as part of their review of this exemption, please complete this questionnaire. A copy of section 119.071(2)(o), F.S., is appended for your convenience.

Name of Agency or Governmental Entity Completing the Questionnaire:

Volusia Sheriff’s Office

Name and Title of Person Completing the Questionnaire:

Liliane Benucci – Records Manager/Records Custodian

Telephone Number of Person Completing the Questionnaire:

386-822-5050

E-mail Address of Person Completing the Questionnaire:

lbenucci@volusiasheriff.org

PUBLIC RECORD EXEMPTION UNDER REVIEW

Section 119.071(2)(o), F.S., provides a public record exemption for the address of a victim of an incident of mass violence. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another.

1. What types of records held by your agency are affected by this public record exemption? **Any record that indicates an incident of mass violence.**
2. Can the exempt information be readily obtained by alternative means? If “yes,” please explain.
No
3. Has your agency ever received a public record request for the exempt information under review?
If “yes”: **No**
 - a. What is the approximate number of requests your agency has received for such information each year beginning since 2018?
 - b. Please describe the types of entities requesting such information.
 - c. Was the information released? If “yes,” please explain.
4. Does any other state or federal law protect the exempt information under review? If “yes”: **No**
 - a. Please provide the specific state or federal citation for each exemption.
 - b. Please explain which exemption(s) your agency relies upon responding to a public record request that would include the exempt information.
 - c. In your agency’s opinion, could the public record exemption under review be merged with any other exemption(s)?
5. a. The term “address” as used in the public record exemption under review is not defined. Which of the following victim’s addresses does your agency interpret as being protected under the exemption (please select all that apply):
 - ☒ Home Address (i.e. primary dwelling location)
 - ☒ Mailing Address (incl. P.O. Box)
 - ☒ Employment Address
 - ☒ Email Address
 - ☐ Other
 - b. If “other” was selected, please list any other types of addresses your agency interprets as being protected under the public record exemption under review.

6. Is your agency aware of any litigation, case law, administrative orders, or Attorney General opinions involving the public record exemption? If “yes,” please provide the appropriate citation(s). **No**
7. Marsy’s Law is a constitutional amendment approved by the voters in 2018 (Article I, s. 16(b) – (e), FLA. CONST.) The provision, in part, grants victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family.
 - a. Which provision does your agency rely upon when responding to a public record request for the address of a victim of an incident of mass violence: Marsy’s Law, the public record exemption under review, or both? Please explain. **While we have not received any requests for this information, we would rely upon the public record exemption, as it is automatic, and doesn’t require any action on the part of the victim.**
 - b. Given that Marsy’s Law protects similar victim information to the public record exemption under review, in your agency’s opinion, could this exemption be eliminated? Please explain. **We do not believe this exemption should be eliminated. The exemption does not require victims to “claim” it, it is automatic. Marsy’s Law gives victims the right to prevent disclosure but they must invoke this right by signing a form.**
8. a. Which of the following actions does your agency recommend the Legislature take (please select one):
 - ☐ Repeal the public record exemption
 - ☒ Reenact the public record exemption as is
 - ☐ Reenact the public record exemption with changes

b. If “*reenact the public record exemption with changes*” was selected, please explain any changes your agency recommends.
9. Please provide any additional comments regarding the public record exemption under review.

2022 Florida Statutes

Public Records Exemption under Review

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term “incident of mass violence” means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term “victim” means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

The Florida Senate

APPEARANCE RECORD

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

3.6.23

Meeting Date

SPB 7012

Bill Number or Topic

CJ

Committee

Amendment Barcode (if applicable)

Name Barney Bishop III

Phone 850.510.9922

Address 1454 Vieux Carre Drive
Street

Email barney@barneybishop.com

Tallahassee FL 32308
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Fla. Smart Justice
Alliance

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

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 382

INTRODUCER: Criminal Justice Committee and Senator Bradley

SUBJECT: Compensation for Wrongfully Incarcerated Persons

DATE: March 7, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Stokes	CJ	Fav/CS
2.			ACJ	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 382 amends the Victims of Wrongful Incarceration Compensation Act by amending s. 961.02, F.S., to remove an unnecessary definition.

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

- Prospectively extend the filing deadline for a petition under the Act from 90 days to within two years after an order vacating a conviction and sentence becomes final and the criminal charges against a person are dismissed or the person is retried and acquitted, if the person's conviction and sentence is vacated on or after July 1, 2023.
- Retroactively authorize a person to file a petition for determination of status as a wrongfully incarcerated person and determination of eligibility for compensation by July 1, 2025, under specified circumstances.
- Provide that a deceased person's heirs, successors, or assigns do not have standing to file a petition on the deceased person's behalf.

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

Section 961.06, F.S., is amended to prohibit the Chief Financial Officer (CFO) from drawing a warrant to purchase an annuity to pay a claimant for his or her wrongful incarceration if the claimant is currently incarcerated under specified circumstances.

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

While there are existing limitations on compensation (\$50,000 per year of wrongful incarceration up to a limit of \$2 million) for a qualified claimant, it is not possible to quantify the additional number of people who may be compensable. Therefore, any fiscal impact from the bill is unquantifiable.

The bill becomes effective July 1, 2023.

II. Present Situation:

Victims of Wrongful Incarceration Act

Since 2000, 21 people in Florida have been exonerated or released from incarceration as a result of post-conviction DNA testing, false or misleading forensic evidence, mistaken identity, perjury, or false accusations.¹ In 2008, the Legislature created The Victims of Wrongful Incarceration Compensation Act (Act).² The Act provides a process by which a person whose conviction and sentence is vacated based upon exonerating evidence may petition the court to seek and obtain compensation as a “wrongfully incarcerated person.”³

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

To date, five people have qualified for and been awarded a total of \$6,276,900 compensation under the Act.⁵

Petition Process

To receive compensation under the Act, an exonerated person must file a petition with the original sentencing court seeking status as a “wrongfully incarcerated person.” Section 961.03(1)(a), F.S., requires a petitioner to state:

- That verifiable and substantial evidence of actual innocence exists;

¹ Frank Lee Smith, Jerry Townsend, Rudolph Holton, Wilton Dedge, Luis Diaz, Orlando Boquete, Alan Crotzer, Larry Bostic, Cody Davis, Chad Heins, William Dillon, James Bain, Anthony Caravella, Derrick Williams, Cheydrick Britt, Narcisse Antoine, Clemente Aguirre-Jarquín, Dean McKee, Ronald Stewart, and Robert Duboise have been released from prison or exonerated in Florida. The National Registry of Exonerations, [https://www.law.umich.edu/special/exoneration/Pages/browse.aspx?View=\[B8342AE7-6520-4A32-8A06-4B326208BAF8\]&FilterField1=State&FilterValue1=Florida&FilterField2=DNA&FilterValue2=8%5FDNA](https://www.law.umich.edu/special/exoneration/Pages/browse.aspx?View=[B8342AE7-6520-4A32-8A06-4B326208BAF8]&FilterField1=State&FilterValue1=Florida&FilterField2=DNA&FilterValue2=8%5FDNA) (last visited March 1, 2023).

² Chapter 2008–39, L.O.F.

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

⁴ Section 961.02(7), F.S.

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

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

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

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

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

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

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

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

- The original sentencing court must use the pleadings and supporting documents to determine whether, by a preponderance of the evidence, the petitioner is ineligible for compensation under s. 961.04, F.S., regardless of his or her claim of wrongful incarceration.
 - If the court finds that the petitioner is ineligible under s. 961.04, F.S., it must dismiss the petition.¹¹

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

⁷ Jeffrey Gutman, *Compensation Under the Microscope*, George Washington University Law School, (2022) <https://www.law.umich.edu/special/exoneration/Documents/UTM%20Florida.pdf> (last visited March 1, 2023).

⁸ Section 961.03(2), F.S.

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

¹⁰ Section 961.03(3), F.S.

¹¹ Section 961.03(4)(a), F.S.

- And the court determines that the petitioner is eligible under s. 961.04, F.S., but the prosecuting authority also contests the nature, significance or effect of the evidence of the petitioner's actual innocence, or the facts related to the petitioner's alleged wrongful incarceration, the court is required to set forth its findings on eligibility and transfer the petition to the Division of Administrative Hearings (DOAH).¹²

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

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

The "Clean Hands" Provision

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

- Convicted of any violent felony, or any crime committed in another jurisdiction the elements of which would constitute a violent felony in Florida, or a federal crime designated a violent felony, excluding any delinquency disposition, before or during his or her wrongful conviction and incarceration;
- Convicted of more than one nonviolent felony, or more than one crime committed in another jurisdiction the elements of which would constitute a felony in Florida, or more than one federal crime designated a felony, excluding any delinquency disposition, before or during his or her wrongful conviction and incarceration; or

¹² Section 961.03(4)(b), F.S.

¹³ Section 961.03(6)(a), F.S.

¹⁴ Section 961.03(5), F.S.

¹⁵ Section 961.03(6)(b), F.S.

¹⁶ Section 961.03(6)(c), F.S.

¹⁷ Section 961.03(6)(d), F.S.

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

¹⁹ Chapter 2008-39, L.O.F.

²⁰ Chapter 2017-120, L.O.F.

- Serving a concurrent sentence for another felony for which he or she was not wrongfully convicted during the period of wrongful incarceration.²¹

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

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

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

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

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

²¹ Section. 961.04, F.S.

²² Section 961.06(2), F.S.

²³ Section 961.02(6), F.S.

²⁴ Alaska, Arizona, Arkansas, Delaware, Georgia, Kentucky, New Mexico, North Dakota, Pennsylvania, South Carolina, South Dakota, and Wyoming do not have compensation laws. Innocence Project, *Compensating the Wrongly Convicted* <https://innocenceproject.org/compensating-wrongly-convicted/#:~:text=The%20federal%20government%2C%20the%20District,%2C%20South%20Dakota%2C%20and%20Wyoming>. (last visited Feb. 3, 2023).

compensation law is the only one in the country that makes a person ineligible for compensation if he or she was previously convicted of certain unrelated crimes.²⁵ At least 17 exonerees in Florida are currently ineligible to receive compensation under the Act because of the “clean hands” requirement.²⁶

The Application Process

After the original sentencing court enters an order finding that the claimant meets the definition of a wrongfully incarcerated person who is eligible for compensation, the claimant must submit an application to the DLA for compensation, if he or she is otherwise eligible to apply, within two years.²⁷ Section 961.06, F.S., prohibits a wrongfully incarcerated person from applying for compensation if he or she is the subject of a pending claim bill²⁸ which is based on his or her wrongful conviction and incarceration. Similarly, once a claimant files an application for compensation, he or she may not pursue recovery under a claim bill until the final disposition of his or her application,²⁹ and once the DLA notifies a claimant that his or her application meets the requirements of the Act, he or she is prohibited from seeking additional compensation under a claim bill.^{30, 31}

Only the claimant, not the claimant’s estate or its personal representative, may apply for compensation.³² Section 961.05(3), F.S., requires, in part, that a claimant’s application include:

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

²⁵ Kansas Legislative Research Department, *Compensation for Wrongful Conviction, Wrongful Incarceration, and Exoneration* (Dec. 27, 2017) <http://www.kslegresearch.org/KLRD-web/Publications/JudiciaryCorrectionsJuvJustice/WrongfulIncarcerationCompensationMemo.pdf> (last visited on Feb. 3, 2023).

²⁶ According to the Innocence Project and independent research conducted at George Washington University Law School. Jeffrey Gutman, *supra* note 6.

²⁷ Section 961.05(1) and (2), F.S.

²⁸ A claim bill is not an action at law, but rather is a legislative measure that directs the CFO, or if appropriate, a unit of local government, to pay a specific sum of money to a claimant to satisfy an equitable or moral obligation. The amount awarded under a claim bill is based on the Legislature’s concept of fair treatment of a person who has been injured or damaged but who is without a complete judicial remedy or who is not otherwise compensable. *Wagner v. Orange Cty.*, 960 So. 2d 785, 788 (Fla. 5th DCA 2007).

²⁹ Section 961.06(6)(c), F.S.

³⁰ Any amount awarded under the Act is intended to provide the sole compensation for any and all present and future claims arising out of the facts in connection with the claimant’s wrongful conviction and incarceration. Section 961.06(6)(d), F.S.

³¹ Since 2008, numerous claim bills have been filed on behalf of wrongfully incarcerated persons who were ineligible for compensation under the Act because of the “clean hands” requirement. At least three such persons have received compensation for wrongful incarceration through the claim bill process: Alan Crotzer (2008), William Dillon (2017), and Clifford Williams (2020).

³² Section 961.05(2), F.S.

