

Tab 1 **SB 220** by **Passidomo**; (Identical to H 00271) Bankruptcy Matters in Foreclosure Proceedings

Tab 2 **SB 274** by **Stargel (CO-INTRODUCERS) Grimsley**; (Identical to H 00113) Concealed Weapons and Firearms in Multiuse Facilities

Tab 3 **SB 512** by **Young**; (Identical to H 00421) Homestead Waivers

Tab 4 **SB 760** by **Bean**; (Identical to H 00623) Grounds for Nonrecognition of Out-of-country Foreign Judgments

Tab 5 **SB 98** by **Steube**; (Identical to H 00199) Health Insurer Authorization

363404	A	S	RCS	JU, Steube	Delete L.142:	12/06 03:18 PM
828472	A	S	UNFAV	JU, Thurston	Delete L.186 - 196:	12/06 03:18 PM

Tab 6 **SB 134** by **Steube (CO-INTRODUCERS) Grimsley**; (Identical to H 00383) Concealed Weapons or Firearms

117468	D	S	RCS	JU, Steube	Delete everything after	12/05 05:49 PM
271670	AA	S	UNFAV	JU, Powell	Delete L.106 - 108:	12/05 05:49 PM
277514	A	S	00	JU, Powell	btw L.66 - 67:	12/05 05:49 PM

Tab 7 **SB 148** by **Steube**; (Similar to H 00039) Weapons and Firearms

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

JUDICIARY
Senator Steube, Chair
Senator Benacquisto, Vice Chair

MEETING DATE: Tuesday, December 5, 2017
TIME: 2:00—4:00 p.m.
PLACE: *Toni Jennings Committee Room*, 110 Senate Office Building

MEMBERS: Senator Steube, Chair; Senator Benacquisto, Vice Chair; Senators Bracy, Bradley, Flores, Garcia, Gibson, Mayfield, Powell, and Thurston

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 220 Passidomo (Identical H 271)	Bankruptcy Matters in Foreclosure Proceedings; Authorizing lienholders to use certain documents as an admission in an action to foreclose a mortgage; providing that submission of certain documents in a foreclosure action creates a rebuttable presumption that the defendant has waived any defenses to the foreclosure; requiring a court to take judicial notice of orders entered in bankruptcy cases under certain circumstances, etc. BI 11/07/2017 Favorable JU 12/05/2017 Favorable RC	Favorable Yeas 10 Nays 0
2	SB 274 Stargel (Identical H 113, S 240)	Concealed Weapons and Firearms in Multiuse Facilities; Providing that a person licensed to carry a concealed weapon or concealed firearm is not prohibited by specified laws from such carrying on the property of certain institutions, etc. JU 11/14/2017 Temporarily Postponed JU 12/05/2017 Unfavorable ED RC	Unfavorable Yeas 4 Nays 6
3	SB 512 Young (Identical H 421)	Homestead Waivers; Providing language that may be used to waive spousal homestead rights concerning devise restrictions, etc. CA 11/07/2017 Favorable JU 12/05/2017 Favorable RC	Favorable Yeas 10 Nays 0
4	SB 760 Bean (Identical H 623)	Grounds for Nonrecognition of Out-of-country Foreign Judgments; Providing additional circumstances in which an out-of-country foreign judgment need not be recognized, etc. JU 12/05/2017 Favorable CM RC	Favorable Yeas 10 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Judiciary

Tuesday, December 5, 2017, 2:00—4:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 98 Steube (Identical H 199)	Health Insurer Authorization; Prohibiting prior authorization forms from requiring certain information; requiring health insurers and pharmacy benefits managers on behalf of health insurers to provide certain information relating to prior authorization by specified means; requiring health insurers to publish on their websites and provide to insureds in writing a procedure for insureds and health care providers to request protocol exceptions, etc. BI 11/07/2017 Favorable JU 12/05/2017 Fav/CS RC	Fav/CS Yeas 10 Nays 0
6	SB 134 Steube (Identical H 383)	Concealed Weapons or Firearms; Authorizing a concealed weapons or concealed firearms licensee to temporarily surrender a weapon or firearm if the licensee approaches courthouse security or management personnel upon arrival and follows their instructions; defining the term "courthouse"; preempting certain ordinances, rules, orders, and regulations that conflict with that definition or with certain rights, etc. JU 09/13/2017 JU 11/07/2017 Temporarily Postponed JU 12/05/2017 Unfavorable GO RC	Unfavorable Yeas 4 Nays 6
7	SB 148 Steube (Similar H 39)	Weapons and Firearms; Deleting a statement of applicability relating to violations of carrying a concealed weapon or firearm; reducing the penalties applicable to a person licensed to carry a concealed weapon or firearm for a first or second violation of specified provisions relating to openly carrying weapons; providing that a person licensed to carry a concealed weapon or firearm does not violate certain provisions if the firearm is temporarily and openly displayed, etc. JU 11/14/2017 Temporarily Postponed JU 12/05/2017 Unfavorable GO RC	Unfavorable Yeas 5 Nays 5

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 Judiciary

BILL: SB 220

INTRODUCER: Senator Passidomo

SUBJECT: Bankruptcy Matters in Foreclosure Proceedings

DATE: December 4, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Billmeier</u>	<u>Knudson</u>	<u>BI</u>	Favorable
2.	<u>Stallard</u>	<u>Cibula</u>	<u>JU</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 220 specifies how certain documents from a person's bankruptcy proceeding may be used as evidence in a foreclosure action against the same person.

The bill provides that a document creates a rebuttable presumption that a foreclosure defendant has waived any defense to foreclosure if the document:

- Was filed in the defendant's bankruptcy case;
- Evidences the defendant's intention to surrender to the lienholder the property that is the subject of the foreclosure;
- Has not been withdrawn by the defendant; and
- Is submitted in the foreclosure proceeding together with a final bankruptcy order that discharges the defendant's debts or confirms the defendant's repayment plan that provides for the surrender of the property.

However, the filing of such a document in a foreclosure case "does not preclude" the defendant from raising a defense based upon the lienholder's conduct following the document's filing in the bankruptcy case.

Additionally, the bill ensures that any document that a debtor filed under penalty of perjury in a bankruptcy case may be filed in a foreclosure proceeding as an admission against this person.

II. Present Situation:

Bankruptcy Proceedings

In general, there are two purposes of bankruptcy proceedings. The first is to convert some of the debtor's assets to cash and distribute the cash to the creditors, thus discharging the debt. These nonexempt assets are called the bankruptcy "estate." The second purpose is to give the debtor a

fresh start, with the aid of those rights and exempt assets as the bankruptcy statute leaves untouched.¹

For individuals, there are two primary forms of bankruptcy, often referred to by the respective chapters in the United States Bankruptcy Code that govern them—Chapter 7 and Chapter 13. A petition filed under Chapter 7 of the code is used when the rehabilitative chapters of the code would not be applicable, such as when there is no non-exempt property to protect.² A Chapter 13 petition allows the debtor to stay creditor actions and propose a plan to pay creditors, rehabilitating the debtor financially.³

In a Chapter 7 bankruptcy, if the debtor’s schedule of assets and liabilities includes debts that are secured by property of the estate, the debtor must file a statement of his or her intention regarding the retention or surrender of the property.⁴ This statement of intention must declare one of four things regarding secured property, or “collateral”:

- The collateral is exempt from the bankruptcy estate;
- The debtor will surrender the collateral;
- The debtor will reaffirm the debt, meaning the debtor keeps the collateral but is liable for the debt in the future (the debt is not discharged by bankruptcy); or
- The debtor will redeem the collateral, which is done by paying off the security interest in cash.⁵

The statement of intention must be made under penalty of perjury. The debtor must file the statement of intention within 30 days after the filing of the Chapter 7 petition or on or before the date of the meeting of the creditors to appoint a trustee for the estate, whichever is earlier.⁶ Within 30 days after the first date set for the meeting of the creditors, the debtor must “perform his intention” with respect to each piece of secured property.⁷

Instead of Chapter 7, a debtor may choose Chapter 13 bankruptcy because, among other reasons, it allows a debtor to stop, or “stay,” foreclosure proceedings on his or her home.

In Chapter 13 filings, the debtor must create a plan to restructure and repay his or her debt.⁸ For this plan to be confirmed by the court, one thing the plan must do is describe how the debtor is responding to each secured claim (such as that of a mortgagee).⁹ More specifically, the response to each secured claim must be:

- Accepted by the creditor;
- To pay the claim in the particular way set forth in statute; or
- To give up the property to the creditor.¹⁰

¹ 9 Am Jur 2d *Bankruptcy* s. 5.

² 9 Am Jur 2d *Bankruptcy* s. 68.

³ 9 Am Jur 2d *Bankruptcy* s. 72.

⁴ 11 U.S.C. s. 521(a)(2)(A)

⁵ *In re Failla*, 838 F. 3d 1170, 1175 (11th Cir. 2016).

⁶ 9 Am Jur 2d *Bankruptcy* s. 72.

⁷ 11 U.S.C. s. 521(2)(B).

⁸ *See* 11 U.S.C. ss. 1321 and 1322.

⁹ 11 U.S.C. s. 1325(a)(5).

¹⁰ 11 U.S.C. s. 1325(a)(5).

After the debtor fulfills his or her duties to the bankruptcy estate, the court must grant the debtor a discharge, unless the debtor acts wrongfully in one of the ways set forth in statute.¹¹ As a general matter, this discharge voids any dischargeable debt of the debtor.¹²

Mortgage Foreclosure

A mortgage creates a specific lien, held by the lender or servicer (the “mortgagee”) on the mortgaged property, such as a house.¹³ Thus, mortgagees hold a secured claim in bankruptcy.

Mortgages commonly include an “acceleration clause,” which gives the mortgagee the authority to declare the entire mortgage obligation due and payable immediately upon default of the borrower, who is called the mortgagor. Therefore, when a mortgagor fails to meet the terms of the mortgage, such as by missing a payment, the mortgagee has a right to payment of the entire balance of the loan. The legal action taken to obtain this payment is called a foreclosure. And the primary purpose of a foreclosure action is to compel the sale of the property, with the sale proceeds going toward payment of the loan balance.¹⁴

The following is a general outline of the judicial foreclosure process:

- Upon proper notice of default to the defendant, the mortgage servicer files a foreclosure complaint;¹⁵
- Process is served on the defendant, which service must occur within 120 days after the filing of the initial pleadings;¹⁶
- The defendant must timely file an answer or another paper indicating an intent to respond to the suit; otherwise, the plaintiff is entitled to an entry of default against the defendant;¹⁷
- If an answer is filed, the plaintiff usually moves for summary judgment, though the plaintiff may instead elect to proceed toward trial;¹⁸
- Following the proper motions, answers, affidavits, and other evidence being filed with the court, it holds a summary judgment hearing and renders a final judgment if it finds in the favor of the plaintiff;¹⁹
- If summary judgment is denied, the foreclosure proceeds to a non-jury trial;²⁰
- If the plaintiff prevails, the court schedules a judicial sale of the property not less than 20 days, but no more than 35 days after the judgment;²¹
- A notice of sale must be published once a week, for 2 consecutive weeks, in a publication of general circulation, and the second publication must be at least 5 days prior to the sale;²²

¹¹ 11 U.S.C. s. 727(a).

¹² 11 U.S.C. s. 727(b).

¹³ *Cukierman v. BankAtlantic*, 89 So. 3d 250, 251 (Fla. 3d DCA 2012).

¹⁴ *See, e.g., id.* at 251 (Fla. 3d DCA 2012).

¹⁵ Fla.R.Civ.P. Form 1.944.

¹⁶ Fla.R.Civ.P. 1.070(j).

¹⁷ Fla.R.Civ.P. 1.500.

¹⁸ Fla.R.Civ.P. 1.510(a).

¹⁹ Section 45.031, F.S.

²⁰ Section 702.01, F.S.

²¹ Section 45.031(1)(a), F.S.

²² Section 45.031(2), F.S.

- The winning bid at a public judicial sale is conclusively presumed to be sufficient consideration for the sale;²³
- Parties have 10 days to file a verified objection to the amount of the bid or the sale procedure;²⁴
- After the 10 days have expired with no objection, the sale is confirmed by the clerk's issuance of the certificate of title to the purchaser, sale proceeds are disbursed, and the court may, in its discretion, enter a deficiency decree for the difference between the fair market value of the security received and the amount of the debt;²⁵
- The clerk may issue a writ of possession giving possession of the real property to the purchaser and directing the sheriff to assist the purchaser with obtaining possession; and
- Up to the point that a writ of possession is served on the property, the debtor who was property was foreclosed has the legal right to stay in possession of the real property.

Florida Evidence Code

The Florida Evidence Code governs what evidence may be admitted in this state's courts.²⁶ Under the code, courts may take "judicial notice" of certain facts.²⁷ Judicial notice is "the cognizance of certain facts which judges and jurors may properly take and act upon without proof, because they already know them."²⁸ In other words, if the court takes judicial notice of something, a party need not admit evidence to establish that thing as true. Among several other things, a court may take judicial notice of records of any court of this state or any court of record of the United States.²⁹

The Florida Evidence Code generally prohibits the admission of hearsay evidence.³⁰ Hearsay is an out-of-court statement admitted to prove the truth of the matter asserted in the statement.³¹ The general prohibition on the admission of hearsay is subject to many exceptions, including a written admission of an opposing party.³²

Recent Cases Involving the Problem Addressed by the Bill

In several recent cases, debtors in federal bankruptcy proceedings have agreed to surrender property, and yet continued to fight liquidation of the same property in state foreclosure proceedings.³³ For example, in *In re Failla*,³⁴ the debtors filed for bankruptcy in 2011. They admitted that they owned the home, that the home was collateral for the mortgage, and that the mortgage was valid. Moreover, they filed a statement of their intention to surrender the home in

²³ Section 45.031(8), F.S.

²⁴ Section 45.031(8), F.S.

²⁵ Section 702.06, F.S.

²⁶ Section 90.103, F.S.

²⁷ See s. 90.201 and 90.202, F.S.

²⁸ *Mitchum v. State*, 251 So. 2d 298, 300 (Fla. 1st DCA 1971).

²⁹ Section 90.202(6), F.S.

³⁰ Section 90.802, F.S.

³¹ Section 90.801(1)(c), F.S.

³² Section 90.803(18), F.S.

³³ See, e.g., *Green Tree Servicing v. Hardmon*, Case No. 162012-CA-13629-FC-E (Fla. 4th Judicial Circuit November 13, 2015); *In re Guerra*, 544 B.R. 707 (Bankr. M.D. Fla. 2016); *In re Metzler*, 530 B.R. 894 (Bankr. M.D. Fla. 2015).

³⁴ *In re Failla*, 838 F.3d 1170 (11th Cir. 2016).

the bankruptcy proceedings. After the filing of their intention to surrender, the debtors continued to live in the home and defend against the creditor's ongoing foreclosure action in state court. The debtors argued their surrender of the house in the bankruptcy proceeding was "not inconsistent" with their effort to stop the mortgagee from foreclosing on the house.³⁵ The 11th Circuit Court of Appeals held that stating an intention to surrender in bankruptcy court meant that the debtors could not contest the foreclosure action in state court.³⁶

III. Effect of Proposed Changes:

The bill specifies how certain documents from a person's bankruptcy proceeding may be used as evidence in a foreclosure action against the same person.

The bill provides that a document creates a rebuttable presumption that a foreclosure defendant has waived any defense to foreclosure if the document:

- Was filed in the defendant's bankruptcy case;
- Evidences the defendant's intention to surrender to the lienholder the property that is the subject of the foreclosure;
- Has not been withdrawn by the defendant; and
- Is submitted in the foreclosure proceeding together with a final bankruptcy order that discharges the defendant's debts or confirms the defendant's repayment plan that provides for the surrender of the property.

However, the filing of such a document in a foreclosure case "does not preclude" the defendant from raising a defense based upon the lienholder's conduct following the document's filing in the bankruptcy case.

Additionally, the bill ensures that any document that a debtor filed under penalty of perjury in a bankruptcy case may be filed in a mortgage foreclosure proceeding as an admission against this person. Finally, the bill also requires the court in a foreclosure proceeding, upon the request of a lienholder, to take judicial notice of any order entered in a bankruptcy case.

The bill takes effect on October 1, 2018, and applies to foreclosure actions filed on or after that date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

³⁵ *In re Failla*, 838 F.3d at 1173-1175.

³⁶ *In re Failla*, 838 F.3d at 1178.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may expedite some foreclosure cases, thus decreasing the costs of these proceedings.

C. Government Sector Impact:

The bill may expedite some foreclosure cases, thus decreasing costs to the court system.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 702.12 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.

By Senator Passidomo

28-00027-18

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A bill to be entitled

An act relating to bankruptcy matters in foreclosure proceedings; creating s. 702.12, F.S.; authorizing lienholders to use certain documents as an admission in an action to foreclose a mortgage; providing that submission of certain documents in a foreclosure action creates a rebuttable presumption that the defendant has waived any defenses to the foreclosure; requiring a court to take judicial notice of orders entered in bankruptcy cases under certain circumstances; providing construction; providing applicability; providing an effective date.

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

Section 1. Section 702.12, Florida Statutes, is created to read:

702.12 Actions in foreclosure.-

(1) (a) A lienholder, in an action to foreclose a mortgage, may submit any document the defendant filed under penalty of perjury in the defendant's bankruptcy case for use as an admission by the defendant.

(b) A rebuttable presumption that the defendant has waived any defense to the foreclosure is created if a lienholder submits documents filed in the defendant's bankruptcy case which:

1. Evidence the defendant's intention to surrender to the lienholder the property that is the subject of the foreclosure;
2. Have not been withdrawn by the defendant; and

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3. Show that a final order has been entered in the defendant's bankruptcy case which discharges the defendant's debts or confirms the defendant's repayment plan that provides for the surrender of the property.

(2) Pursuant to s. 90.203, a court shall take judicial notice of an order entered in a bankruptcy case upon the request of a lienholder.

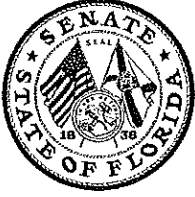
(3) This section does not preclude the defendant in a foreclosure action from raising a defense based upon the lienholder's action or inaction subsequent to the filing of the document filed in the bankruptcy case which evidenced the defendant's intention to surrender the mortgaged property to the lienholder.

(4) This section applies to any foreclosure action filed on or after October 1, 2018.

Section 2. This act shall take effect October 1, 2018.

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The Florida Senate

Committee Agenda Request

To: Senator Greg Steube, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: November 7, 2017

I respectfully request that **Senate Bill #220**, relating to Bankruptcy Matters in Foreclosure Proceedings, be placed on the:

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

A handwritten signature in black ink, appearing to read "K. Passidomo", with a horizontal line extending to the right.

Senator Kathleen Passidomo
Florida Senate, District 28

THE FLORIDA SENATE

APPEARANCE RECORD

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

12/5/17

Meeting Date

220

Bill Number (if applicable)

Topic Bankruptcy Matters in Foreclosure Proceedings Amendment Barcode (if applicable)

Name Kenneth Pratt

Job Title Senior VP of Governmental Affairs

Address 1001 Thomasville Rd Ste. 201

Phone 850-224-2265

Tallahassee FL 32301

Email kpratt@floridabankers.com

Speaking: [X] For [] Against [] Information

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

Representing Florida Bankers Association

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

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

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

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

The Florida Senate
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 Judiciary

BILL: SB 274

INTRODUCER: Senators Stargel and Grimsley

SUBJECT: Concealed Weapons and Firearms in Multiuse Facilities

DATE: November 13, 2017 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stallard	Cibula	JU	Unfavorable
2.			ED	
3.			RC	

I. Summary:

SB 274 provides that a person who is licensed to carry a concealed weapon or firearm is not prohibited from carrying a concealed weapon or firearm on private school property on which a religious institution is also located. As such, the bill creates an exception to the general statutory ban on the possession of a firearm or weapon on school property.