The DLA is required to review the application, and within 30 days, notify the claimant of any errors or omissions and request any additional information relevant to the review of the application. The claimant has 15 days after notification of existing errors or omissions to supplement the application. The DLA must process and review each completed application within 90 days.³³

Before the DLA approves an application, the wrongfully incarcerated person must sign a release and waiver on behalf of himself or herself and his or her heirs, successors, and assigns, forever releasing the state or any agency, or any political subdivision thereof, from all present or future claims that may arise out of the facts in connection with the wrongful conviction for which compensation is being sought.³⁴ Once DLA determines whether a claim meets the Act's requirements, it must notify the claimant within five business days of its determination.³⁵ If DLA determines that a claimant meets the Act's requirements, the wrongfully incarcerated person becomes entitled to compensation.³⁶

Compensation

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

- Monetary compensation, at a rate of \$50,000 for each year of wrongful incarceration;
- A waiver of tuition and fees for up to 120 hours of instruction at a public career center, community college, or state university;
- A refund of fines, penalties, and court costs imposed and paid;
- Reasonable attorney's fees and expenses incurred and paid in connection with all criminal proceedings and appeals regarding the wrongful conviction; and
- Immediate administrative expunction of the person's criminal record resulting from the wrongful arrest, conviction, and incarceration.³⁷

Within 15 calendar days after the DLA issues notice to the claimant that his or her claim satisfies all of the requirements under the Act, the DLA must notify the CFO to draw a warrant from the General Revenue Fund or another source designated by the Legislature in law for the purchase of an annuity for the claimant based on the total amount determined by the DLA.³⁸ Section 961.07, F.S., currently provides for a continuing appropriation from the General Revenue Fund to the CFO for payments under the Act.³⁹

The total compensation awarded to a claimant may not exceed \$2 million.⁴⁰ The CFO is required to issue payment in the amount determined by the DLA to an insurance company or other financial institution admitted and authorized to issue annuity contracts to purchase an annuity or annuities, selected by the claimant, for a term not less than 10 years to distribute such compensation.⁴¹

³³ Section 961.05(5), F.S.

³⁴ Section 961.06(5), F.S.

³⁵ Section 961.05(5), F.S.

³⁶ Section 961.05(6), F.S.

³⁷ Section 961.06(1), F.S.

³⁸ Section 961.06(3), F.S.

³⁹ Section 961.06(1), F.S.

⁴⁰ *Id.*

⁴¹ Section 961.06(4), F.S.

III. Effect of Proposed Changes:

The bill amends s. 961.02, F.S., to remove a definition that has become unnecessary due to other parts of the bill.

The bill amends s. 961.03, F.S., to prospectively extend the filing deadline for a petition under the Act from 90 days to within two years after an order vacating a conviction and sentence becomes final and the criminal charges against a person are dismissed or the person is retried and acquitted, if the person's conviction and sentence is vacated on or after July 1, 2023.

The bill also amends s. 961.03, F.S., to retroactively authorize a person to file a petition for determination of status as a wrongfully incarcerated person and determination of eligibility for compensation by July 1, 2025, if the:

- Person's conviction and sentence was vacated and the criminal charges against the person were dismissed, or the person was retried and acquitted, after January 1, 2006, but before July 1, 2023; and
- Person previously filed a petition that was dismissed or did not file a petition, because the:
 - Date when the criminal charges against the person were dismissed or the date the person was acquitted occurred more than 90 days after the date of the final order vacating his or her conviction and sentence; *or*
 - Person was convicted of an unrelated felony before or during his or her wrongful conviction and incarceration and was ineligible to receive compensation under s. 961.04, F.S., the "clean hands" requirement.

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

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

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

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

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

The CFO must commence with the drawing of a warrant after such term of imprisonment has concluded.

The bill also amends s. 961.07, F.S., to provide that beginning in fiscal year 2023-2024, and continuing each fiscal year thereafter, a sum sufficient to pay the approved payments under s. 961.03(1)(b), F.S.,⁴² is appropriated from the General Revenue Fund to the Chief Financial Officer, which sum is further appropriated for expenditure pursuant to the Victims of Wrongful Incarceration Act. Petitions filed pursuant to s. 961.03(1)(b)2., F.S.,⁴³ are subject to specific appropriation.

The bill becomes effective July 1, 2023.

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.

⁴² Subparagraph 961.03(1)(b)1., F.S., extends the time for filing a petition to within two years after an order vacating a conviction and sentence becomes final and the criminal charges against a person are dismissed or the person is retried and acquitted, if the person's conviction and sentence is vacated on or after July 1, 2023.

⁴³ Subparagraph s. 961.03(1)(b)2., F.S., extends the time for filing a petition to July 1, 2025, if the:

- Person's conviction and sentence was vacated and the criminal charges against the person were dismissed, or the person was retried and acquitted, after January 1, 2006, but before July 1, 2023; *and*
- Person previously filed a petition that was dismissed or did not file a petition, because the:
 - Date when the criminal charges against the person were dismissed or the date the person was acquitted occurred more than 90 days after the date of the final order vacating his or her conviction and sentence; *or*
 - Person was convicted of an unrelated felony before or during his or her wrongful conviction and incarceration and was ineligible to receive compensation under s. 961.04, F.S., the "clean hands" requirement (emphasis added).

B. Private Sector Impact:

None.

C. Government Sector Impact:

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

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

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

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

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

CS by Criminal Justice on March 6, 2023:

The committee substitute:

- Amends s. 961.02, F.S., to remove a definition that has become unnecessary due to other parts of the bill.
- Restores current law in s. 961.04, F.S., providing that a person is ineligible for compensation for any period of wrongful incarceration during which the person was serving a concurrent sentence for a felony offense for which he or she was lawfully incarcerated.
- Removes the provisions in s. 961.06, F.S., relating to an “off-set provision” if the defendant receives a civil award, a settlement, and funds from a source other than the Act.
- Restores current law in s. 961.06, F.S., relating to the wrongfully incarcerated person signing a release and waiver releasing the state and other entities from all present and future claims.
- Restores current law in s. 961.06, F.S., prohibiting a wrongfully incarcerated person from filing an application under the Act if he or she has a pending lawsuit against the state and other entities in state court.

- Restores current law in s. 961.06, F.S., regarding compensation awarded to the wrongfully incarcerated person from a claim bill.

B. Amendments:

None.

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



653022

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/06/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

961.02 Definitions.—As used in ss. 961.01-961.07, the term:

~~(6) "Violent felony" means a felony listed in s.~~

~~775.084(1)(c)1. or s. 948.06(8)(c).~~

Section 2. Paragraph (b) of subsection (1) of section



653022

961.03, Florida Statutes, is amended, and paragraph (c) is added to that subsection, to read:

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

(1)

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

1. Within 2 years ~~90 days~~ after the order vacating a conviction and sentence becomes final and the criminal charges against the person are dismissed or the person is retried and acquitted if the person's conviction and sentence is vacated on or after July 1, 2023 ~~2008~~.

2. By July 1, 2025 ~~2010~~, if the person's conviction and sentence was vacated and the criminal charges against the person were dismissed or the person was retried and acquitted on or after January 1, 2006, but before July 1, 2023, and he or she previously filed a petition under this section that was dismissed or he or she did not file a petition under this section because:

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

b. The person was convicted of an unrelated felony before or during his or her wrongful conviction and incarceration and was ineligible for compensation under s. 961.04 as it existed before July 1, 2023.

(c) A deceased person's heirs, successors, or assigns do not have standing to file a petition on the deceased person's behalf under this section ~~by an order that became final prior to~~



653022

~~July 1, 2008.~~

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

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

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

~~(2) Before the person's wrongful conviction and incarceration, the person was convicted of, or pled guilty or nolo contendere to, regardless of adjudication, more than one felony that is not a violent felony, or more than one crime committed in another jurisdiction, the elements of which would constitute a felony in this state, or more than one crime committed against the United States which is designated a felony, excluding any delinquency disposition;~~

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

~~(4) During the person's wrongful incarceration, the person~~



653022

~~was convicted of, or pled guilty or nolo contendere to,~~
~~regardless of adjudication, more than one felony that is not a~~
~~violent felony; or~~

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

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

961.06 Compensation for wrongful incarceration.—

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

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

(b) A waiver of tuition and fees for up to 120 hours of
instruction at any career center established under s. 1001.44,
any Florida College System institution as defined in s.
1000.21(3), or any state university as defined in s. 1000.21(6)~~†~~,
if the wrongfully incarcerated person meets and maintains the
regular admission requirements of such career center, Florida
College System institution, or state university; remains



653022

registered at such educational institution; and makes
satisfactory academic progress as defined by the educational
institution in which the claimant is enrolled.

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

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

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

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

~~(2) In calculating monetary compensation under paragraph
(1)(a), a wrongfully incarcerated person who is placed on parole~~



653022

~~or community supervision while serving the sentence resulting from the wrongful conviction and who commits no more than one felony that is not a violent felony which results in revocation of the parole or community supervision is eligible for compensation for the total number of years incarcerated. A wrongfully incarcerated person who commits one violent felony or more than one felony that is not a violent felony that results in revocation of the parole or community supervision is ineligible for any compensation under subsection (1).~~

(2)~~(3)~~ Except as provided in subsection (4), within 15 calendar days after issuing notice to the claimant that his or her claim satisfies all of the requirements under this act, the department shall notify the Chief Financial Officer to draw a warrant from the General Revenue Fund or another source designated by the Legislature in law for the purchase of an annuity for the claimant based on the total amount determined by the department under this act.

(3)~~(4)~~ The Chief Financial Officer shall issue payment in the amount determined by the department to an insurance company or other financial institution admitted and authorized to issue annuity contracts in this state to purchase an annuity or annuities, selected by the wrongfully incarcerated person, for a term of not less than 10 years. The Chief Financial Officer is directed to execute all necessary agreements to implement this act and to maximize the benefit to the wrongfully incarcerated person. The terms of the annuity or annuities shall:

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



653022

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

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

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

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

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

(5) Before the department approves the application for compensation, the wrongfully incarcerated person must sign a release and waiver on behalf of the wrongfully incarcerated person and his or her heirs, successors, and assigns, forever releasing the state or any agency, instrumentality, or any political subdivision thereof, or any other entity subject to s. 768.28, from all present or future claims that the wrongfully incarcerated person or his or her heirs, successors, or assigns may have against such entities arising out of the facts in connection with the wrongful conviction for which compensation is being sought under the act.

(6) (a) A wrongfully incarcerated person may not submit an



653022

185 application for compensation under this act if the person has a
186 lawsuit pending against the state or any agency,
187 instrumentality, or any political subdivision thereof, or any
188 other entity subject to the provisions of s. 768.28, in state or
189 federal court requesting compensation arising out of the facts
190 in connection with the claimant's conviction and incarceration.

191 (b) A wrongfully incarcerated person may not submit an
192 application for compensation under this act if the person is the
193 subject of a claim bill pending for claims arising out of the
194 facts in connection with the claimant's conviction and
195 incarceration.

196 (c) Once an application is filed under this act, a
197 wrongfully incarcerated person may not pursue recovery under a
198 claim bill until the final disposition of the application.

199 (d) Any amount awarded under this act is intended to
200 provide the sole compensation for any and all present and future
201 claims arising out of the facts in connection with the
202 claimant's conviction and incarceration. Upon notification by
203 the department that an application meets the requirements of
204 this act, a wrongfully incarcerated person may not recover under
205 a claim bill.

206 (e) Any compensation awarded under a claim bill shall be
207 the sole redress for claims arising out of the facts in
208 connection with the claimant's conviction and incarceration and,
209 upon any award of compensation to a wrongfully incarcerated
210 person under a claim bill, the person may not receive
211 compensation under this act.

212 (7) Any payment made under this act does not constitute a
213 waiver of any defense of sovereign immunity or an increase in



653022

the limits of liability on behalf of the state or any person
subject to ~~the provisions of~~ s. 768.28 or any other law.

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

961.07 Continuing appropriation.—Beginning in the 2023-2024
~~2008-2009~~ fiscal year and continuing each fiscal year
thereafter, a sum sufficient to pay the approved payments under
s. 961.03(1)(b) ~~this act~~ is appropriated from the General
Revenue Fund to the Chief Financial Officer, which sum is
further appropriated for expenditure pursuant to ~~the provisions~~
~~of~~ this act.

Section 6. This act shall take effect July 1, 2023.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to compensation for wrongfully
incarcerated persons; amending s. 961.02, F.S.;
deleting an obsolete definition; amending s. 961.03,
F.S.; revising requirements for when a petition
seeking compensation must be filed; providing that a
deceased person's heirs, successors, or assigns do not
have standing to file such a petition; amending s.
961.04, F.S.; revising compensation eligibility
requirements; amending s. 961.06, F.S.; revising
requirements for awarding compensation; amending s.
961.07, F.S.; revising requirements for continuing



653022

243

appropriations; providing an effective date.

By Senator Bradley

6-00281-23

2023382__

A bill to be entitled

An act relating to compensation for wrongfully incarcerated persons; amending s. 961.03, F.S.; revising requirements for when a petition seeking compensation for a wrongful incarceration must be filed; providing that a deceased person's heirs, successors, or assigns do not have standing to file such a petition; amending s. 961.04, F.S.; revising compensation eligibility requirements for a wrongful incarceration; amending s. 961.06, F.S.; revising requirements for awarding compensation for a wrongful incarceration; specifying circumstances under which certain paid sums must be deducted from the total monetary compensation a claimant for wrongful incarceration is entitled to or under which the claimant must reimburse the state; providing requirements for the claimant and the Department of Legal Affairs due to reimbursements; providing requirements upon the Chief Financial Officer; amending s. 961.07, F.S.; revising requirements for continuing appropriations; specifying that certain payments are subject to specific appropriation; providing an effective date.

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

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

Page 1 of 10

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

6-00281-23

2023382__

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

(1)

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

1. Within 2 years ~~90 days~~ after the order vacating a conviction and sentence becomes final and the criminal charges against the person are dismissed or the person is retried and acquitted if the person's conviction and sentence is vacated on or after July 1, 2023 ~~2008~~.

2. By July 1, 2025 ~~2010~~, if the person's conviction and sentence was vacated and the criminal charges against the person were dismissed or the person was retried and acquitted on or after January 1, 2006, but before July 1, 2023, and he or she previously filed a petition under this section that was dismissed or he or she did not file a petition under this section because:

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

b. The person was convicted of an unrelated felony before or during his or her wrongful conviction and incarceration and was ineligible for compensation under s. 961.04 as it existed before July 1, 2023.

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

Page 2 of 10

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

6-00281-23

2023382

Section 2. Section 961.04, Florida Statutes, is amended to read:

961.04 Eligibility for compensation for wrongful incarceration.—A wrongfully incarcerated person is not eligible for compensation under the act for any period of incarceration during which the person was concurrently serving a sentence for a conviction of another crime for which such person was lawfully incarcerated if:

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

~~(2) Before the person's wrongful conviction and incarceration, the person was convicted of, or pled guilty or nolo contendere to, regardless of adjudication, more than one felony that is not a violent felony, or more than one crime committed in another jurisdiction, the elements of which would constitute a felony in this state, or more than one crime committed against the United States which is designated a felony, excluding any delinquency disposition;~~

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

~~(4) During the person's wrongful incarceration, the person was convicted of, or pled guilty or nolo contendere to,~~

6-00281-23

2023382

~~regardless of adjudication, more than one felony that is not a violent felony; or~~

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

Section 3. Section 961.06, Florida Statutes, is amended to read:

961.06 Compensation for wrongful incarceration.—

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

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

(b) A waiver of tuition and fees for up to 120 hours of instruction at any career center established under s. 1001.44, any Florida College System institution as defined in s. 1000.21(3), or any state university as defined in s. 1000.21(6), if the wrongfully incarcerated person meets and maintains the regular admission requirements of such career center, Florida College System institution, or state university; remains registered at such educational institution; and makes

6-00281-23

2023382

satisfactory academic progress as defined by the educational institution in which the claimant is enrolled.

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

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

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

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

~~(2) In calculating monetary compensation under paragraph (1)(a), a wrongfully incarcerated person who is placed on parole or community supervision while serving the sentence resulting~~

6-00281-23

2023382

~~from the wrongful conviction and who commits no more than one felony that is not a violent felony which results in revocation of the parole or community supervision is eligible for compensation for the total number of years incarcerated. A wrongfully incarcerated person who commits one violent felony or more than one felony that is not a violent felony that results in revocation of the parole or community supervision is ineligible for any compensation under subsection (1).~~

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

(3)(4) The Chief Financial Officer shall issue payment in the amount determined by the department to an insurance company or other financial institution admitted and authorized to issue annuity contracts in this state to purchase an annuity or annuities, selected by the wrongfully incarcerated person, for a term of not less than 10 years. The Chief Financial Officer is directed to execute all necessary agreements to implement this act and to maximize the benefit to the wrongfully incarcerated person. The terms of the annuity or annuities shall:

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

(b) Contain beneficiary provisions for the continued

6-00281-23

2023382

disbursement of the annuity or annuities in the event of the death of the wrongfully incarcerated person.

~~(4)(5) If, when monetary compensation is determined under paragraph (1)(a), a court has previously entered a monetary judgment in favor of the claimant in a civil action related to the claimant's wrongful incarceration, or the claimant has entered into a settlement agreement with the state or any political subdivision thereof related to the claimant's wrongful incarceration, the amount of the damages in the civil action or settlement agreement, less any sums paid for attorney fees or costs incurred in litigating the civil action or obtaining the settlement agreement, shall be deducted from the total monetary compensation to which the claimant is entitled under this section. Before the department approves the application for compensation, the wrongfully incarcerated person must sign a release and waiver on behalf of the wrongfully incarcerated person and his or her heirs, successors, and assigns, forever releasing the state or any agency, instrumentality, or any political subdivision thereof, or any other entity subject to s. 768.28, from all present or future claims that the wrongfully incarcerated person or his or her heirs, successors, or assigns may have against such entities arising out of the facts in connection with the wrongful conviction for which compensation is being sought under the act.~~

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

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

6-00281-23

2023382

2. The claimant enters into a settlement agreement with the state or any political subdivision thereof related to the claimant's wrongful incarceration,

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

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

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

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

(b) Upon notice of the claimant's civil action, the department shall file in the case a notice of payment of monetary compensation to the claimant under paragraph (1)(a). The notice shall constitute a lien upon any monetary judgment or settlement recovered under the civil action which is equal to the sum of monetary compensation paid to the claimant under paragraph (1)(a), less any attorney fees and costs incurred in litigating the civil action or obtaining the settlement agreement. A wrongfully incarcerated person may not submit an application for compensation under this act if the person has a

6-00281-23

2023382__

lawsuit pending against the state or any agency,
instrumentality, or any political subdivision thereof, or any
other entity subject to the provisions of s. 768.28, in state or
federal court requesting compensation arising out of the facts
in connection with the claimant's conviction and incarceration.

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

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

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

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

(8) (7) Any payment made under this act does not constitute
a waiver of any defense of sovereign immunity or an increase in
the limits of liability on behalf of the state or any person

6-00281-23

2023382__

subject to the provisions of s. 768.28 or any other law.

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

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

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

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

Section 4. Section 961.07, Florida Statutes, is amended to
read:

961.07 Continuing appropriation.—

(1) Beginning in the 2023-2024 2008-2009 fiscal year and
continuing each fiscal year thereafter, a sum sufficient to pay
the approved payments under s. 961.03(1) (b)1. this act is
appropriated from the General Revenue Fund to the Chief
Financial Officer, which sum is further appropriated for
expenditure pursuant to the provisions of this act.

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

Section 5. This act shall take effect July 1, 2023.

Wrongful Incarceration Claims (961.03, F.S.)

Successful Claims

- (1) **Leroy McGee** (2010) (\$179,166.66)
- (2) **James Bain** (2011) (\$1,754,794.51)
- (3) **Luis Diaz** (2012) (\$1,297,569.28)
- (4) **James Richardson** (2015) (\$1,045,370.69)
- (5) **Hubert Nathan Myers** (2020) (\$2,000,000.00)

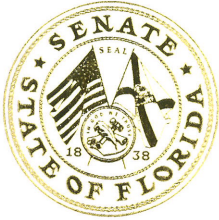
Denied Claims

- (1) **Jarvis McBride** (2010) (manslaughter conviction vacated; no order indicating the conviction was wrongful.)
- (2) **Joseph McGowan** (2015) (Court reconsidered and determined applicant ineligible. Order issued 1/11/2016.)

Ineligible/Incomplete Applications

- (1) **Robert Lewis** (incomplete) (2011)
- (2) **Edwin Lampkin** (incomplete) (2012)
- (3) **Ricardo Johnson** (ineligible/incarcerated) (2013)
- (4) **Robert Glenn Mosley** (incomplete) (2014)
- (5) **Jessie Brinson** (ineligible/no court order indicating that Brinson did not commit the crime, did not aid, abet and was not an accomplice or accessory to the person who committed the offense.) (2016)
- (6) **Joseph Q. O'Neal** (ineligible/the conviction was not reversed and O'Neal was not exonerated . The appeals court reversed because the trial court committed structural error in not permitting O'Neal to represent himself at trial.) (2016)
- (7) **Raymond L. Hicks** (ineligible/no criminal charges resulted in a conviction and sentence. Did not serve a sentence based on a wrongful conviction.) (2020)

Updated 6/15/2022



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Committee on Criminal
and Civil Justice, *Chair*
Criminal Justice, *Vice Chair*
Appropriations
Appropriations Committee on Health
and Human Services
Children, Families, and Elder Affairs
Community Affairs
Regulated Industries

SELECT COMMITTEE:

Select Committee on Resiliency

SENATOR JENNIFER BRADLEY
6th District

February 10, 2023

Senator Jonathan Martin, Chairman
Senate Committee on Criminal Justice
311 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Martin:

I respectfully request that Senate Bill 382 be placed on the committee's agenda at your earliest convenience. This bill relates to compensation for wrongfully incarcerated persons.

Thank you for your consideration.

Sincerely,

Jennifer Bradley

cc: Amanda Stokes, Staff Director
Sue Arnold, Administrative Assistant

REPLY TO:

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

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate
APPEARANCE RECORD

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

SB382

Bill Number or Topic

3/6/2023
Meeting Date

Criminal Justice
Committee

Name Dr. Adina Thompson, Innocence Project of Florida

Phone 850-561-6767

Amendment Barcode (if applicable)

Address 1100 East Park Ave
Street

Email AThompson@FloridaInnocence.org

Tallahassee FL 32301
City State Zip

Speaking: ☒ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

03/06/23

Meeting Date

Criminal Justice

Committee

SB 382

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Christie Arnold

Phone

407-312-5374

Address

201 W Park Ave

Email

carhold@flaccb.org

Street

Tallahassee

City

FL

State

32301

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Florida
Conference of
Catholic Bishops

☐

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

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

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

S-001 (08/10/2021)

3/6/2023

Meeting Date

Criminal Justice

Committee

Name

Carlynn Clibbon, Disability Rights Florida

Phone

850-408-5974

Address

2473 Care Drive

Street

Email

CarlynnC@disabilityrightsflorida.org

Tallahassee

City

FL

State

32308

Zip

The Florida Senate

APPEARANCE RECORD

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

SB382

Bill Number or Topic

Amendment Barcode (if applicable)

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Disability Rights Florida

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3.6.23

Meeting Date

AJ

Committee

382

Bill Number or Topic

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

Amendment Barcode (if applicable)

Name Barney Bishop II

Phone 850.510.9922

Address 1454 Vieux Carre Dr
Street

Email barney@barneybishop.com

Tall
City

FL
State

32308
Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Fla. Smart Justice
Alliance

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

3/6/23
Meeting Date

CJ
Committee

SB382
Bill Number or Topic

Amendment Barcode (if applicable)

Name

AARON "WAIT" WAYT
FL ASSN OF CRIM DEF LAWYERS

Phone

(407) 435-3194

Address

Street

Email

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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

3/6/23

Meeting Date

Q

Committee

382

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Chelsea Murphy

Phone

9545570016

Address

605 Middlebrooks Cr

Email

cmurphy@righton
crime.
com

Street

City

TH

State

FL

Zip

32312

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Right on Crime

☐

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

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

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

S-001 (08/10/2021)

3/6/2023
Meeting Date
Criminal Justice
Committee

The Florida Senate
APPEARANCE RECORD

Lost
SB382
Bill Number or Topic

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

Name Herman Lindsay Executive Director, Witness to Innocence Phone 954-829-7227
Address 1400 NE 40th Street Email Herm4Justice@gmail.com
Pompano Beach FL 33064
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

Witness to Innocence

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 450

INTRODUCER: Criminal Justice Committee and Senators Ingoglia and Martin

SUBJECT: Jury Recommendations in Death Penalty Cases

DATE: March 8, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Stokes	CJ	Fav/CS
2.			JU	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 450 amends the death penalty statutes found in ss. 921.141 and 921.142, F.S., to clarify the judge and the jury's role in death penalty sentencing proceedings. The bill makes the following amendments to the current death penalty statutes by:

- Deleting current language requiring a unanimous jury recommendation for the imposition of the death penalty and inserting a recommendation of at least 8 jurors.
- Providing that if fewer than 8 jurors vote to recommend the death penalty, the jury's sentencing recommendation must be for life without the possibility of parole and the court is bound by that recommendation.
- Providing that if at least 10 jurors recommend a sentence of death, the court must impose the recommended sentence of death, if the jury unanimously finds at least one aggravating factor beyond a reasonable doubt.
- Providing that if either 8 or 9 jurors recommend a sentence of death, the court may sentence the defendant to life or death:
 - The court must consider each aggravating factor unanimously found by the jury and all mitigating circumstances.
 - The court may impose a death sentence only if the jury unanimously finds at least one aggravating factor beyond a reasonable doubt.