II. Present Situation:

Overview

Florida law prohibits even a person who has a concealed weapon or firearm license from possessing a firearm or weapon on the property of any elementary or secondary school, or any college or university, whether public or private. Although federal law also generally prohibits the possession of a firearm on school property, this prohibition does not apply to a person licensed to carry a firearm by his or her state.

Lawful Concealed Carry of Weapons and Firearms

Although carrying a concealed weapon or firearm, as well as openly carrying a firearm, is generally illegal in this state, these prohibitions are subject to several exceptions.¹

The most significant exception to the prohibition on the possession of concealed weapons and firearms may be the licensed carrying of these items. The license authorizes a licensee to carry a concealed firearm in most places in the state. To obtain a license, one must submit an application

¹ Many of these exceptions are set forth in s. 790.25, F.S.

to the Department of Agriculture and Consumer Services, and the Department must grant the license to each applicant who:²

- Is a resident of the United States and a citizen of the United States or a permanent resident alien of the United States, as determined by the United States Bureau of Citizenship and Immigration Services, or is a consular security official of a foreign government that maintains diplomatic relations and treaties of commerce, friendship, and navigation with the United States and is certified as such by the foreign government and by the appropriate embassy in this country;
- Is 21 years of age or older;
- Does not suffer from a physical infirmity that prevents the safe handling of a weapon or firearm;
- Is not ineligible to possess a firearm by virtue of having been convicted of a felony;
- Has not been committed for the abuse of a controlled substance;
- Has not been found guilty of a crime relating to controlled substances within a 3-year period immediately preceding the date on which the application is submitted;
- Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired;
- Desires a legal means to carry a concealed weapon or firearm for lawful self-defense;
- Demonstrates competency in the use of a firearm;³
- Has not been, or is deemed not to have been, adjudicated an incapacitated person in a guardianship proceeding;
- Has not been, or is deemed not to have been, committed to a mental institution;
- Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony, or any misdemeanor crime of domestic violence, unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or expunction has occurred;
- Has not been issued an injunction that is currently in force and effect which restrains the applicant from committing acts of domestic violence or acts of repeat violence; and
- Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.

Although the license generally authorizes a person to carry a concealed weapon or firearm throughout the state, it does not authorize a person to carry a concealed firearm into several places, including any college or university facility, any career center, or any elementary or secondary school facility or administration building. A license also does not authorize a person to carry a concealed firearm into any school, college, or professional athletic event not related to firearms.⁴ As used in the licensing statute, the terms referring to schools, colleges, and universities are not defined. As such, the statute makes no distinction between public and private schools.

² Section 790.06(2), F.S. However, the Department must *deny* a license to an applicant who meets any criterion set forth in s. 790.06(3), F.S, which also sets forth criteria for the mandatory revocation of a license.

³ See s. 790.06(2)(h), F.S., for the list of courses and other means of demonstrating competency, and for the required documentation that one must present to the state relative to this provision.

⁴ See s. 790.06(12), F.S., for the list of the places that a license does not authorize a licensee to carry into.

Additional exceptions to the prohibition against carrying a concealed firearm or openly carrying a firearm are created by s. 790.25(3), F.S. This statute authorizes an *unlicensed* individual to openly possess a firearm or to carry a concealed firearm in any of the manners described in the statute. The statute, for example, authorizes law enforcement officers to carry firearms while on duty. Additionally, the statute authorizes a person to carry a firearm while engaged in hunting, fishing, or camping or while traveling to and from these activities. A person may also possess a firearm at his or her home or place of business or in any of the other circumstances set forth in statute.

Prohibited Possession of a Weapon or Firearm at a School or Related Location

In general, s. 790.115, F.S., prohibits a person from possessing any firearm, electric weapon or device, destructive device, or other weapon on the property of any school, school bus, or school bus stop. Unlike the statute authorizing the issuance of concealed weapon or firearm licenses, this statute expressly and broadly defines the term “school” as any preschool through postsecondary school, *whether public or private*.⁵ The penalty for violating the ban on weapons varies depending on the weapon possessed and whether the violator has a concealed weapon or firearm license.⁶

However, the statute includes several exceptions to the ban on possessing a weapon or firearm at a school. Specifically, the statute permits a person to possess any of the banned weapons “as authorized in support of school-sanctioned activities.” Additionally, a person may “carry” a firearm in:⁷

- A case to a firearms program, class, or function, if approved by school authorities;
- A case to a career center having a firearms training range; or
- A vehicle if the firearm is not accessible for immediate use.⁸

Federal Law

The federal Gun-Free School Zones Act prohibits the possession of a firearm that has moved in or otherwise affects interstate or foreign commerce at a place the individual knows, or has reasonable cause to believe, is a school or is within 1,000 feet of a school.⁹ However, this prohibition does not apply to a person who is licensed to carry a concealed weapon or firearm.¹⁰

Another federal law, the Gun-Free Schools Act, is more-narrowly focused on prohibiting *students* from possessing firearms at or near schools. This prohibition is also subject to exceptions.¹¹ The act expressly states that it does not apply to a firearm “that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the

⁵ It also means any career center. Section 790.115(2)(a), F.S.

⁶ A non-licensee possessing a firearm or other weapon commits a third degree felony, punishable by up to 5 years in prison and a fine not to exceed \$5,000. *See* ss. 790.115(b)-(c), 775.082(9)(a)3.d. and 775.083(1)(c), F.S. However, licensees who commit this crime are guilty of a lesser crime, a second degree misdemeanor, punishable by up to 60 days in jail and a fine not to exceed \$500. *See*, ss. 790.115(2)(e), 790.06(12)(d), 775.082(4)(b), and 775.083(1)(e), F.S.

⁷ Section 790.115(2)(a)1.-3., F.S.

⁸ However, a school district may opt out of this exception.

⁹ 18 U.S.C. § 922(q)(2)(A).

¹⁰ *See* 18 U.S.C. § 922(q)(2)(B)(ii).

¹¹ *See* 20 U.S.C. § 7961.

local educational agency and the local educational agency adopts appropriate safeguards to ensure student safety.”¹²

Right to Exclude Anyone Possessing a Weapon or Firearm

The laws generally prohibiting the possession of weapons or firearms on school property are not the only legal means available to *private* schools that want to exclude persons who possess these items. The Florida Constitution declares that every person has the right to “acquire, possess, and protect property.”¹³ The right to exclude others is “one of the most essential sticks in the bundle of rights that are commonly characterized as property.”¹⁴

A person who enters the property of another without authorization commits the crime of trespass to property. The elements of trespass are set forth in s. 810.08(1), F.S., which states:

Whoever, without being authorized, licensed, or invited, willfully enters or remains in any structure or conveyance, or, having been authorized, licensed, or invited, is warned by the owner or lessee of the premises, or by a person authorized by the owner or lessee, to depart and refuses to do so, commits the offense of trespass in a structure or conveyance.

Trespassing with a firearm is a third degree felony,¹⁵ punishable by up to 5 years in prison,¹⁶ 5 years of probation, and a fine not to exceed \$5,000.¹⁷

III. Effect of Proposed Changes:

The bill provides that a person who is licensed to carry a concealed weapon or firearm is not prohibited from carrying a concealed weapon or firearm on private school property on which a religious institution is also located. As such, the bill creates an exception to the general statutory ban on the possession of a firearm or weapon on school property.

Carrying a Weapon or Firearm at a Private School

Under current law, s. 790.115, F.S., prohibits carrying a weapon or firearm on any school property, subject to exceptions in the statute. This statute defines “school” to include preschools through colleges and universities, *public or private*, as well as career centers. Also, Florida’s concealed weapon and firearm licensing statute lists elementary and secondary school facilities and administration buildings, college and university facilities, and career centers as places into which the license does not authorize a person to carry.¹⁸

¹² 20 U.S.C. § 7961(g).

¹³ FLA. CONST. art. I, s. 2.

¹⁴ *Nollan v. Cal. Coastal Comm’n*, 483 U.S. 825, 831 (1987) (quoting *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 433 (1982)).

¹⁵ Section 810.08(2)(c), F.S.

¹⁶ Section 775.082(3)(e), F.S.

¹⁷ Section 775.083(1)(c), F.S.

¹⁸ Federal law generally prohibits the possession of a firearm at or within 1,000 feet of any school’s property. However, one exception to this prohibition are persons who are licensed under state law to carry a firearm.

However, the bill expressly states that s. 790.115, F.S., and the concealed weapon and firearm licensing statute do not prohibit concealed-carry licensees from carrying on private school property on which a religious institution is also located. As such, the bill appears to effectively authorize a licensee to carry a concealed weapon or firearm on this property. Nonetheless, this authorization appears to be subject to the right of private school authorities to prohibit the entry of persons possessing a weapon or firearm.

The bill adopts the definition of “religious institution” from elsewhere in the Florida Statutes:¹⁹

“Religious institution” means a church, ecclesiastical or denominational organization, or established physical place for worship in this state at which nonprofit religious services and activities are regularly conducted and carried on and includes those bona fide religious groups that do not maintain specific places of worship. The term also includes a separate group or corporation that forms an integral part of a religious institution that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code and that is not primarily supported by funds solicited outside its own membership or congregation.

As such, “religious institution” can mean several different things. It can mean a place, or it can mean a group of people, such as a congregation. Accordingly, an example of a location covered by the bill—i.e., “private school property” on which a “religious institution” is also located—is the property of a private Christian school that has on its campus a church building in which a congregation meets.

Effective Date

The bill takes effect July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁹ The bill references s. 775.0861, F.S., which itself defines “religious institution” by reference to s. 496.404(23), F.S.

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 790.115 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.

By Senator Stargel

22-00498-18

2018274__

A bill to be entitled

An act relating to concealed weapons and firearms in multiuse facilities; amending s. 790.115, F.S.; providing that a person licensed to carry a concealed weapon or concealed firearm is not prohibited by specified laws from such carrying on the property of certain institutions; providing an effective date.