The court must enter a written order whether the sentence is for death or for life without the possibility of parole and the court must include in its written order the reasons for not accepting the jury's recommended sentence, if applicable.

The bill may have an indeterminate fiscal impact. See Section V Fiscal Impact Statement.

The bill becomes effective July 1, 2023.

II. Present Situation:

Case Law and Subsequent Statutory Changes Regarding the Death Penalty

The Sixth Amendment of the U.S. Constitution provides: “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury. . . .”¹ This right, in conjunction with the Due Process Clause, requires that each element of a crime be proved to a jury beyond a reasonable doubt.²

The U.S. Supreme Court in *Ring v. Arizona*, applied this right to Arizona’s capital sentencing scheme, which required a judge to determine the presence of aggravating and mitigating factors and to only sentence a defendant to death if the judge found at least one aggravating factor.³ The Court struck down the Arizona sentencing scheme, finding it to be a violation of the Sixth Amendment because it *permitted sentencing judges, without a jury, to find aggravating circumstances justifying imposition of the death penalty*.⁴

In 2016, the U.S. Supreme Court issued the *Hurst v. Florida* opinion finding that Florida’s death penalty sentencing process was unconstitutional because “the Sixth Amendment requires *a jury, not a judge, to find each fact necessary to impose a sentence of death*.”⁵ Thereafter, the Legislature amended ss. 921.141 and 921.142, F.S., to incorporate the following statutory changes:

- The jury is required to identify each aggravating factor found to exist by a unanimous vote in order for a defendant to be eligible for a sentence of death;
- The jury is required to determine whether the aggravating factors outweigh the mitigating circumstances in reaching its sentencing recommendation;
- If at least ten of the twelve members of the jury determine that the defendant should be sentenced to death, the jury’s recommendation is a sentence of death;
- The jury is required to recommend a sentence of life imprisonment without the possibility of parole if fewer than ten jurors determined that the defendant should be sentenced to death;
- The judge is permitted to impose a sentence of life imprisonment without the possibility of parole when the jury recommends a sentence of death; and
- The judge is no longer permitted to “override” the jury’s recommendation of a sentence of life imprisonment by imposing a sentence of death.⁶

¹ U.S. CONST. Amend. VI.

² *United States v. Gaudin*, 515 U.S. 506, 510 (1995).

³ *Ring v. Arizona*, 536 U.S. 584, 592 (2002).

⁴ *Id.* at 609 (emphasis added).

⁵ *Hurst v. Florida*, 577 U.S. 92 (2016) (emphasis added). The *Hurst v. Florida* decision was based on the Sixth Amendment and the 2002 U.S. Supreme Court decision in *Ring v. Arizona*, which held that juries rather than judges acting alone must make crucial *factual* determinations that subject a convicted murderer to the death penalty. *Ring v. Arizona*, 536 U.S. 584 (2002) (emphasis added).

⁶ Chapter 2016-13, L.O.F.

Also in 2016, *Hurst v. State*, on remand from the U.S. Supreme Court, was decided by the Florida Supreme Court. In addition to finding that the prior 2016 statutory amendments to the death penalty sentencing provisions were constitutional, the court also held that “in order for the trial court to impose a sentence of death, the jury’s recommended sentence of death must be *unanimous*.”⁷

After the *Hurst v. State* decision in 2016, the Legislature again amended ss. 921.141 and 921.142, F.S., this time to require a *unanimous vote of the jury for a sentencing recommendation of death*.⁸

The current sentencing proceeding statutes are more fully set forth below.

Florida’s Current Sentencing Proceedings in Capital Cases

The statutes governing the proceedings to determine a sentence of either death or life imprisonment without the possibility of parole⁹ in capital cases are set forth in ss. 921.141 and 921.142, F.S.¹⁰ The court conducts a sentencing proceeding upon conviction or adjudication of guilt of a defendant in a capital felony.¹¹ Typically, the proceeding is conducted by the trial judge before the trial jury as soon as practicable.¹²

Aggravating Factors and Mitigating Circumstances

During the sentencing proceeding, the jury (or the judge if the jury is waived by the defendant) considers evidence that is relevant to the nature of the crime and the character of the defendant. The evidence includes matters relating to any of the aggravating factors enumerated in s. 921.141(6), F.S., or mitigating circumstances enumerated in s. 921.141 (7), F.S.¹³

The aggravating factors are limited to the following:

- The capital felony was committed by a person previously convicted of a felony and under sentence of imprisonment or placed on community control or on felony probation.
- The defendant was previously convicted of another capital felony or of a felony involving the use or threat of violence to the person.
- The defendant knowingly created a great risk of death to many persons.
- The capital felony was committed while the defendant was engaged, or was an accomplice, in the commission of, or an attempt to commit, or flight after committing or attempting to commit, any: robbery; sexual battery; aggravated child abuse; abuse of an elderly person or

⁷ *Hurst v. State*, 202 So.3d 40, 44, (Fla. 2016), *cert. den.*, 137 S.Ct. 2161 (2017) (emphasis added).

⁸ Chapter 2017-1, L.O.F.

⁹ Section 775.082(1)(a), F.S.

¹⁰ The sentencing proceedings in s. 921.142, F.S., are virtually identical to the sentencing proceedings found in s. 921.141, F.S., except that s. 921.142, F.S., only applies in capital drug trafficking cases, which contains certain aggravating factors relevant to drug trafficking cases.

¹¹ Sections 921.141(1) and 921.142(2), F.S.

¹² *Id.*

¹³ Notice of the prosecutor’s intent to present evidence of particular aggravating factors must be served within 45 days after arraignment. Section 782.04(1)(b), F.S. There are 16 different aggravating factors in s. 921.141(6)(a)-(p), F.S., and eight statutory mitigating circumstances in s. 921.141(7), F.S.

disabled adult resulting in great bodily harm, permanent disability, or permanent disfigurement; arson; burglary; kidnapping; aircraft piracy; or unlawful throwing, placing, or discharging of a destructive device or bomb.

- The capital felony was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.
- The capital felony was committed for pecuniary gain.
- The capital felony was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.
- The capital felony was especially heinous, atrocious, or cruel.
- The capital felony was a homicide and was committed in a cold, calculated, and premeditated manner without any pretense of moral or legal justification.
- The victim of the capital felony was a law enforcement officer engaged in the performance of his or her official duties.
- The victim of the capital felony was an elected or appointed public official engaged in the performance of his or her official duties if the motive for the capital felony was related, in whole or in part, to the victim's official capacity.
- The victim of the capital felony was a person less than 12 years of age.
- The victim of the capital felony was particularly vulnerable due to advanced age or disability, or because the defendant stood in a position of familial or custodial authority over the victim.
- The capital felony was committed by a criminal gang member, as defined in s. 874.03, F.S.
- The capital felony was committed by a person designated as a sexual predator pursuant to s. 775.21, F.S., or a person previously designated as a sexual predator who had the sexual predator designation removed.
- The capital felony was committed by a person subject to an injunction issued pursuant to s. 741.30, F.S., or s. 784.046, F.S., or a foreign protection order accorded full faith and credit pursuant to s. 741.315, F.S., and was committed against the petitioner who obtained the injunction or protection order or any spouse, child, sibling, or parent of the petitioner.¹⁴

Mitigating circumstances are the following:

- The defendant has no significant history of prior criminal activity.
- The capital felony was committed while the defendant was under the influence of extreme mental or emotional disturbance.
- The victim was a participant in the defendant's conduct or consented to the act.
- The defendant was an accomplice in the capital felony committed by another person and his or her participation was relatively minor.
- The defendant acted under extreme duress or under the substantial domination of another person.
- The capacity of the defendant to appreciate the criminality of his or her conduct or to conform his or her conduct to the requirements of law was substantially impaired.
- The age of the defendant at the time of the crime.

¹⁴ Section 921.141(6)(a)-(p), F.S. See s. 921.142(7)(a)-(j), F.S., for the aggravating factors in a capital drug trafficking felony case.

- The existence of any other factors in the defendant's background that would mitigate against imposition of the death penalty.¹⁵

Jury Findings and Recommended Sentence

After hearing all of the evidence presented regarding aggravating factors and mitigating circumstances, the jury deliberates and determines if the state has proven, beyond a reasonable doubt, the existence of at least one aggravating factor set forth in s. 921.141(6), F.S.¹⁶

The jury shall return findings identifying each aggravating factor found to exist. A finding that an aggravating factor exists must be unanimous. If the jury:

- Does not unanimously find at least one aggravating factor, the defendant is ineligible for a sentence of death.
- Unanimously finds at least one aggravating factor, the defendant is eligible for a sentence of death and the jury shall make a recommendation to the court as to whether the defendant shall be sentenced to life imprisonment without the possibility of parole or to death. The recommendation shall be based on a weighing of all of the following:
 - Whether sufficient aggravating factors exist.
 - Whether aggravating factors exist which outweigh the mitigating circumstances found to exist.
 - Based on these considerations, whether the defendant should be sentenced to life imprisonment without the possibility of parole or to death.¹⁷

If a unanimous jury determines that the defendant should be sentenced to death, the jury's recommendation to the court shall be a sentence of death. If a unanimous jury does not determine that the defendant should be sentenced to death, the jury's recommendation to the court shall be a sentence of life imprisonment without the possibility of parole.¹⁸

Imposition of Sentence

If the jury has recommended a sentence of:

- Life imprisonment without the possibility of parole, the court shall impose the recommended sentence.
- Death, the court, after considering each aggravating factor found by the jury and all mitigating circumstances, may impose a sentence of life imprisonment without the possibility of parole or a sentence of death. The court may consider only an aggravating factor that was unanimously found to exist by the jury.

If the defendant waived his or her right to a sentencing proceeding by a jury, the court, after considering all aggravating factors and mitigating circumstances, may impose a sentence of life

¹⁵ Section 921.141(7)(a)-(h), F.S. See 921.142(7)(a)-(h), F.S., for the mitigating factors in a capital drug trafficking felony case.

¹⁶ Section 921.141(2)(a), F.S.; See s. 921.142(3)(a), F.S., for provisions relating to the findings and recommended sentence by the jury in a capital drug trafficking case.

¹⁷ Section 921.141(2)(b), F.S.; See s. 921.142(3)(b), F.S., for provisions relating to the findings and recommended sentence by the jury in a capital drug trafficking case.

¹⁸ Section 921.141(2)(c), F.S.; See s. 921.142(3)(c), F.S., for provisions relating to the findings and recommended sentence by the jury in a capital drug trafficking case.

imprisonment without the possibility of parole or a sentence of death. The court may impose a sentence of death only if the court finds that at least one aggravating factor has been proven to exist beyond a reasonable doubt.¹⁹

Order of the Court and Automatic Review of the Case

In each case in which the court imposes a sentence of death, the court shall, considering the records of the trial and the sentencing proceedings, enter a written order addressing the aggravating factors found to exist, the mitigating circumstances reasonably established by the evidence, whether there are sufficient aggravating factors to warrant the death penalty, and whether the aggravating factors outweigh the mitigating circumstances reasonably established by the evidence. If the court does not issue its order requiring the death sentence within 30 days after the rendition of the judgment and sentence, the court shall impose a sentence of life imprisonment without the possibility of parole in accordance with s. 775.082, F.S.²⁰

A judgment of conviction and sentence of death shall be subject to automatic review by the Supreme Court of Florida and disposition rendered within 2 years after the filing of a notice of appeal. Such review by the Supreme Court shall have priority over all other cases and shall be heard in accordance with rules adopted by the Supreme Court.²¹

Case Law Interpreting Current Death Penalty Proceeding Requirements in Florida

Death Eligibility Decision is Jury's Only Role in Death Penalty Sentencing Under Poole v. State

Subsequent to the Legislature's 2016 amendments to the death penalty sentencing proceedings in an effort to comply with both *Hurst v. Florida*²² and *Hurst v. State*²³ the Florida Supreme Court receded from its *Hurst v. State* opinion, eliminating the need for most of the statutory changes made in 2016.²⁴

In *Poole v. State*, the Florida Supreme Court opined that the *Hurst v. State* court had gone beyond where the U.S. Supreme Court required in order to bring Florida's death penalty proceedings into compliance with constitutional standards.²⁵

The *Poole* court left intact only the requirement that a unanimous jury find a statutory aggravating circumstance by a reasonable doubt standard of proof.²⁶ This particular part of Florida's death penalty sentencing proceeding is necessary, as the *Poole* court explained, because there are two components to the death penalty sentencing decision-making process: the *eligibility*

¹⁹ Section 921.141(3), F.S.; See s. 921.141(4), F.S., for provisions relating to the imposition of sentence in a capital drug trafficking case.