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

Section 1. Subsection (3) of subsection 790.115, Florida Statutes, is amended to read:

790.115 Possessing or discharging weapons or firearms at a school-sponsored event or on school property prohibited; penalties; exceptions.—

(3) (a) This section does not apply to any law enforcement officer as defined in s. 943.10(1), (2), (3), (4), (6), (7), (8), (9), or (14).

(b) This section and s. 790.06(12) (a) 10., 11., and 13. do not prohibit a person who is licensed under s. 790.06 from carrying a concealed weapon or concealed firearm on private school property if a religious institution, as defined in s. 775.0861, is located on the property.

Section 2. This act shall take effect July 1, 2018.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Finance and Tax, *Chair*
Appropriations Subcommittee on Health and Human Services, *Vice Chair*
Appropriations
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Children, Families, and Elder Affairs
Communications, Energy, and Public Utilities
Governmental Oversight and Accountability
Military and Veterans Affairs, Space, and Domestic Security

SENATOR KELLI STARGEL

Deputy Majority Leader
22nd District

September 27, 2017

The Honorable Greg Steube
Senate Committee on Judiciary, Chair
515 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Steube:

I respectfully request that SB 274, related to *Concealed Weapons and Firearms in Multiuse Facilities*, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Kelli Stargel".

Kelli Stargel
State Senator, District 22

Cc: Tom Cibula/ Staff Director
Joyce Butler/ AA

REPLY TO:

2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803 (863) 668-3028

322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

12/05/17
Meeting Date

274
Bill Number (if applicable)

Topic SB 274

Amendment Barcode (if applicable)

Name SCOTT WHIGHAM

Job Title DIRECTOR

Address _____
Street

Phone _____

City _____ State _____ Zip _____

Email SCOTT.WHIGHAM@FLORIDACARRY.ORG

Speaking: For Against Information

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

Representing FLORIDA CARRY

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

274

Bill Number (if applicable)

Amendment Barcode (if applicable)

Meeting Date _____

Topic _____

Name Angie Gallo

Job Title Florida PTA

Address Orlando Central Pkwy Phone _____
Street

Orl Fl Email _____
City State Zip

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

12-5-17

Meeting Date

274

Bill Number (if applicable)

Topic Concealed Firearms

Amendment Barcode (if applicable)

Name Eric Friday

Job Title General Counsel

Address 118 W Adams St STE 320

Phone 904-722-3333

Street

Jax

City

FL

State

32202

Zip

Email efriday@ericfriday.com

Speaking: For Against Information

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

Representing Florida Carry

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

12/05/2017

Meeting Date

274

Bill Number (if applicable)

Topic Concealed Weapons and Firearms in Multiuse Facilities;

Amendment Barcode (if applicable)

Name Roy F. Blondeau Jr.

Job Title Attorney at Law

Address 6712 Buck Lake Road

Phone 850-877-9599

Street

Tallahassee

FL

32317

Email rfbl@comcast.net

City

State

Zip

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Dec 5
Meeting Date

SB 274
Bill Number (if applicable)

Topic Concealed Firearms

Amendment Barcode (if applicable)

Name Keith Flaugh

Job Title Managing Dir, Florida Citizens Alliance

Address 1390 Quinta Ct

Phone 239-250-3326

Street

City

Marco Island FL

State

34145

Zip

Email Koflaugh@me.com

Speaking: For Against Information

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

Representing Florida Citizens Alliance

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

2-5-17
Meeting Date

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

Sb 274
Bill Number (if applicable)

Topic Multi-use private school religious institutions

Amendment Barcode (if applicable)

Name PATRICIA BRIGHAM

Job Title 1st Vice Pres. League of Women Voters of FL

Address 614 W. King St.

Phone 407-797-2562

Orlando FL 3284
City State Zip

Email pattibrigam@gmail

Speaking: For Against Information

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

Representing LWV of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

12-5-17

Meeting Date

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

SB 274

Bill Number (if applicable)

Topic SB 274 Guns in Private School

Amendment Barcode (if applicable)

Name Kate Kirk

Job Title Volunteer - Moms Demand Action

Address 1364 Lee Ave

Street

Phone (800) 284 5711

Tallahassee

City

FL

State

32303

Zip

Email kirkkate@yahoo.com

Speaking: For Against Information

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

Representing Moms Demand Action

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE APPEARANCE RECORD

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

12/5/17

Meeting Date

274

Bill Number (if applicable)

Topic Concealed Weapons and Firearms in Multiuse Facilities

Amendment Barcode (if applicable)

Name Paul Henry

Job Title _____

Address PO Box 698

Street

Phone 850-629-9550

Monticello

FL

32345

Email paul@libertyfirstfl.org

City

State

Zip

Speaking: For Against Information

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

Representing Liberty First Network

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

12-5-17
Meeting Date

274
Bill Number (if applicable)

Topic Concealed Weapons in Multitouch Facilities
Amendment Barcode (if applicable)

Name Barbara DeVane

Job Title MS

Address 625 E Brevard ST

Phone 251-4280

Jacksonville FL 32308
City State Zip

Email barbandevane7@gmail.com

Speaking: For Against Information

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

Representing FL NOW

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

12/5/17
Meeting Date

274
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Amber Kelly

Job Title Director of Policy & Communications

Address 4853 S. Orange Avenue, Suite C Phone _____
Street

Orlando, FL 32806 Email _____
City State Zip

Speaking: For Against Information

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

Representing FL Family Action

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

12/5/17
Meeting Date

274
Bill Number (if applicable)

Topic Concealed Weapons

Amendment Barcode (if applicable)

Name Doug Bell

Job Title _____

Address 119 S. Monroe St.

Phone 205-9000

TLH
City State Zip

Email doug.bell@MADfilm.com

Speaking: For Against Information

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

Representing Florida Chapter American Academy of Pediatrics "pediatricians"

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

12/05/2017

Meeting Date

SB-274

Bill Number (if applicable)

Topic Concealed Firearms/Church Property

Amendment Barcode (if applicable)

Name Marion P. Hammer

Job Title

Address PO Box 1387

Phone 850-222-9518

Street

Tallahassee

FL

32302

Email

City

State

Zip

Speaking: [X] For [] Against [] Information

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

Representing National Rifle Association & Unified Sportsmen of Florida

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

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

12/3/2017

SB 274

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

SB 274

Bill Number (if applicable)

stargel

Amendment Barcode (if applicable)

Meeting Date

guns

Topic guns in pub. schools

Name LINDA MIKLOWITZ

Job Title

Address 2542 Arthur's Ct

Street

Phone

850.878.4320

Email

lmiklowitz@aol.com

City

State

Zip

Speaking: For Against Information

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

Representing self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
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 Judiciary

BILL: SB 512

INTRODUCER: Senator Young

SUBJECT: Homestead Waivers

DATE: December 1, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Present</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
2.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 512 provides form language that a spouse may include in a deed to create a presumption that he or she knowingly waives the right to inherit homestead property. The State Constitution prohibits an owner from transferring homestead property when the owner has a spouse or minor child but permits a transfer of the property to the spouse if there is no minor child. A spouse, however, may waive this restriction in a signed and witnessed written contract or agreement.

The inclusion in a deed of the form language specified in the bill, or the inclusion of substantially similar language, creates a statutory presumption that a spouse intends to waive his or her rights as a surviving spouse with regard to the devise restrictions contained in the Constitution.

This waiver language is not a waiver of the protection against the owner's creditor claims during the owner's lifetime and after death. Additionally, the language is not a waiver of the restrictions against alienation by mortgage, sale, gift, or deed without the joinder of the owner's spouse.

II. Present Situation:

Florida Constitution

The Florida Constitution protects homestead property in three specific ways.¹ The Constitution:

- Provides homesteads with an exemption from taxes;²
- Protects homesteads from forced sale by creditors;³ and

¹ *Chames v. DeMayo*, 972 So. 2d 850, 853 (Fla. 2007) (quoting *Snyder v. Davis*, 699 So. 2d 999, 1001-02 (Fla. 1996)).

² FLA. CONST. art. VII, s. 6.

³ *Id.* at art. X, s. 4(a)-(b).

- Limits the manner in which homestead owners may alienate or devise⁴ the property.⁵

The purpose of this longstanding public policy is to preserve the home as a shelter for a family so that the family does not become a public charge.⁶ By protecting a family's financial interest, the state's financial interests are protected as well.

To protect the interests of the family unit, the Constitution provides in Section 4(c) of Article X that a homestead may not be devised when the owner is survived by a spouse or minor child. However, the homestead may be devised to the owner's spouse if there is no minor child. The Florida Supreme court has noted that this provision "protects the surviving spouse and minor children from having the homestead property transferred out from under them by the other spouse (or parent) without the consent of both spouses."⁷

The Constitution also provides that the owner of homestead property, if married, may alienate the property by mortgage, sale, or gift, if joined by the spouse. Therefore, under the exemption, both spouses are required to join in a conveyance of a homestead that is owned by one spouse to a third party.⁸ Requiring the joinder of both spouses in a deed or mortgage serves to "inhibit" all other forms of transferring property away from a spouse or destroying the homestead status of the property.⁹

Section 4(c) of Article X states:

The homestead shall not be subject to devise if the owner is survived by the spouse or minor child, except the homestead may be devised to the owner's spouse if there be no minor child. The owner of homestead real estate, joined by the spouse if married, may alienate the homestead by mortgage, sale or gift and, if married, may by deed transfer the title to an estate by the entirety with the spouse

Florida Statutes

The statutes also echo the Constitution's prohibition on devising homestead property. Section 732.4015, F.S., states that "the homestead shall not be subject to devise if the owner is survived by a spouse or a minor child or minor children, except that the homestead may be devised to the owner's spouse if there is no minor child or minor children."

Waiving Homestead Rights – Statutes and Case Law

The question naturally arises as to how a spouse's interest in homestead property, which is legally protected, may be validly transferred. The statutes provide a procedure for waiving

⁴ To "alienate" means to transfer property to another person and to "devise" means to give property in a testamentary instrument such as a will. BLACK'S LAW DICTIONARY (10th ed. 2014).

⁵ FLA. CONST. art. X, s. 4(c).