²⁰ Section 921.141(4), F.S.; See s. 921.142(5), F.S., for provisions relating to the order of the court in capital drug trafficking cases.

²¹ Section 921.141(5), F.S.; See s. 921.142(6), F.S., for provisions relating to the automatic review by the Florida Supreme Court in capital drug trafficking cases.

²² *Hurst v. Florida*, 577 U.S. 92 (2016).

²³ *Hurst v. State*, 202 So.3d 40 (Fla. 2016), interpreting and applying *Hurst v. Florida*, 577 U.S. 92 (2016).

²⁴ *Poole v. State*, 297 So. 3d 487 (Fla. 2020), receding from *Hurst v. State*, 202 So.3d 40 (Fla. 2016).

²⁵ *Poole v. State*, 297 So. 3d 487 (Fla. 2020).

²⁶ *Poole v. State*, 297 So. 3d 487 (Fla. 2020).

decision which is the trier of fact’s responsibility, and the *selection decision* which is the sentencing judge’s responsibility.²⁷

As to the eligibility decision, the U.S. Supreme Court has required that the death penalty be reserved for only a subset of those who commit murder. “To render a defendant *eligible* for the death penalty in a homicide case, [the Supreme Court has] indicated that the *trier of fact* must convict the defendant of murder and find one ‘aggravating circumstance’ (or its equivalent) at either the guilt or penalty phase.”²⁸

The selection decision involves determining “whether a defendant eligible for the death penalty should in fact receive that sentence.”²⁹ The selection decision is a subjective determination to be made by the court. It is not a “fact” or “element” of the offense for the fact-finder to decide.³⁰

According to the *Poole* court, the *Hurst v. State* court misinterpreted the *Hurst v. Florida* decision on this key point: the *Hurst v. Florida* decision is about death penalty *eligibility*.

Post-*Poole* if a jury unanimously finds at least one aggravating circumstance exists in a murder case, the defendant is death-eligible.

According to *Poole*, the *Hurst v. State* court had a “mistaken view” of what constitutes an *element* of an offense which is a *fact* that a jury must determine exists beyond a reasonable doubt for a defendant to be death eligible. *Hurst v. State*, therefore, mistakenly decided that the Sixth Amendment right to trial by a jury required:

- Unanimous jury findings as to all of the aggravating factors that were proven beyond a reasonable doubt;
- That the aggravating factors are sufficient³¹ to impose a death sentence;
- That the aggravating factors outweigh the mitigating factors;³² and
- A unanimous jury recommendation of a sentence of death.³³

²⁷ *Poole v. State*, 297 So. 3d 487, 501 (Fla. 2020).

²⁸ *Poole v. State*, 297 So. 3d 487, 501 (Fla. 2020), quoting *Tuilaepa v. California*, 512 U.S. 967, 971-972 (U.S. 1994) (emphasis added).

²⁹ *Id.*

³⁰ *Poole v. State*, 297 So. 3d 487, 504 (Fla. 2020).

³¹ [F]or purposes of complying with s. 921.141(3)(a), F.S., “sufficient aggravating circumstances” means “one or more.” See *Miller v. State*, 42 So. 3d 204, 219 (Fla. 2010) (“sufficient aggravating circumstances” means “one or more such circumstances.” For purposes of complying with s. 921.141(3)(a), F.S., “sufficient aggravating circumstances” means “one or more.” See *Miller v. State*, 42 So. 3d 204, 219 (Fla. 2010) (“sufficient aggravating circumstances” means “one or more such circumstances”). *Poole v. State*, 297 So. 3d 487, 502 (Fla. 2020).

³² “The role of the section 921.141(3)(b) selection finding is to give the defendant an opportunity for mercy if it is justified by the relevant mitigating circumstances and by the facts surrounding his crime.” *Poole v. State*, 297 So. 3d 487, 503 (Fla. 2020). See also *Rogers v. State*, 285 So.3d 872, 886 (Fla. 2019).

³³ *Hurst v. Florida* does not require a unanimous jury recommendation—or any jury recommendation—before a death sentence can be imposed. The Supreme Court in *Spaziano* “upheld the constitutionality under the Sixth Amendment of a Florida judge imposing a death sentence even in the face of a jury recommendation of life—a jury override. It necessarily follows that the Sixth Amendment, as interpreted in *Spaziano*, does not require any jury recommendation of death, much less a unanimous one. And as we have also explained, the Court in *Hurst v. Florida* overruled *Spaziano* only to the extent it allows a judge, rather than a jury, to find a necessary aggravating circumstance.” See *Hurst v. Florida*, 136 S. Ct. at 624. See also *Spaziano v. Florida*, 468 U.S. 447 at 464-65, (1984) holding that the Eighth Amendment does not require a jury’s favorable recommendation before a death penalty can be imposed. *Poole v. State*, 297 So. 3d 487, 505 (Fla. 2020).

In sum, the *Poole* court rejected the *Hurst v. State* court's view of a capital jury's role that goes beyond the "fact-finding" required to determine whether a defendant is death eligible.³⁴

Other States

Twenty-seven states have death penalty statutes, however there are only 22 states with an active death penalty. Three states have governor-issued moratoriums in place (Oregon, California, and Pennsylvania). The Delaware and Washington state courts have ruled their death penalties unconstitutional. Twenty-three states have abolished the death penalty.³⁵

Of the 22 active death penalty states, only Alabama allows a judge to impose a death sentence based upon a non-unanimous (10-2 jury vote) jury verdict for death. If the jury returns a verdict of death, "the court shall sentence the defendant to death."³⁶

Most states with the death penalty impose a life sentence if the jury makes a non-unanimous death recommendation. However, in some instances, if the jury cannot reach a unanimous decision:

- 5 states provide for the state to have another opportunity at a new sentencing hearing with a different jury (Alabama, Arizona, California, Kentucky, and Nevada); and
- Indiana and Missouri juries are considered to be "hung juries," and the judge becomes the decision-maker.
- In Montana, the judge sentences based on a jury finding of aggravating factors.
- In Nebraska, a panel of judges decides the sentence and if the panel is non-unanimous, the sentence must be for life.³⁷

III. Effect of Proposed Changes:

The bill amends ss. 921.141 and 921.142, F.S., to clarify the judge and the jury's role in death penalty sentencing proceedings.

Specifically, the bill amends ss. 921.141 and 921.142, F.S., by:

- Deleting current law requiring a unanimous jury recommendation for the imposition of the death penalty and inserting a recommendation of at least 8 jurors recommending the death penalty.

³⁴ "This Court clearly erred in *Hurst v. State* by requiring that the jury make any finding beyond the section 921.141(3)(a) eligibility finding of one or more statutory aggravating circumstances. Neither *Hurst v. Florida*, nor the Sixth or Eighth Amendment, nor the Florida Constitution mandates that the jury make the section 941.121(3)(b) selection finding or that the jury recommend a sentence of death."

³⁵ States with the Death Penalty, Death Penalty Bans, and Death Penalty Moratoriums, Britannica ProCon.org, available at <https://deathpenalty.procon.org/states-with-the-death-penalty-and-states-with-death-penalty-bans/>; (last visited February 24, 2023); Life Verdict or Hung Jury? How States Treat Non-Unanimous Jury Votes in Capital-Sentencing Proceedings, Death Penalty Information Center, available at <https://deathpenaltyinfo.org/stories/life-verdict-or-hung-jury-how-states-treat-non-unanimous-jury-votes-in-capital-sentencing-proceedings> (last visited February 24, 2023); and Map: These are the states that allow the death penalty, Joe Murphy, NBC News, October 27, 2021, available at: <https://www.nbcnews.com/news/all/map-these-are-states-allow-death-penalty-n1282556> (last visited February 24, 2023).

³⁶ Sections 13A-5-46, and 13A-5-47, A.C.

³⁷ See supra note 36.

- Providing that if fewer than 8 jurors vote to recommend the death penalty, the jury's sentencing recommendation must be for life without the possibility of parole and the court is bound by that recommendation.
- Providing that if at least 10 jurors recommend a sentence of death, the court must impose the recommended sentence of death, if the jury unanimously finds at least one aggravating factor beyond a reasonable doubt.
- Providing that if either 8 or 9 jurors recommend a sentence of death, the court may sentence the defendant to life or death:
 - The court must consider each aggravating factor unanimously found by the jury and all mitigating circumstances.
 - The court may impose a death sentence only if the jury unanimously finds at least one aggravating factor beyond a reasonable doubt.
- The court must enter a written order whether the sentence is for death or for life without the possibility of parole and the court must include in its written order the reasons for not accepting the jury's recommended sentence, if applicable.

The bill becomes effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There may be an indeterminate fiscal impact on the criminal trial courts, appellate courts, prosecutors, defense attorneys, and appellate counsel as a result of the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 921.141 and 921.142.

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 March 6, 2023:

The committee substitute:

- Keeps the necessary jury vote count for the court to impose the death sentence to at least 8 jurors voting for death but refines the court's sentencing options related to the jury vote count.
- Provides that if at least 10 jurors recommend a sentence of death, the court must impose the recommended sentence of death, if the jury unanimously finds at least one aggravating factor beyond a reasonable doubt.
- Provides that if either 8 or 9 jurors recommend a sentence of death, the court may sentence the defendant to life or death, but may only render a sentence of death if the jury unanimously finds at least one aggravating factor beyond a reasonable doubt.
- Additionally, the court must enter a written order whether the sentence is for death or for life without the possibility of parole and the court must include in its written order the reasons for not accepting the jury's recommended sentence, if applicable.

B. Amendments:

None.



613564

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/06/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (2), (3), and (4) of section
921.141, Florida Statutes, are amended to read:

921.141 Sentence of death or life imprisonment for capital
felonies; further proceedings to determine sentence.—

(2) FINDINGS AND RECOMMENDED SENTENCE BY THE JURY.—This
subsection applies only if the defendant has not waived his or



613564

her right to a sentencing proceeding by a jury.

(a) After hearing all of the evidence presented regarding aggravating factors and mitigating circumstances, the jury shall deliberate and determine if the state has proven, beyond a reasonable doubt, the existence of at least one aggravating factor set forth in subsection (6).

(b) The jury shall return findings identifying each aggravating factor found to exist. A finding that an aggravating factor exists must be unanimous. If the jury:

1. Does not unanimously find at least one aggravating factor, the defendant is ineligible for a sentence of death.

2. Unanimously finds at least one aggravating factor, the defendant is eligible for a sentence of death and the jury shall make a recommendation to the court as to whether the defendant shall be sentenced to life imprisonment without the possibility of parole or to death. The recommendation shall be based on a weighing of all of the following:

a. Whether sufficient aggravating factors exist.

b. Whether aggravating factors exist which outweigh the mitigating circumstances found to exist.

c. Based on the considerations in sub-subparagraphs a. and b., whether the defendant should be sentenced to life imprisonment without the possibility of parole or to death.

(c) If at least eight jurors determine ~~a unanimous jury determines~~ that the defendant should be sentenced to death, the jury's recommendation to the court must ~~shall~~ be a sentence of death. If fewer than eight jurors ~~a unanimous jury does not~~ determine that the defendant should be sentenced to death, the jury's recommendation to the court must ~~shall~~ be a sentence of



613564

life imprisonment without the possibility of parole.

(3) IMPOSITION OF SENTENCE OF LIFE IMPRISONMENT OR DEATH.—

(a) If the jury has recommended a sentence of:

1. Life imprisonment without the possibility of parole, the court shall impose the recommended sentence of life.

2. Death, the court must impose the recommended sentence of death. The court may impose a sentence of death only if the jury unanimously finds at least one aggravating factor beyond a reasonable doubt, ~~after considering each aggravating factor found by the jury and all mitigating circumstances, may impose a sentence of life imprisonment without the possibility of parole or a sentence of death. The court may consider only an aggravating factor that was unanimously found to exist by the jury.~~

(b) If the defendant waived his or her right to a sentencing proceeding by a jury, the court, after considering all aggravating factors and mitigating circumstances, may impose a sentence of life imprisonment without the possibility of parole or a sentence of death. The court may impose a sentence of death only if the court finds that at least one aggravating factor has been proven to exist beyond a reasonable doubt.