⁶ 28A Fla. Jur. 2d *Homesteads*, s. 3.

⁷ *Stone v. Stone*, 157 So. 3d 295, 299 (Fla. 2014).

⁸ 28A Fla. Jur. 2d *Homesteads*, s. 78.

⁹ *Id.* at s. 79.

spousal rights, particularly homestead rights, under written contracts, agreements, or waivers.¹⁰ But there is a difference of opinion among practitioners as to whether a deed is covered under the umbrella of “contracts, agreements, or waivers.” Generally, a waiver of “all rights” is deemed sufficient to waive all of a spouse’s rights in an agreement under the statute when signed by the waiving party in the presence of two subscribing witnesses. The statute¹¹ further provides that if the agreement, contract, or waiver is executed after a marriage, each spouse must make a fair disclosure to the other of that spouse’s estate. Disclosure is not required before marriage and no consideration is required for the agreement, contract, or waiver to be valid when executed before or after a marriage.

The issue has arisen in litigation, though, as to what constitutes a valid waiver of homestead rights in a deed. Recently, the issue has been raised as to whether joining in a deed without a more formal agreement or acknowledgement constitutes a valid waiver of homestead rights.

The Fourth District Court of Appeal has issued two decisions dealing with homestead waiver. In *Stone v. Stone*,¹² the court held that a spouse validly waived her homestead rights when she joined in the execution of a deed that conveyed her husband’s one-half interest in a homestead property to a qualified personal resident trust. The deed was determined to constitute a waiver even though it contained no particular waiver language and there was no evidence of financial disclosure.

The court was also presented with an issue of spousal waiver in the case of *Lyons v. Lyons*.¹³ In that case, a wife’s interest in a homestead residence was conveyed in a deed to a qualified personal residence trust without the husband being joined. The court held that the wife did not have standing to later challenge the transfer. The court determined that only the husband, and not the wife, could challenge the transfer.

As a result of these very fact-specific decisions, it is not consistently clear when a knowing and intelligent waiver has occurred. Attorneys who specialize in this area of estate planning and homestead provisions have determined that a statute could be drafted supplying language that would clarify when a person knowingly waives homestead rights in a deed. Statutory language that provides express deed waiver language could reduce the expense of litigation, reduce court time dedicated to resolving these legal conflicts, and reduce the chance that a waiver in a deed is made by mistake or misunderstanding.¹⁴

III. Effect of Proposed Changes:

The bill provides form language that a spouse may include in a deed to waive his or her right to inherit homestead property. The specific language creates a statutory presumption that a spouse

¹⁰ Section 732.702, F.S.

¹¹ Section 732.702(2), F.S.

¹² *Stone v. Stone*, 157 So. 3d 295 (Fla. 4th DCA 2014).

¹³ *Lyons v. Lyons*, 155 So. 3d 1179 (Fla. 4th DCA 2014).

¹⁴ The Florida Supreme Court has held that a surviving spouse may validly waive her homestead rights. However, for the waiver of a constitutional right to be valid, the waiver “must be made knowingly, voluntarily, and intelligently.” See *Chames*, 972 So. 2d at 861 (Fla. 2007).

has waived his or her rights as a surviving spouse with regard to the devise restrictions contained in s. 4(c), Article X of the State Constitution when certain language, or substantially similar language is included in a deed. The form waiver language states:

By joining this deed, I intend to waive homestead rights that would otherwise prevent my spouse from devising the homestead property described in this deed to someone other than me.

This waiver language is not a waiver of the protection against the owner's creditor claims during the owner's lifetime and after death. Additionally, the language is not a waiver of the restrictions against alienation by mortgage, sale, gift, or deed without the joinder of the owner's spouse.

The bill takes effect July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may provide more certainty and greater predictability for Florida residents and their attorneys as they plan for the disposition of constitutionally protected homesteads upon death.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 732.7025 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.

By Senator Young

18-00593-18

2018512__

1 A bill to be entitled

2 An act relating to homestead waivers; creating s.

3 732.7025, F.S.; providing language that may be used to

4 waive spousal homestead rights concerning devise

5 restrictions; providing an effective date.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. Section 732.7025, Florida Statutes, is created
10 to read:

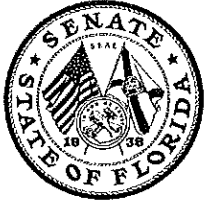
11 732.7025 Waiver of homestead rights through deed.-

12 (1) A spouse is presumed to have waived his or her rights
13 as a surviving spouse with respect to the devise restrictions
14 under s. 4(c), Art. X of the State Constitution if the following
15 or substantially similar language is included in a deed:

16
17 "By joining this deed, I intend to waive homestead rights
18 that would otherwise prevent my spouse from devising the
19 homestead property described in this deed to someone other than
20 me."

21
22 (2) The waiver language in subsection (1) may not be
23 considered a waiver of the protection against the owner's
24 creditor claims during the owner's lifetime and after death.
25 Such language may not be considered a waiver of the restrictions
26 against alienation by mortgage, sale, gift, or deed without the
27 joinder of the owner's spouse.

28 Section 2. This act shall take effect July 1, 2018.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Health Policy, *Chair*
Appropriations Subcommittee on Pre-K - 12
Education, *Vice Chair*
Commerce and Tourism
Communications, Energy, and Public Utilities
Regulated Industries

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR DANA YOUNG
18th District

November 8, 2017

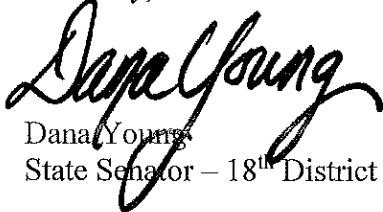
The Honorable Greg Steube, Chairman
Senate Judiciary Committee
515 Knott Building
404 S. Monroe Street
Tallahassee, Florida 32399-1100

Dear Chairman Steube,

My Senate Bill 512 relating to Homestead Waivers has been referred to your committee for a hearing. I respectfully request that this bill be placed on your next available agenda.

Should you have any questions, please do not hesitate to reach out to me.

Sincerely,



Dana Young
State Senator – 18th District

cc: Tom Cibula, Staff Director – Judiciary Committee

REPLY TO:

- 1211 N. Westshore Blvd, Suite 409, Tampa, Florida 33607 (813) 281-5507
- 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

12-5-2017

Meeting Date

512

Bill Number (if applicable)

Topic Homestead Waiver

Amendment Barcode (if applicable)

Name Michael Dobson

Job Title Attorney

Address 215 S. Monroe

Phone (850) 545-0576

Street

Tallahassee

FL

32301

City

State

Zip

Email mdobson@deanmad.com

Speaking: For Against Information

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

Representing Florida Bar, Real Property Section

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
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 Judiciary

BILL: SB 760

INTRODUCER: Senator Bean

SUBJECT: Grounds for Nonrecognition of Out-of-country Foreign Judgments

DATE: November 27, 2017 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tulloch	Cibula	JU	Favorable
2.			CM	
3.			RC	

I. Summary:

SB 760 amends the Uniform Out-Of-Country Foreign Money–Judgment Recognition Act, codified in chapter 55 F.S., to add two additional permissive grounds for nonrecognition of a foreign money judgment by a Florida court. The Act currently provides three mandatory grounds for nonrecognition and eight permissive grounds for nonrecognition of a foreign judgment. Of the mandatory grounds that are similar to those in the bill, the Act requires nonrecognition where the foreign country’s court system is systematically unfair, failing to provide impartial tribunals and compatible due process of law.

The bill adds two permissive grounds for when a Florida court *may* decline to recognize a foreign judgment on more individualized due process grounds:

- There is “substantial doubt” about the “integrity” of the particular foreign court that rendered the judgment.
- The particular foreign court that rendered the judgment failed to afford due process in the proceedings.

The addition of these two grounds will clarify that Florida law permits challenges to the recognition of foreign money judgments based on a lack of fairness by the specific foreign court rendering the judgment or a lack of fairness in the specific proceedings affecting entry of the foreign judgment.

II. Present Situation:

Recognition and Enforcement of Foreign Judgments

Florida law codifies the common law principle of comity for recognizing and enforcing final money judgments rendered by a foreign, out-of-country court.

Common Law Comity Principles

Under the full faith and credit clause of the United States Constitution, judgments of any state or federal court within the United States are automatically enforceable in any other state or federal court.¹ However, the enforcement of a foreign judgment obtained in another country is not subject to the full faith and credit clause. Instead, the recognition of foreign judgments is generally governed by the principles of international comity.

“Comity is ‘the recognition which one nation allows within its territory to the legislative, executive or judicial acts of another nation, having due regard both to international duty and convenience, and to the rights of its own citizens or of other persons who are under the protection of its laws.’”² The purpose of granting comity is similar to the application of res judicata in that “once the parties have had an opportunity to present their cases fully and fairly before a court of competent jurisdiction, the results of the litigation process should be final” and given conclusive effect.³

However, there is no absolute obligation by a U.S. court to extend comity to a foreign judgment.⁴ Rather, comity is an affirmative defense that the party seeking recognition of a foreign judgment has the burden of proving.⁵

The principles governing comity analysis were first set forth by the United States Supreme Court in *Hilton v. Guyot* in 1895, when the Court considered the enforceability of a French judgment in the United States.⁶ These governing principles have since been summarized as follows:

Under principles of international comity, a foreign court’s judgment on a matter is conclusive in a federal court when (1) the foreign judgment was rendered by a court of competent jurisdiction, which had jurisdiction over the cause and the parties, (2) the judgment is supported by due allegations and proof, (3) the relevant parties had an opportunity to be heard, (4) the foreign court follows procedural rules, and (5) the foreign proceedings are stated in a clear and formal record. . . .

Under the law of the United States, a foreign judgment cannot be enforced in a U.S. court unless it was obtained under a system with procedures compatible with the requirements of due process of law.⁷

The principles of comity are now regarded as common law in the United States.⁸

¹ U.S. CONST. art. IV, s. 1.