(4) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF DEATH.—If a defendant waived his or her right to a sentencing proceeding by a jury, and the court imposes a sentence of death under paragraph (3) (b) ~~In each case in which the court imposes a sentence of death,~~ the court shall, considering the records of the trial and the sentencing proceedings, enter a written order addressing the aggravating factors set forth in subsection (6) found to exist, the mitigating circumstances in subsection (7)



613564

reasonably established by the evidence, whether there are sufficient aggravating factors to warrant the death penalty, and whether the aggravating factors outweigh the mitigating circumstances reasonably established by the evidence. If the court does not issue its order requiring the death sentence within 30 days after the rendition of the judgment and sentence, the court shall impose a sentence of life imprisonment without the possibility of parole in accordance with s. 775.082.

Section 2. Subsections (3), (4), and (5) of section 921.142, Florida Statutes, are amended to read:

921.142 Sentence of death or life imprisonment for capital drug trafficking felonies; further proceedings to determine sentence.—

(3) FINDINGS AND RECOMMENDED SENTENCE BY THE JURY.—This subsection applies only if the defendant has not waived his or her right to a sentencing proceeding by a jury.

(a) After hearing all of the evidence presented regarding aggravating factors and mitigating circumstances, the jury shall deliberate and determine if the state has proven, beyond a reasonable doubt, the existence of at least one aggravating factor set forth in subsection (7).

(b) The jury shall return findings identifying each aggravating factor found to exist. A finding that an aggravating factor exists must be unanimous. If the jury:

1. Does not unanimously find at least one aggravating factor, the defendant is ineligible for a sentence of death.

2. Unanimously finds at least one aggravating factor, the defendant is eligible for a sentence of death and the jury shall make a recommendation to the court as to whether the defendant



613564

shall be sentenced to life imprisonment without the possibility of parole or to death. The recommendation shall be based on a weighing of all of the following:

a. Whether sufficient aggravating factors exist.

b. Whether aggravating factors exist which outweigh the mitigating circumstances found to exist.

c. Based on the considerations in sub-subparagraphs a. and b., whether the defendant should be sentenced to life imprisonment without the possibility of parole or to death.

(c) If at least eight jurors determine ~~a unanimous jury determines~~ that the defendant should be sentenced to death, the jury's recommendation to the court must ~~shall~~ be a sentence of death. If fewer than eight jurors ~~a unanimous jury does not~~ determine that the defendant should be sentenced to death, the jury's recommendation to the court must ~~shall~~ be a sentence of life imprisonment without the possibility of parole.

(4) IMPOSITION OF SENTENCE OF LIFE IMPRISONMENT OR DEATH.—

(a) If the jury has recommended a sentence of:

1. Life imprisonment without the possibility of parole, the court shall impose the recommended sentence of life.

2. Death, the court must impose the recommended sentence of death. The court may impose a sentence of death only if the jury unanimously finds at least one aggravating factor beyond a reasonable doubt, ~~after considering each aggravating factor found by the jury and all mitigating circumstances, may impose a sentence of life imprisonment without the possibility of parole or a sentence of death. The court may consider only an aggravating factor that was unanimously found to exist by the jury.~~



613564

(b) If the defendant waived his or her right to a sentencing proceeding by a jury, the court, after considering all aggravating factors and mitigating circumstances, may impose a sentence of life imprisonment without the possibility of parole or a sentence of death. The court may impose a sentence of death only if the court finds at least one aggravating factor has been proven to exist beyond a reasonable doubt.

(5) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF DEATH.—If a defendant waived his or her right to a sentencing proceeding by a jury, and the court imposes a sentence of death under paragraph (4) (b) ~~In each case in which the court imposes a death sentence,~~ the court shall, considering the records of the trial and the sentencing proceedings, enter a written order addressing the aggravating factors set forth in subsection (7) found to exist, the mitigating circumstances in subsection (8) reasonably established by the evidence, whether there are sufficient aggravating factors to warrant the death penalty, and whether the aggravating factors outweigh the mitigating circumstances reasonably established by the evidence. If the court does not issue its order requiring the death sentence within 30 days after the rendition of the judgment and sentence, the court shall impose a sentence of life imprisonment without the possibility of parole in accordance with s. 775.082.

Section 3. This act shall take effect upon becoming a law.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:



613564

A bill to be entitled
An act relating to the death penalty; amending ss.
921.141 and 921.142, F.S.; requiring a determination
of a specified number of jurors, rather than jury
unanimity, for a sentencing recommendation of death to
the court for capital felonies and capital drug
trafficking felonies, respectively; requiring a
determination of a specified number of jurors, rather
than jury unanimity, for a sentencing recommendation
of life imprisonment without the possibility of parole
to the court; requiring the court to impose the
recommended sentence of death if the jury has
recommended a sentence of death; specifying that the
court may impose a sentence of death only if the jury
unanimously finds at least one aggravating factor
beyond a reasonable doubt; providing an effective
date.



297178

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/06/2023	.	
	.	
	.	
	.	

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

Senate Amendment to Amendment (613564) (with title amendment)

Delete lines 45 - 145
and insert:

2. Death, and if at least ten jurors recommend a sentence of death, the court must impose the recommended sentence of death. The court may impose a sentence of death only if the jury unanimously finds at least one aggravating factor beyond a reasonable doubt.



297178

11 3. Death, and either eight or nine jurors recommend a
12 sentence of death, the court, after considering each aggravating
13 factor found by the jury and all mitigating circumstances, may
14 impose a sentence of life imprisonment without the possibility
15 of parole or a sentence of death. The court may consider only an
16 aggravating factor that was unanimously found to exist by the
17 jury. The court may impose a sentence of death only if the jury
18 unanimously finds at least one aggravating factor beyond a
19 reasonable doubt.

20 (b) If the defendant waived his or her right to a
21 sentencing proceeding by a jury, the court, after considering
22 all aggravating factors and mitigating circumstances, may impose
23 a sentence of life imprisonment without the possibility of
24 parole or a sentence of death. The court may impose a sentence
25 of death only if the court finds that at least one aggravating
26 factor has been proven to exist beyond a reasonable doubt.

27 (4) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF LIFE
28 IMPRISONMENT OR DEATH.— In each case in which the court imposes
29 a sentence of life imprisonment without the possibility of
30 parole or death, the court shall, considering the records of the
31 trial and the sentencing proceedings, enter a written order
32 addressing the aggravating factors set forth in subsection (6)
33 found to exist, the mitigating circumstances in subsection (7)
34 reasonably established by the evidence, whether there are
35 sufficient aggravating factors to warrant the death penalty, and
36 whether the aggravating factors outweigh the mitigating
37 circumstances reasonably established by the evidence. The court
38 must include in its written order the reasons for not accepting
39 the jury's recommended sentence, if applicable. If the court



297178

does not issue its order requiring the death sentence within 30 days after the rendition of the judgment and sentence, the court shall impose a sentence of life imprisonment without the possibility of parole in accordance with s. 775.082.

Section 2. Subsections (3), (4), and (5) of section 921.142, Florida Statutes, are amended to read:

921.142 Sentence of death or life imprisonment for capital drug trafficking felonies; further proceedings to determine sentence.—

(3) FINDINGS AND RECOMMENDED SENTENCE BY THE JURY.—This subsection applies only if the defendant has not waived his or her right to a sentencing proceeding by a jury.

(a) After hearing all of the evidence presented regarding aggravating factors and mitigating circumstances, the jury shall deliberate and determine if the state has proven, beyond a reasonable doubt, the existence of at least one aggravating factor set forth in subsection (7).

(b) The jury shall return findings identifying each aggravating factor found to exist. A finding that an aggravating factor exists must be unanimous. If the jury:

1. Does not unanimously find at least one aggravating factor, the defendant is ineligible for a sentence of death.

2. Unanimously finds at least one aggravating factor, the defendant is eligible for a sentence of death and the jury shall make a recommendation to the court as to whether the defendant shall be sentenced to life imprisonment without the possibility of parole or to death. The recommendation shall be based on a weighing of all of the following:

a. Whether sufficient aggravating factors exist.



297178

b. Whether aggravating factors exist which outweigh the mitigating circumstances found to exist.

c. Based on the considerations in sub-subparagraphs a. and b., whether the defendant should be sentenced to life imprisonment without the possibility of parole or to death.

(c) If at least eight jurors determine ~~a unanimous jury determines~~ that the defendant should be sentenced to death, the jury's recommendation to the court must ~~shall~~ be a sentence of death. If fewer than eight jurors ~~a unanimous jury does not~~ determine that the defendant should be sentenced to death, the jury's recommendation to the court must ~~shall~~ be a sentence of life imprisonment without the possibility of parole.

(4) IMPOSITION OF SENTENCE OF LIFE IMPRISONMENT OR DEATH.—

(a) If the jury has recommended a sentence of:

1. Life imprisonment without the possibility of parole, the court shall impose the recommended sentence of life.

2. Death, and if at least ten jurors recommend a sentence of death, the court must impose the recommended sentence of death. The court may impose a sentence of death only if the jury unanimously finds at least one aggravating factor beyond a reasonable doubt.

3. Death, and either eight or nine jurors recommend a sentence of death, the court, after considering each aggravating factor found by the jury and all mitigating circumstances, may impose a sentence of life imprisonment without the possibility of parole or a sentence of death. The court may consider only an aggravating factor that was unanimously found to exist by the jury. The court may impose a sentence of death only if the jury unanimously finds at least one aggravating factor beyond a



297178

reasonable doubt.

(b) If the defendant waived his or her right to a sentencing proceeding by a jury, the court, after considering all aggravating factors and mitigating circumstances, may impose a sentence of life imprisonment without the possibility of parole or a sentence of death. The court may impose a sentence of death only if the court finds at least one aggravating factor has been proven to exist beyond a reasonable doubt.

(5) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF LIFE IMPRISONMENT OR DEATH.—In each case in which the court imposes a sentence of life imprisonment without the possibility of parole or death—~~sentence~~, the court shall, considering the records of the trial and the sentencing proceedings, enter a written order addressing the aggravating factors set forth in subsection (7) found to exist, the mitigating circumstances in subsection (8) reasonably established by the evidence, whether there are sufficient aggravating factors to warrant the death penalty, and whether the aggravating factors outweigh the mitigating circumstances reasonably established by the evidence. The court must include in its written order the reasons for not accepting the jury's recommended sentence, if applicable. If the court does not

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

And the title is amended as follows:

Delete lines 167 - 168

and insert:

recommended sentence of death if a certain number of jurors recommend a sentence of death; permitting the



297178

127 court to impose a sentence of life imprisonment
128 without the possibility of parole or a sentence of
129 death if a certain number of jurors recommend a
130 sentence of death; requiring the court to enter a
131 written order with findings upon imposition of
132 sentence; specifying that the

By Senator Ingoglia

11-00433B-23

2023450__

1 A bill to be entitled
 2 An act relating to jury recommendations in death
 3 penalty cases; amending ss. 921.141 and 921.142, F.S.;
 4 providing for jury recommendations concerning death
 5 sentences, rather than jury determinations of
 6 sentences; specifying that a jury recommends a death
 7 sentence if at least eight jurors recommend a death
 8 sentence; specifying that a jury recommends a sentence
 9 of life imprisonment without the possibility of parole
 10 if fewer than eight jurors recommend a death sentence;
 11 requiring the sentencing court to set forth in writing
 12 specified findings if it imposes a death sentence;
 13 providing an effective date.
 14
 15 Be It Enacted by the Legislature of the State of Florida:
 16
 17 Section 1. Subsections (1), (2), and (3) of section
 18 921.141, Florida Statutes, are amended to read:
 19 921.141 Sentence of death or life imprisonment for capital
 20 felonies; further proceedings to determine sentence.—
 21 (1) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.—Upon
 22 conviction or adjudication of guilt of a defendant of a capital
 23 felony, the court shall conduct a separate sentencing proceeding
 24 to determine whether the defendant should be sentenced to death
 25 or life imprisonment as authorized by s. 775.082. The proceeding
 26 shall be conducted by the trial judge before the trial jury as
 27 soon as practicable, if the defendant has not waived his or her
 28 right to a sentencing recommendation by a jury. If, through
 29 impossibility or inability, the trial jury is unable to

Page 1 of 9

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

11-00433B-23

2023450__

30 reconvene for a hearing on the issue of penalty, having
 31 determined the guilt of the accused, the trial judge may summon
 32 a special juror or jurors as provided in chapter 913 to make a
 33 recommendation as to determine the issue of the imposition of
 34 the penalty. If the trial jury has been waived, or if the
 35 defendant pleaded guilty, the sentencing proceeding shall be
 36 conducted before a jury impaneled for that purpose, unless
 37 waived by the defendant. In the proceeding, evidence may be
 38 presented as to any matter that the court deems relevant to the
 39 nature of the crime and the character of the defendant and shall
 40 include matters relating to any of the aggravating factors
 41 enumerated in subsection (6) and for which notice has been
 42 provided pursuant to s. 782.04(1)(b) or mitigating circumstances
 43 enumerated in subsection (7). Any such evidence that the court
 44 deems to have probative value may be received, regardless of its
 45 admissibility under the exclusionary rules of evidence, provided
 46 the defendant is accorded a fair opportunity to rebut any
 47 hearsay statements. However, this subsection shall not be
 48 construed to authorize the introduction of any evidence secured
 49 in violation of the Constitution of the United States or the
 50 Constitution of the State of Florida. The state and the
 51 defendant or the defendant's counsel shall be permitted to
 52 present argument for or against sentence of death.
 53 (2) FINDINGS AND RECOMMENDED SENTENCE BY THE JURY.—
 54 (a) This subsection applies only if the defendant has not
 55 waived his or her right to a sentencing recommendation
 56 proceeding by a jury.
 57 (b) After hearing all the evidence, the jury shall
 58 deliberate and render an advisory sentence to the court, based

Page 2 of 9

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

11-00433B-23

2023450

upon the following matters:

1. Whether sufficient aggravating factors exist as enumerated in subsection (6). A finding that an aggravating factor exists must be unanimous.