² *Int’l Transactions, LTD. v. Embotelladora Agral Regiomontana*, 347 F.3d 589, 593-94 (5th Cir. 2003) (quoting and citing *Hilton v. Guyot*, 159 U.S. 113, 163-64, 205-06 (1895)).

³ *Id.* (citing *Cunard S.S. Co. v. Salen Reefer Services AB*, 773 F.2d 452, 457 (2d Cir.1985))

⁴ *Hilton*, 159 U.S. at 163-64.

⁵ *Int’l Transactions, LTD.*, 347 F.3d at 594 (citing *Allstate Life Ins. Co. v. Linter Group Ltd.*, 994 F.2d 996, 999 (2d Cir. 1993)).

⁶ *Hilton*, 159 U.S. at 163-64.

⁷ *Int’l Transactions, LTD.*, 347 F.3d at 594 (citing *Hilton* at 159).

⁸ *Mujica v. AirScan Inc.*, 771 F.3d 580, 597 (9th Cir. 2014) (“The federal common law doctrine of international comity is applicable to these state law claims notwithstanding the general rule that federal courts apply California’s substantive law

Comity and Due Process

At the center of the comity analysis is the constitutionally guaranteed right to due process of law. The Constitutions of the United States⁹ and Florida¹⁰ guarantee that no person shall be deprived of life, liberty, or property without due process of law. Due process has been described as envisioning

“a court that hears before it condemns, proceeds upon inquiry, and renders judgment only after proper consideration of issues advanced by adversarial parties. In this respect the term ‘due process’ embodies a fundamental conception of fairness that derives ultimately from the natural rights of all individuals. Procedural due process, therefore, requires adequate notice and an opportunity to be heard at a meaningful time and in a meaningful manner.”¹¹

Another hallmark of due process in the U.S. is that courts and judges are required to be neutral and impartial.¹²

Codification of Common Law Comity Principles in Uniform State Laws

Comity principles have not been codified at the federal level. With the exception of foreign defamation suits,¹³ there is no federal statute¹⁴ or treaty¹⁵ governing the recognition or enforcement of foreign judgments.¹⁶ Rather, recognition and enforcement of foreign judgments in the United States is governed either by common law principles of international comity as developed in case law following *Hinton* or by state law.¹⁷

Most states have adopted either the 1962 Uniform Foreign Money Judgments Recognition Act (1962 Act) or the 2005 Uniform Foreign-Country Money Judgments Recognition Act (2005 Act) drafted by the National Conference of Commissioners on Uniform State Laws (Uniform Law

when sitting in diversity.”); Nat’l Conference of Comm’rs on Uniform State Laws, *Uniform Foreign Money-Judgments Recognition Act*, 1 (1962) available at <http://www.uniformlaws.org/shared/docs/foreign%20money%20judgments%20recognition/ufmjra%20final%20act.pdf> (last visited Dec. 1, 2017).

⁹ U.S. CONST. amend. V; U.S. CONST. amend. XIV, § 1.

¹⁰ FLA. CONST. art. I, s. 9.

¹¹ *Luckey v. State*, 979 So. 2d 353, 355–56 (Fla. 5th DCA 2008) (quoting *Jones v. State*, 740 So.2d 520, 523 (Fla.1999), accord *Boddie v. Connecticut*, 401 U.S. 371, 91 S.Ct. 780, 28 L.Ed.2d 113 (1971); *Scull v. State*, 569 So.2d 1251, 1252 (Fla.1990)) (internal quotations and citations omitted).

¹² *Tumey v. State of Ohio*, 273 U.S. 510, 522 (1927) (“That officers acting in a judicial or quasi judicial capacity are disqualified by their interest in the controversy to be decided is of course the general rule.”).

¹³ 28 U.S.C. s. 4102 (2010).

¹⁴ The American Law Institute (ALI) has proposed a federal statute. See ALI, *Recognition and Enforcement of Foreign Judgments: Analysis and Proposed Federal Statute*, available at <https://www.ali.org/publications/show/recognition-and-enforcement-foreign-judgments-analysis-and-proposed-federal-statute/> (last visited Dec. 1, 2017).

¹⁵ Hague Convention On Choice Of Court Agreements, signed Jan. 19, 2009, 44 I.L.M. 1294 (2005). The Hague Convention Choice of Laws was signed by the United States in 2009 but does not appear to have been ratified to date. See HCCH, *Status Table 37: Convention of 30 June 2005 on Choice of Court Agreements*, available at <https://www.hcch.net/en/instruments/conventions/status-table/?cid=98> (last visited Dec. 1, 2017).

¹⁶ Violeta I. Balan, *Recognition and Enforcement of Foreign Judgments in the United States: The Need for Federal Legislation*, 37 J. MARSHALL L. REV. 229, 234-35 (2003).

¹⁷ *Id.*

Commission).¹⁸ The aim of these uniform laws is to codify the common law principles of comity and promote reciprocal recognition of money judgments in foreign countries.¹⁹

The 1962 Act

In 1994, Florida adopted the 1962 Act and enacted it as the Uniform Out-Of-Country²⁰ Foreign Money–Judgment Recognition Act.²¹ The 1962 Act, codified in ss. 55.601-55.607, F.S., applies “to any out-of-country foreign judgment²² that is final and conclusive²³ and enforceable where rendered.”²⁴ “The Act effectively replaces the common law principles of comity for recognizing foreign judgments, at least to the extent of any differences between the Act and the common law.”²⁵

However, the prefatory comment to the 1962 Act indicates that, while the Act sets out rules that have been applied by a majority of U.S. courts, the Act contemplates a degree of flexibility among various jurisdictions. The prefatory comment notes that the 1962 Act does not necessarily “go as far” as some court decisions, and that courts are still privileged to give a foreign judgment greater effect than required by the Act.²⁶ The prefatory note also contemplates that some states would not wholesale adopt the Act as written, and that each state would have to provide a procedural mechanism for enforcement.²⁷

Florida’s Version of the 1962 Act

Under Florida’s Uniform Out-Of-Country Foreign Money–Judgment Recognition Act, “a foreign judgment is *prima facie* enforceable if it ‘is final, conclusive, and enforceable where rendered, even though an appeal therefrom is pending or is subject to appeal.’”²⁸ “Once the party seeking

¹⁸ The NCCUSL is a non-profit organization comprised of state commissions on uniform laws from each state and certain U.S. territories. The purpose of the NCCUSL is to “study and review the law of the states to determine which areas of law should be uniform. The commissioners promote the principle of uniformity by drafting and proposing specific statutes in areas of the law where uniformity between the states is desirable.” Uniform Law Comm’n, Nat’l Conference of Comm’rs on Uniform State Laws, *Organization*, available at <http://www.uniformlaws.org/Narrative.aspx?title=About%20the%20ULC> (last visited Dec. 1, 2017).

¹⁹ See Nat’l Conference of Comm’rs on Uniform State Laws, *Uniform Foreign Money-Judgments Recognition Act*, 1 (1962) available at <http://www.uniformlaws.org/shared/docs/foreign%20money%20judgments%20recognition/ufmjra%20final%20act.pdf> (last visited Dec. 1, 2017).

²⁰ “Out-of-country” is used to describe “foreign judgments” under sections 55.605-.607, F.S., to distinguish it from “foreign judgments” as that term is used in sections 55.501-.509, F.S. (“Florida Enforcement of Foreign Judgments Act”). Sections 55.501-.509, F.S., applies to judgments rendered in another state or court within the United States and its territories. See s. 55.502(1), F.S.

²¹ Ch. 94-239, Laws of Fla.; ss. 55.601-.607, F.S.

²² Section 55.602, F.S., defines an “out-of-country foreign judgment” as “any judgment of a foreign state granting or denying recovery of a sum of money, other than a judgment for taxes, a fine, or other penalty.”

²³ An out-of-country foreign judgment is conclusive if “it grants or denies recovery of a sum of money.” Section 55.604, F.S.

²⁴ Section 55.603, F.S.

²⁵ *Chabert v. Bacquie*, 694 So. 2d 805, 811 (Fla. 4th DCA 1997).

²⁶ See Nat’l Conference of Comm’rs on Uniform State Laws, *Uniform Foreign Money-Judgments Recognition Act*, 1 (1962) available at <http://www.uniformlaws.org/shared/docs/foreign%20money%20judgments%20recognition/ufmjra%20final%20act.pdf> (last visited Dec. 1, 2017).

²⁷ *Id.*

²⁸ *Osorio v. Dole Food Co.*, 665 F. Supp. 2d 1307, 1323–24 (S.D. Fla. 2009), *aff’d sub nom. Osorio v. Dow Chem. Co.*, 635 F.3d 1277 (11th Cir. 2011) (quoting s. 55.603, F.S.).

to enforce the judgment follows the filing and notice requirements of Fla. Stat § 55.604, the judgment will be enforced unless the judgment debtor objects within 30 days.”²⁹ Out-of-country foreign money judgments:

[C]an be recognized and enforced in this state by filing an authenticated copy of the judgment with the clerk of the court and recording it in the public records in the county where enforcement is sought. The clerk must give notice to the judgment debtor at the address provided by the judgment creditor, and the debtor has thirty days in which to file objections to recognition of the judgment. If no objections are filed, the clerk records a certificate to that effect.

Upon application by either party, the circuit court shall conduct a hearing and enter an appropriate order granting or denying recognition in accordance with the terms of the UFMJRA. That is an appealable order. After the clerk files the certificate or the court enters an order, the judgment “shall be enforceable in the same manner as the judgment of a court of this state.”³⁰

The party seeking enforcement must prove that the foreign money judgment is final, conclusive, and enforceable in the jurisdiction where it was rendered.³¹ Once the creditor proves the judgment is enforceable, the burden of proof shifts to the debtor to establish grounds for nonrecognition as set out in section 55.605, F.S.³²

Section 55.605, F.S., which is based on section 4 of the 1962 Uniform Act, provides a number of grounds under which a Florida court may refuse to recognize a foreign money judgment. An out-of-country foreign judgment is not considered “conclusive” and shall not be recognized if:

- The judgment was rendered under a system that does not provide impartial tribunals or procedures compatible with the requirements of due process of law;
- The foreign court did not have personal jurisdiction over the defendant; or
- The foreign court did not have jurisdiction over the subject matter.³³

A court *may* decline to recognize an out-of-country foreign judgment if:

- The defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable him or her to defend;
- The judgment was obtained by fraud;
- The cause of action or claim for relief on which the judgment is based is repugnant to the public policy of this state;
- The judgment conflicts with another final and conclusive order;
- The proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in that court;
- In the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action;

²⁹ *Id.*

³⁰ *Le Credit Lyonnais, S.A. v. Nadd*, 741 So. 2d 1165, 1166 (Fla. 5th DCA 1999).