2. Whether sufficient mitigating circumstances exist which outweigh the aggravating factors found to exist.

3. Based on these considerations, whether the defendant should be sentenced to life imprisonment or death.

(c) If at least eight jurors determine that the defendant should be sentenced to death, the jury's recommendation to the court shall be a sentence of death. If fewer than eight jurors determine that the defendant should be sentenced to death, the jury's recommendation to the court shall be a sentence of life imprisonment without the possibility of parole.

(3) FINDINGS IN SUPPORT OF SENTENCE OF DEATH.—

Notwithstanding the recommendation of the jury, the court, after weighing the aggravating and mitigating circumstances, shall enter a sentence of life imprisonment or death, but if the court imposes a sentence of death, it shall set forth in writing its findings upon which the sentence of death is based as to the facts:

(a) That sufficient aggravating factors exist as enumerated in subsection (6).

(b) That there are insufficient mitigating circumstances to outweigh the aggravating factors.

~~(a) After hearing all of the evidence presented regarding aggravating factors and mitigating circumstances, the jury shall deliberate and determine if the state has proven, beyond a reasonable doubt, the existence of at least one aggravating~~

11-00433B-23

2023450

~~factor set forth in subsection (6).~~

~~(b) The jury shall return findings identifying each aggravating factor found to exist. A finding that an aggravating factor exists must be unanimous. If the jury:~~

~~1. Does not unanimously find at least one aggravating factor, the defendant is ineligible for a sentence of death.~~

~~2. Unanimously finds at least one aggravating factor, the defendant is eligible for a sentence of death and the jury shall make a recommendation to the court as to whether the defendant shall be sentenced to life imprisonment without the possibility of parole or to death. The recommendation shall be based on a weighing of all of the following:~~

~~a. Whether sufficient aggravating factors exist.~~

~~b. Whether aggravating factors exist which outweigh the mitigating circumstances found to exist.~~

~~c. Based on the considerations in sub-paragraphs a. and b., whether the defendant should be sentenced to life imprisonment without the possibility of parole or to death.~~

~~(c) If a unanimous jury determines that the defendant should be sentenced to death, the jury's recommendation to the court shall be a sentence of death. If a unanimous jury does not determine that the defendant should be sentenced to death, the jury's recommendation to the court shall be a sentence of life imprisonment without the possibility of parole.~~

~~(3) IMPOSITION OF SENTENCE OF LIFE IMPRISONMENT OR DEATH.—~~

~~(a) If the jury has recommended a sentence of:~~

~~1. Life imprisonment without the possibility of parole, the court shall impose the recommended sentence.~~

~~2. Death, the court, after considering each aggravating~~

11-00433B-23

2023450

~~factor found by the jury and all mitigating circumstances, may impose a sentence of life imprisonment without the possibility of parole or a sentence of death. The court may consider only an aggravating factor that was unanimously found to exist by the jury.~~

~~(b) If the defendant waived his or her right to a sentencing proceeding by a jury, the court, after considering all aggravating factors and mitigating circumstances, may impose a sentence of life imprisonment without the possibility of parole or a sentence of death. The court may impose a sentence of death only if the court finds that at least one aggravating factor has been proven to exist beyond a reasonable doubt.~~

Section 2. Subsections (2), (3), and (4) of section 921.142, Florida Statutes, are amended to read:

921.142 Sentence of death or life imprisonment for capital drug trafficking felonies; further proceedings to determine sentence.—

(2) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.—Upon conviction or adjudication of guilt of a defendant of a capital felony under s. 893.135, the court shall conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death or life imprisonment as authorized by s. 775.082. The proceeding shall be conducted by the trial judge before the trial jury as soon as practicable, if the defendant has not waived his or her right to a sentencing recommendation by a jury. If, through impossibility or inability, the trial jury is unable to reconvene for a hearing on the issue of penalty, having determined the guilt of the accused, the trial judge may summon a special juror or jurors as provided in

11-00433B-23

2023450

chapter 913 to make a recommendation as to determine the issue of the imposition of the penalty. If the trial jury has been waived, or if the defendant pleaded guilty, the sentencing proceeding shall be conducted before a jury impaneled for that purpose, unless waived by the defendant. In the proceeding, evidence may be presented as to any matter that the court deems relevant to the nature of the crime and the character of the defendant and shall include matters relating to any of the aggravating factors enumerated in subsection (7) and for which notice has been provided pursuant to s. 782.04(1)(b) or mitigating circumstances enumerated in subsection (8). Any such evidence that the court deems to have probative value may be received, regardless of its admissibility under the exclusionary rules of evidence, provided the defendant is accorded a fair opportunity to rebut any hearsay statements. However, this subsection shall not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States or the Constitution of the State of Florida. The state and the defendant or the defendant's counsel shall be permitted to present argument for or against sentence of death.

(3) FINDINGS AND RECOMMENDED SENTENCE BY THE JURY.—

(a) This subsection applies only if the defendant has not waived his or her right to a sentencing recommendation ~~proceeding~~ by a jury.

(b) After hearing all the evidence, the jury shall deliberate and render an advisory sentence to the court, based upon the following matters:

1. Whether sufficient aggravating factors exist as enumerated in subsection (7). A finding that an aggravating

11-00433B-23

2023450__

factor exists must be unanimous.

2. Whether sufficient mitigating circumstances exist which outweigh the aggravating factors found to exist.

3. Based on these considerations, whether the defendant should be sentenced to life imprisonment or death.

(c) If at least eight jurors determine that the defendant should be sentenced to death, the jury's recommendation to the court shall be a sentence of death. If fewer than eight jurors determine that the defendant should be sentenced to death, the jury's recommendation to the court shall be a sentence of life imprisonment without the possibility of parole.

(4) FINDINGS IN SUPPORT OF SENTENCE OF DEATH.-

Notwithstanding the recommendation of the jury, the court, after weighing the aggravating and mitigating circumstances, shall enter a sentence of life imprisonment or death, but if the court imposes a sentence of death, it shall set forth in writing its findings upon which the sentence of death is based as to the facts:

(a) That sufficient aggravating factors exist as enumerated in subsection (7).

(b) That there are insufficient mitigating circumstances to outweigh the aggravating factors.

~~(a) After hearing all of the evidence presented regarding aggravating factors and mitigating circumstances, the jury shall deliberate and determine if the state has proven, beyond a reasonable doubt, the existence of at least one aggravating factor set forth in subsection (7).~~

~~(b) The jury shall return findings identifying each aggravating factor found to exist. A finding that an aggravating~~

11-00433B-23

2023450__

~~factor exists must be unanimous. If the jury:~~

~~1. Does not unanimously find at least one aggravating factor, the defendant is ineligible for a sentence of death.~~

~~2. Unanimously finds at least one aggravating factor, the defendant is eligible for a sentence of death and the jury shall make a recommendation to the court as to whether the defendant shall be sentenced to life imprisonment without the possibility of parole or to death. The recommendation shall be based on a weighing of all of the following:~~

~~a. Whether sufficient aggravating factors exist.~~

~~b. Whether aggravating factors exist which outweigh the mitigating circumstances found to exist.~~

~~c. Based on the considerations in sub-subparagraphs a. and b., whether the defendant should be sentenced to life imprisonment without the possibility of parole or to death.~~

~~(e) If a unanimous jury determines that the defendant should be sentenced to death, the jury's recommendation to the court shall be a sentence of death. If a unanimous jury does not determine that the defendant should be sentenced to death, the jury's recommendation to the court shall be a sentence of life imprisonment without the possibility of parole.~~

~~(4) IMPOSITION OF SENTENCE OF LIFE IMPRISONMENT OR DEATH.-~~

~~(a) If the jury has recommended a sentence of:~~

~~1. Life imprisonment without the possibility of parole, the court shall impose the recommended sentence.~~

~~2. Death, the court, after considering each aggravating factor found by the jury and all mitigating circumstances, may impose a sentence of life imprisonment without the possibility of parole or a sentence of death. The court may consider only an~~

11-00433B-23

2023450

233 ~~aggravating factor that was unanimously found to exist by the~~
234 ~~jury.~~
235 ~~(b) If the defendant waived his or her right to a~~
236 ~~sentencing proceeding by a jury, the court, after considering~~
237 ~~all aggravating factors and mitigating circumstances, may impose~~
238 ~~a sentence of life imprisonment without the possibility of~~
239 ~~parole or a sentence of death. The court may impose a sentence~~
240 ~~of death only if the court finds at least one aggravating factor~~
241 ~~has been proven to exist beyond a reasonable doubt.~~
242 Section 3. This act shall take effect July 1, 2023.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR BLAISE INGOGLIA

11th District

COMMITTEES:

Finance and Tax, *Chair*
Appropriations
Appropriations Committee on Criminal
and Civil Justice
Banking and Insurance
Children, Families, and Elder Affairs
Criminal Justice
Ethics and Elections

SELECT COMMITTEE:

Select Committee on Resiliency

JOINT COMMITTEE:

Joint Administrative Procedures Committee, *Alternating
Chair*

February 15, 2023

The Honorable Jonathan Martin, Chair
Criminal Justice Committee
311 Senate Office Building
402 South Monroe Street
Tallahassee, FL 32399

Re: SB 450 Jury Recommendations in Death Penalty

Chair Martin,

SB 450 has been referred to the Criminal Justice Committee as its first committee of reference. I respectfully request that it be placed on the agenda at your earliest convenience.

If I may answer questions or be of assistance, please do not hesitate to contact me. Thank you for your leadership and consideration.

Regards,

A handwritten signature in blue ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Blaise Ingoglia
State Senator, District 11

Cc: Amanda Stokes, Staff Director
Sue Arnold, Administrative Assistant

The Florida Senate

APPEARANCE RECORD

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

3/6/23

Meeting Date

Senate / CJ

Committee

SB 450

Bill Number or Topic

613 564

Amendment Barcode (if applicable)

Name

Ryan Petty

Phone

863-410-2827

Address

6001 W Lake Wales Alturas RD

Email

ryan@standwithparkland.org

Street

Bartow

City

FL

State

33830

Zip

Speaking:

☒

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

3/6/23

Meeting Date

Senate Criminal Justice

Committee

SB 450

Bill Number or Topic

613564

Amendment Barcode (if applicable)

Name

Tony Montalto

Phone

954-614-6814

Address

11208 NW 70th Ct

Email

~~tony~~ info@GmRaeMMI.org

Street

Parkland FL

33076

City

State

Zip

Speaking:

☒ For

☐ Against

☐ Information

OR

Waive Speaking:

☐ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



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

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

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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

Meeting Date

3/6/2023

Committee

Criminal Justice

Bill Number or Topic

450
613564

Amendment Barcode (if applicable)

Name

Hunter Pollack

Phone

Address

300 S Duval St

Email

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



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

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

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

3/6/23

Meeting Date

Criminal Justice

Committee

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

450

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Bill Gladson - State Attorney
5th Circuit

Phone

352 671 5900

Address

110 NW 1st Ave Ste 500

Email

Street

Ocala

City

FL

State

34480

Zip

Speaking:

☒

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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

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

S-001 (08/10/2021)

March 6, 2023

Meeting Date

Criminal Justice

Committee

Name **Howard Dimmig**

Address **255 N Broadway**

Street

Baartow

City

Florida

State

33831

Zip

The Florida Senate

APPEARANCE RECORD

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

SB 450

Bill Number or Topic

613564

Amendment Barcode (if applicable)