³¹ *Osorio*, 665 F. Supp. 2d at 1324 (citing *Kramer v. von Mitschke–Collande*, 5 So.3d 689, 690 (Fla. 3d DCA 2008)).

³² *Id.*

³³ Section 55.605(1), F.S.

- The foreign jurisdiction where judgment was rendered would not give recognition to a similar judgment rendered in this state; or
- The foreign judgment is a defamation judgment obtained outside the United States, unless the foreign court afforded at least as much protection for freedom of speech and press as afforded in the Constitutions of the United States and Florida.³⁴

The 2005 Act

The 2005 Act is a revision of the 1962 Act. As the Uniform Law Commissioners explained in their prefatory note;

This Act continues the basic policies and approach of the 1962 Act. Its purpose is not to depart from the basic rules or approach of the 1962 Act, which have withstood well the test of time, but rather to update the 1962 Act, to clarify its provisions, and to correct problems created by the interpretation of the provisions of that Act by the courts over the years since its promulgation. Among the more significant issues that have arisen under the 1962 Act which are addressed in this Revised Act are . . . the need to clarify and, to a limited extent, expand upon the grounds for denying recognition in light of differing interpretations of those provisions in the current case law[.]³⁵

The commentary to the 2005 Act cites several cases decided between 2000 and 2002 interpreting the first ground for nonrecognition (foreign court system fails to provide impartial courts or compatible due process) under the 1962 Act rather strictly.³⁶ Notably, two of these cases involve an English creditor, the Society of Lloyd’s (Lloyd’s). By 2008, Lloyd’s had apparently withstood due process challenges and successfully received recognition for 25 foreign judgments in the United States.³⁷ In the 2010 appeal of one such case, *Tropp v. Corporation of Lloyd’s*, Tropp sought to avoid recognition of a default judgment entered against him in England on due process grounds. He argued that English law employs a sub-system for claims like his (insurance underwriting realm) that denies due process of law.³⁸ In rejecting Tropp’s argument on appeal, the court followed precedent holding that the ““relevant inquiry” under the first ground for nonrecognition in the 1962 Act “is the overall fairness of England’s legal system, *which is beyond dispute.*””³⁹ Tropp alternatively (though unsuccessfully) argued that if the judgment was

³⁴ Section 55.605(2), F.S. (2009).

³⁵ See Nat’l Conference of Comm’rs on Uniform State Laws, *Uniform Foreign-Country Money Judgments Recognition Act of 2005*, p. 1, available at http://www.uniformlaws.org/shared/docs/foreign%20country%20money%20judgments%20recognition/ufcmjra_final_05.pdf (last accessed Nov. 30, 2017).

³⁶ *Id.* at p. 13, ¶ 11 (citing *The Society of Lloyd’s v. Turner*, 303 F.3d 325, 330 (5th Cir. 2002); *CIBC Mellon Trust Co. v. Mora Hotel Corp., N.V.*, 743 N.Y.S.2d 408, 415 (N.Y. App. 2002); *Society of Lloyd’s v. Ashenden*, 233 F.3d 473, 477 (7th Cir. 2000)).

³⁷ See *Tropp v. Corp. of Lloyd’s*, 07 CIV. 414 (NRB), 2008 WL 5758763, at *1 (S.D.N.Y. Mar. 26, 2008), *aff’d*, 385 Fed. Appx. 36 (2d Cir. 2010) (“This case presents the latest episode in an epic saga between Names such as Tropp and Lloyd’s. The story—Dickensian in length and complexity—has been retold countless times by American courts.”) (citing *Soc’y of Lloyd’s v. Siemon-Netto*, 457 F.3d 94, 96 (D.C.Cir.2006)).

³⁸ 385 Fed. Appx. 36, 38 (2d Cir. 2010) (quoting *See CIBC Mellon Trust Co. v. Mora Hotel Corp. N.V.*, 100 N.Y.2d 215, 762 N.Y.S.2d 5, 792 N.E.2d 155, 160 (2003))(internal quotations omitted).

³⁹ *Id.* (emphasis added).

entitled to comity under the 1962 Act, then the 1962 Act violated his federal constitutional rights.⁴⁰

In response to the restrictive view of the 1962 Act expressed in *Tropp* and similar cases, the 2005 Act clarifies that the relevant due process inquiry is not limited only to the systematic analysis of a foreign court system, but also includes the individual fairness of the specific foreign court that rendered the judgment. In other words, rather than establish that the foreign country's entire court system is corrupt or lacking in due process protections, the 2005 Act provides that recognition and enforceability of a foreign judgment may be challenged by establishing that the particular proceeding involved was corrupt or lacking in due process protection.

III. Effect of Proposed Changes:

SB 760 amends s. 55.605(2), F.S., to add two additional grounds for when a court *may* decline to recognize a foreign judgment based on the "specific fairness" of the particular foreign court that rendered the particular judgment:

- There is "substantial doubt" about the "integrity" of the particular foreign court that rendered the judgment.
- The particular foreign court that rendered the judgment failed to afford due process of law.

At first blush, it appears these two grounds cover the same general due process territory as in existing s. 55.605(1)(a), F.S. Section 55.605(1)(a), F.S., specifies that foreign judgments rendered in a country where the court system fails to provide impartial tribunals and due process protections to ensure fundamental fairness, are not conclusive and will not be recognized. The key difference is that existing s.55.605(1)(a), F.S., addresses "*systematic* unfairness" in a foreign country's court system, whereas the two additional grounds proposed by the bill address "*specific* unfairness" in the proceedings of or by a particular foreign court.⁴¹

The comments to the 2005 Uniform Foreign-Country Money Judgments Recognition Act (2005 Act) note that, to establish the new grounds of "substantial doubt" about a specific foreign court's "integrity," the debtor trying to avoid the foreign judgment must show the specific foreign court that rendered the judgment is corrupt. If specific corruption is established, then the foreign judgment may not be recognized.⁴²

Likewise, to establish the new due process grounds, a debtor trying to avoid a foreign judgment must show that the particular proceeding in which the judgement was rendered was

⁴⁰ *Id.*

⁴¹ See Geoffrey C. Hazard, Jr. and Michael Traynor, *Foreign Judgments: Is "System Fairness" Sufficient or Is "Specific Fairness" Also Required for Recognition and Enforcement?*, PUBLICIST, Vol. 11, Spring 2012 (Apr. 17, 2012), available at <http://bjil.typepad.com/publicist/2012/04/foreign-judgments-is-system-fairness-sufficient-or-is-specific-fairness-also-required-for-recognition-and.html#end> (last accessed Nov. 30, 2017); Nat'l Conference of Comm'rs on Uniform State Laws, *Uniform Foreign-Country Money Judgments Recognition Act of 2005, Comment to § 4. Standards for Recognition of Foreign-Country Judgment*, pp. 13-14, available at http://www.uniformlaws.org/shared/docs/foreign%20country%20money%20judgments%20recognition/ufcmjra_final_05.pdf (last accessed Nov. 30, 2017).

⁴² *Id.*

fundamentally unfair. If the specific trial or other proceedings leading to the judgment are shown to be lacking, then the foreign judgment need not be recognized.⁴³

Immediate Effective Date

This bill states that it will take effect upon becoming a law. An immediate effective date means that if the bill becomes law, it will apply to existing foreign judgments that have not yet been recognized.

In Florida, newly enacted statutes that impose a new obligation or duty that interferes with vested rights will not be applied retroactively. On the other hand, statutes that relate to procedure only or are remedial in nature are generally applied retroactively to pending cases.⁴⁴ In the 1997 case of *Chabert v. Bacquie*,⁴⁵ the Fourth District Court of Appeal held that Florida's then recently enacted Uniform Out-Of-Country Foreign Money–Judgment Recognition Act (Act) applied to cases already pending in Florida courts. The Court reasoned that the Act was remedial in nature, because it codified the already existing common law principles of comity⁴⁶ as opposed to announcing a new duty or obligation.⁴⁷

The instant bill appears to be remedial in nature, because the two additional permissive grounds for nonrecognition of foreign judgments codifies longstanding, individual due process principles. Although an argument could be made that it expands current common law comity principles to recognize “specific fairness” in addition to “systematic fairness,” it is more likely that the new grounds would be deemed remedial in Florida.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁴³ *Id.*

⁴⁴ *Young v. Altenhaus*, 472 So. 2d 1152, 1154 (Fla. 1985). See also *City of Orlando v. Desjardins*, 493 So. 2d 1027, 1028 (Fla. 1986)); *Palm Beach County Sheriff's Office v. Sun-Sentinel Co., LLC*, 226 So. 3d 969, 975–76 (Fla. 4th DCA 2017) (following *City of Orlando v. Desjardins* in holding that newly enacted public records exemption was remedial and applied retroactively).

⁴⁵ *Bacquie*, 694 So. 2d at 811 (following retroactivity analysis in *City of Orlando v. Desjardins*).

⁴⁶ *Id.*

⁴⁷ *Altenhaus*, 472 So. 2d at 1154.

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

None.

B. Private Sector Impact:

This bill offers greater protection against enforcement of foreign money judgments rendered in other countries by providing additional grounds for challenging enforcement in Florida. Rather than establish that the foreign countries entire court system is corrupt or lacking in due process protections, a defendant may challenge the recognition and enforceability of the judgment by establishing that the particular foreign court or proceeding involved was corrupt or lacking in due process protection.