Phone **863 534-4250**

Email **rdimmig@pd10.org**

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

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

FLORIDA PUBLIC DEFENDER ASSOCIATION

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

SB 450

Bill Number or Topic

Amendment Barcode (if applicable)

Meeting Date

3/6/2023
Criminal Justice

Committee

Name

Dustin Feddon

Phone

850 933 7756

Address

302 East Bradford Rd

Email

fdustin@josephhousewong

Street

Tallahassee

FL

32302

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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

SB 450

Bill Number or Topic

Amendment Barcode (if applicable)

3/6/2023
Meeting Date
Criminal Justice
Committee

Name Zur Davis

Phone (954) 599-5771

Address 4870 Deer Lake Drive
Street

Email ZurDavis@gmail.com

Jacksonville
City

FL
State

32246
Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

03/06/23

Meeting Date

Criminal Justice

Committee

SB 450

Bill Number or Topic

Amendment Barcode (if applicable)

Name Christie Arnold

Phone 407-312-5374

Address 201 W Park Ave
Street

Email carhold@flaccb.org

Tallahassee FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing: Florida
Conference of
Catholic Bishops

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

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

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

S-001 (08/10/2021)

March 6, 2023

Meeting Date

Criminal Justice

Committee

The Florida Senate

APPEARANCE RECORD

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

SB 450

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Andrew Grosmaire**

Phone **850-222-9630**

Address **4487 Argyle Lane**

Street

Tallahassee

City

FL

State

32309

Zip

Email **deaconandy@cocathedral.cor**

Speaking: ☐ For ☒ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

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

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

S-001 (08/10/2021)

3/6/2023

Meeting Date

Criminal Justice

Committee

The Florida Senate
APPEARANCE RECORD

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

SB450

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Herman Lindsay, Executive Director,
Witness to Innocence

Phone

954-829-7272

Address

1400 NE 40th Street

Email

HermJustice@gmail.com

Street

Pompano Beach FL 33064

City

State

Zip

Speaking:

☒ For

☒ Against

☐ Information

OR

Waive Speaking:

☐ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☒

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

Witness to Innocence

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3.6.23

Meeting Date

CJ

Committee

450

Bill Number or Topic

Amendment Barcode (if applicable)

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

Name Barney Bishop III

Phone 850.510.9922

Address 1454 Vienn Carve Drive
Street

Email barney@barneybishop.com

Tall
City

FL
State

32308
Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Fla. Smart Justice
Alliance

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

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

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

S-001 (08/10/2021)

The Florida Senate

3/6/2023

APPEARANCE RECORD

450

Meeting Date

Bill Number or Topic

Criminal Justice

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

Committee

Amendment Barcode (if applicable)

Name **Matt Dunagan**

Phone **850-877-2165**

Address **2617 Mahan Drive**

Email **mdunagan@flsheriffs.org**

Street

Tallahassee

FL

32308

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Sheriffs Association

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

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

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

S-001 (08/10/2021)

March 6, 2023

Meeting Date

Criminal Justice

Committee

Pamela Burch Fort

Name

104 South Monroe Street

Address

Street

Tallahassee

City

FL

State

32301

Zip

The Florida Senate

APPEARANCE RECORD

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

450

Bill Number or Topic

Amendment Barcode (if applicable)

850-425-1344

Phone

TcgLobby@aol.com

Email

Reset Form

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

NAACP Florida State Conference

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

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

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

S-001 (08/10/2021)

3/6/23

Meeting Date

CS

Committee

The Florida Senate
APPEARANCE RECORD

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

SB450

Bill Number or Topic

Amendment Barcode (if applicable)

Name

AARON "WAIT" WAYT
FL ASSN OF CRIM DEF LAWYERS

Phone

(407) 435-3194

Address

Street

Email

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

SB 450

3/6/23

Meeting Date

Bill Number or Topic

Criminal Justice

Committee

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

Amendment Barcode (if applicable)

Name

NR Hines

Phone

786-363-1104

Address

4343 W. Flagler St

Email

nhines@aclufl.org

Street

Tallahassee FL

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

ACLU-FL

☐

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

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

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

S-001 (08/10/2021)

CourtSmart Tag Report

Room: SB 110

Case No.:

Type:

Caption: Senate Criminal Justice Committee

Judge:

Started: 3/6/2023 3:35:26 PM

Ends: 3/6/2023 5:25:49 PM **Length:** 01:50:24

3:35:28 PM Meeting called to order, roll call
3:35:41 PM Quorum is present
3:35:47 PM Chair Martin makes opening remarks
3:36:24 PM Tab 1- SPB 7012, OGSR/Victim of an Incident of Mass Violence by Criminal Justice
3:36:30 PM Chair Martin turns chair over to Senator Perry
3:36:42 PM Chair Perry recognizes Senator Martin
3:36:57 PM Senator Martin explains the bill
3:37:53 PM Questions:
3:37:55 PM Senator Pizzo
3:38:27 PM Senator Martin
3:38:49 PM Chair Perry reads appearance cards waiving
3:39:11 PM Roll call on SPB 7012
3:39:27 PM Chair Perry reports the bill
3:39:33 PM Tab 2- SB 382, Compensation for Wrongfully Incarcerated Persons by Senator Bradley
3:39:40 PM Chair Perry recognizes Senator Bradley
3:39:45 PM Senator Bradley explains the bill
3:41:46 PM Amendment 653022
3:42:06 PM Senator Bradley waives close
3:42:12 PM Chair Perry reports amendment
3:42:25 PM Questions:
3:42:29 PM Senator Pizzo
3:42:47 PM Senator Bradley
3:42:56 PM Senator Pizzo
3:43:09 PM Senator Bradley
3:43:20 PM Senator Pizzo
3:43:33 PM Senator Bradley
3:43:40 PM Chair Perry recognizes cards to speak
3:43:58 PM Dr. Adina Thompson, Innocence Project of Florida
3:46:16 PM Chair Perry reads appearance cards waiving
3:46:49 PM Chair Perry recognizes Herman Lindsay to speak
3:47:03 PM Herman Lindsay, Executive Director, Witness to Innocence
3:48:53 PM Senator Pizzo
3:49:14 PM Herman Lindsay
3:49:17 PM Senator Pizzo
3:49:24 PM Herman Lindsay
3:49:40 PM Senator Ingoglia
3:49:52 PM Herman Lindsay
3:50:34 PM Debate:
3:50:40 PM Senator Powell
3:51:38 PM Senator Pizzo
3:52:27 PM Senator Bradley closes on the bill
3:53:17 PM Roll call on SB 382
3:53:34 PM Chair Perry reports the bill
3:53:41 PM Tab 3- SB 450, Jury Recommendations in Death Penalty Cases by Senator Ingoglia
3:53:59 PM Amendment 613564
3:54:11 PM Chair Perry recognizes Senator Ingoglia
3:54:13 PM Senator Ingoglia explains the amendment
3:55:04 PM Amendment 297178
3:55:23 PM Senator Ingoglia explains the amendment
3:57:08 PM Questions:
3:57:15 PM Senator Pizzo
3:57:31 PM Senator Ingoglia

3:58:06 PM	Senator Pizzo
3:58:47 PM	Senator Ingoglia
3:59:12 PM	Senator Pizzo
3:59:58 PM	Senator Ingoglia
4:00:18 PM	Senator Pizzo
4:00:55 PM	Senator Ingoglia
4:01:36 PM	Senator Pizzo
4:01:54 PM	Senator Ingoglia
4:02:53 PM	Senator Ingoglia waives close
4:03:09 PM	Chair Perry reports the amendment
4:03:21 PM	Senator Ingoglia
4:04:22 PM	Chair Perry recognizes appearance cards to speak
4:04:42 PM	Tony Montalto
4:06:33 PM	Ryan Petty
4:08:12 PM	Senator Ingoglia waives close
4:08:17 PM	Chair Perry reports amendment
4:08:22 PM	Chair Perry turns the chair back over the Chair Martin
4:08:41 PM	Questions:
4:08:47 PM	Senator Powell
4:09:12 PM	Senator Ingoglia
4:09:31 PM	Senator Powell
4:10:21 PM	Senator Ingoglia
4:10:51 PM	Senator Powell
4:10:58 PM	Senator Ingoglia
4:11:30 PM	Senator Powell
4:11:44 PM	Senator Ingoglia
4:11:50 PM	Senator Powell
4:12:08 PM	Senator Ingoglia
4:12:13 PM	Chair Martin
4:12:16 PM	Senator Ingoglia
4:12:57 PM	Senator Powell
4:13:33 PM	Senator Ingoglia
4:13:40 PM	Senator Powell
4:14:33 PM	Senator Ingoglia
4:17:20 PM	Senator Powell
4:17:54 PM	Senator Ingoglia
4:19:30 PM	Senator Powell
4:20:14 PM	Senator Ingoglia
4:20:59 PM	Senator Perry
4:21:37 PM	Senator Ingoglia
4:22:17 PM	Senator Polsky
4:22:38 PM	Senator Ingoglia
4:23:21 PM	Senator Polsky
4:23:39 PM	Senator Ingoglia
4:25:24 PM	Senator Polsky
4:25:40 PM	Senator Ingoglia
4:26:29 PM	Senator Polsky
4:26:48 PM	Senator Ingoglia
4:28:16 PM	Senator Polsky
4:28:31 PM	Senator Ingoglia
4:28:47 PM	Senator Pizzo
4:29:19 PM	Senator Ingoglia
4:29:50 PM	Senator Pizzo
4:30:19 PM	Senator Ingoglia
4:30:28 PM	Senator Pizzo
4:31:09 PM	Senator Ingoglia
4:31:30 PM	Senator Pizzo
4:33:28 PM	Senator Ingoglia
4:34:38 PM	Senator Pizzo
4:34:49 PM	Senator Ingoglia
4:35:21 PM	Senator Pizzo
4:36:21 PM	Senator Ingoglia

4:36:26 PM	Senator Pizzo
4:38:11 PM	Chair Martin recognizes appearance cards to speak
4:38:23 PM	Bill Gladson, State Attorney, 5th Circuit
4:39:10 PM	Senator Pizzo
4:39:17 PM	Bill Gladson
4:39:52 PM	Senator Pizzo
4:40:35 PM	Bill Gladson
4:40:44 PM	Senator Pizzo
4:41:05 PM	Bill Gladson
4:41:27 PM	Senator Pizzo
4:41:58 PM	Bill Gladson
4:42:11 PM	Senator Pizzo
4:42:17 PM	Bill Gladson
4:42:40 PM	Senator Pizzo
4:42:45 PM	Bill Gladson
4:43:40 PM	Howard Dimmig, Florida Public Defender Association
4:50:43 PM	Senator Perry
4:51:08 PM	Howard Dimmig
4:51:22 PM	Senator Perry
4:51:33 PM	Chair Martin
4:51:46 PM	Howard Dimmig
4:51:58 PM	Senator Ingoglia
4:52:09 PM	Howard Dimmig
4:52:52 PM	Senator Ingoglia
4:53:04 PM	Howard Dimmig
4:53:20 PM	Senator Ingoglia
4:53:38 PM	Howard Dimmig
4:53:41 PM	Senator Ingoglia
4:53:59 PM	Howard Dimmig
4:54:10 PM	Senator Pizzo
4:54:27 PM	Howard Dimmig
4:55:16 PM	Senator Pizzo
4:55:29 PM	Howard Dimmig
4:55:58 PM	Senator Pizzo
4:56:27 PM	Howard Dimmig
4:56:41 PM	Senator Pizzo
4:57:19 PM	Howard Dimmig
4:57:34 PM	Senator Pizzo
4:58:14 PM	Howard Dimmig
4:59:19 PM	Dustin Feddon
5:01:13 PM	Zuri Davis
5:02:55 PM	Christie Arnold, Florida Conference of Catholic Bishops
5:04:11 PM	Senator Pizzo
5:04:23 PM	Christie Arnold
5:04:29 PM	Senator Pizzo
5:04:50 PM	Christie Arnold
5:04:56 PM	Senator Pizzo
5:05:07 PM	Christie Arnold
5:05:20 PM	Andrew Grosmaire
5:07:16 PM	Herman Lindsay, Executive Witness, Director to Innocence
5:09:02 PM	Senator Pizzo
5:09:24 PM	Herman Lindsay
5:10:47 PM	Chair Martin reads appearance cards waiving
5:11:29 PM	Debate:
5:11:31 PM	Senator Pizzo
5:17:20 PM	Senator Polsky
5:20:50 PM	Senator Ingoglia closes on the bill
5:24:21 PM	Roll call on SB 450
5:24:40 PM	Chair Martin reports the bill
5:24:57 PM	Senator Yarborough moves to record a missed vote
5:25:18 PM	Chair Martin moves to record a missed vote
5:25:33 PM	Senator Perry moves to adjourn

5:25:39 PM Meeting adjourned