These new provisions may also deter some creditors from filing for recognition of some foreign judgments. On the other hand, proving the new grounds for nonrecognition (corruption or lack of specific fairness and due process) could lead to additional litigation and associated costs.

C. Government Sector Impact:

The state court system has not provided information on the fiscal impact of the bill to committee staff. However, the bill appears unlikely to add significantly to the workload of the courts because the additional bases for challenging a foreign judgment are very similar to those grounds already codified in chapter 55, F.S., and recognized in case law.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the section 55.605 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

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

By Senator Bean

4-00749B-18

2018760__

1 A bill to be entitled
2 An act relating to grounds for nonrecognition of out-
3 of-country foreign judgments; amending s. 55.605,
4 F.S.; providing additional circumstances in which an
5 out-of-country foreign judgment need not be
6 recognized; providing an effective date.
7

8 Be It Enacted by the Legislature of the State of Florida:
9

10 Section 1. Paragraphs (i) and (j) are added to subsection
11 (2) of section 55.605, Florida Statutes, to read:

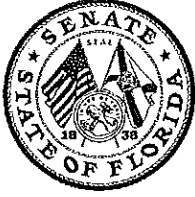
12 55.605 Grounds for nonrecognition.—

13 (2) An out-of-country foreign judgment need not be
14 recognized if:

15 (i) The judgment was rendered in circumstances that raise
16 substantial doubt about the integrity of the rendering court
17 with respect to the judgment.

18 (j) The specific proceeding in the foreign court leading to
19 the judgment was not compatible with the requirements of due
20 process of law.

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



The Florida Senate

Committee Agenda Request

To: Senator Greg Steube, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: November 20, 2017

I respectfully request that **Senate Bill # 760**, relating to Grounds for Nonrecognition of Out-of-country Foreign Judgments, be placed on the:

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

A handwritten signature in cursive script that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4

THE FLORIDA SENATE

APPEARANCE RECORD

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

12/5/17

760

Meeting Date

Bill Number (if applicable)

Topic Out-of-country foreign judgements

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N. Adams St

Phone 224-7173

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Tallahassee

FL

32301

Email bbevis@aif.com

City

State

Zip

Speaking: [] For [] Against [] Information

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

Representing Associated Industries of Florida

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

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

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

760

Bill Number (if applicable)

Meeting Date

Amendment Barcode (if applicable)

Topic _____

Name Carlos Muniz

Job Title Partner, McGuire Woods

Address 204 S. Mohrue St.

Phone 570-6178

Street

Tallahassee FL 32301

City

State

Zip

Email cmuniz@mcguirewoods.com

Speaking: For Against Information

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

Representing A I F

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: CS/SB 98

INTRODUCER: Judiciary Committee and Senator Steube

SUBJECT: Health Insurer Authorization

DATE: December 6, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	Favorable
2.	<u>Tulloch</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 98 creates an expedited, standard process for the approval or denial of (1) prior authorizations and (2) step therapy (“fail-first”) protocol exceptions. A prior authorization process requires a health care provider to seek and wait for approval from an insurer before a patient may receive a specified treatment or prescription drugs under an insurance plan. Some health insurers require an insured to use a step therapy or “fail-first” protocol for drugs or a medical treatment, requiring the insured to try a less expensive drug or medical procedure first before the insurer will cover a more expensive drug or procedure. In other words, the first drug or treatment authorized must, after some period of time, fail to be an effective treatment before more expensive drugs or treatments will be authorized. Health insurers use requirements for prior authorizations and step-therapy as cost containment measures.

The most significant provisions of the bill are as follows:

- *Expedited Decision Timelines for Prior Authorizations and Protocol Exception Requests:*
The bill requires a health insurer (which means a health insurer, health maintenance organization, or Medicaid managed care plan), or a pharmacy benefit manager (PBM) on behalf of a health insurer to authorize or deny either (1) a completed prior authorization request or (2) a step therapy protocol exception request form, or appeal from a denial,
 - within 72 hours of receipt in a nonurgent care situation; and
 - Within 24 hours of receipt in an urgent care situation.

- *Public Access to Prior Authorization Forms and Requirements:* The bill requires health insurers or PBMs to provide public access to current prior authorization requirements, restrictions, and forms on their websites and in a written or electronic form when requested.
- *Notification of New Restrictions:* The bill provides that if a health insurer or PBM intends to amend or implement a new prior authorization requirement or restriction, the entity must update the website 60 days before the effective date of the new requirement or restriction. Notification of the change must be provided to all insureds or enrollees using the affected service and to all contract providers who provide the affected services at least 60 days before the effective date.
- *Automatic Step-Therapy Protocol Exceptions:* The bill requires a health insurer to grant a protocol exception request under certain conditions.
- *Clear Decisions for Protocol Exceptions:* The bill provides that if the health insurer approves the request for a protocol exception, the insurer must specify the approved medical procedure, course of treatment, or prescription drug benefits. On the other hand, if the health insurer denies the protocol exception request, the insurer must provide specified information, including procedures on appealing the denial.

The bill will have an operational and fiscal impact on the Florida Medicaid program, but the impact to Medicaid is indeterminate. The Agency for Health Care Administration will need to amend the Statewide Medicaid Managed Care contracts to comply with the revised statute, which will affect the business and clinical operations of the Medicaid managed care plans. The bill will likely increase Medicaid costs as the health plans will likely have to deploy additional staffing resources to respond to the prior authorization override inquiries and expedited timeframes as required in the bill. The additional staffing resources will need to be accounted for in the administrative expenses included in the capitation rates, but this cannot be determined thus making the fiscal impact to Florida Medicaid indeterminate.

The State Group Insurance program indicates that the bill will have a fiscal impact on the program. The fully insured health maintenance organization (HMO) vendor, Capital Health Plan (CHP), states that the bill will negatively affect it. Specifically, the initial estimated fiscal impact for CHP will be \$256,000 annually, based upon the need to employ an additional four medical staff and three support staff employees. The pharmacy benefit, CVS Caremark, indicated that the bill will adversely impact it, and any fiscal impacts to State Group Insurance will result from an increase in the approval of claims. The bill will not impact the self-insured plans.

There is no fiscal impact on the Office of Insurance Regulation.

II. Present Situation:

Cost Containment Measures by Health Insurers in Florida

Health insurers use many cost containment and utilization review strategies to manage spending on medical care, drugs, and patient safety. Under prior authorization (utilization review), a health care provider (doctor or other practitioner) is required to seek approval from an insurer before a patient may receive a specified diagnostic or therapeutic treatment or specified prescription drugs under a plan. In some cases, plans require an insured to use a step therapy or “fail first” protocol for drugs or a medical treatment, which generally requires the insured to try a less expensive

drug or medical procedure first to treat the medical condition before a health insurer will cover a more expensive drug or procedure for that condition. In other words, the first drug or treatment authorized must, after some period of time, “fail first” to be an effective treatment before more expensive drugs or treatments will be authorized.

Under Florida law, the term “health insurer” includes all insurers authorized to provide health insurance (major medical or similar comprehensive health insurance), Medicaid managed care programs, and Health Maintenance Organizations (HMOs). Each type of health insurer is required by law to implement cost containment measures.

Regulation of Insurers and Health Maintenance Organizations in Florida

The Office of Insurance Regulation (OIR) licenses and regulates the activities of insurers, health maintenance organizations (HMOs), and other risk-bearing entities.¹ The Agency for Health Care Administration (agency) regulates the quality of care provided by HMOs under part III of ch. 641, F.S. Before receiving a certificate of authority from the OIR, an HMO must receive a Health Care Provider Certificate from the agency.² As part of the certification process used by the agency, an HMO must provide information to demonstrate that the HMO has the ability to provide quality of care consistent with the prevailing standards of care.³

The Florida Insurance Code⁴ requires health insurers and HMOs to delineate both what is and is not covered by providing an outline of coverage or other information describing the benefits, coverages, and limitations of a policy or contract. This may include an outline of coverage describing the principal exclusions and limitations of the policy.⁵ Further, each contract, certificate, or member handbook of an HMO must delineate the services for which a subscriber is entitled and any limitations under the contract.⁶

The Florida Insurance Code also requires health insurers and HMOs to provide cost containment measures. Section 627.4234, F.S., requires a health insurance policy or health care services plan, which provides medical, hospital, or surgical expense coverage delivered or issued for delivery in this state to contain one or more of the following procedures or provisions to contain health insurance costs or cost increases:

- Coinsurance.
- Deductible amounts.
- Utilization review.
- Audits of provider bills to verify that services and supplies billed were furnished and that proper charges were made.
- Scheduled benefits.
- Benefits for preadmission testing.

¹ Section 20.121(3)(a), F.S.

² Section 641.21(1), F.S.

³ Section 641.495, F.S.

⁴ Section 624.01, F.S. (“Chapters 624-632, 634, 635, 636, 641, 642, 648, and 651 constitute the ‘Florida Insurance Code.’”)

⁵ Section 627.642, F.S.

⁶ Section 641.31(4), F.S.

- Any lawful measure or combination of measures for which the insurer provides to the office information demonstrating that the measure or combination of measures is reasonably expected to contain health insurance costs or cost increases.

Utilization review in particular is accomplished through the use of prior authorization forms. Under s. 627.42392, F.S., any health insurer (health insurer, HMO, Medicaid managed care plan) or pharmacy benefit manager that does not use an online prior authorization form must use a standardized form adopted by the Financial Services Commission to obtain a prior authorization for a medical procedure, course of treatment, or prescription drug benefit. The form must include all clinical documentation necessary for the health insurer to make a decision.

Florida's Statewide Medicaid Managed Care⁷

The Florida Medicaid program is a partnership between the federal and state governments. In Florida, the Agency for Health Care Administration (agency) oversees the Medicaid program.⁸ The Statewide Medicaid Managed Care (SMMC) program is comprised of the Managed Medical Assistance (MMA) program and the Long-term Care (LTC) managed care program. The agency contracts with managed care plans to provide services to eligible enrollees.⁹

Managed Care Covered Services

The benefit package offered by the MMA plans is comprehensive and covers all Medicaid state plan benefits (with very limited exceptions). This includes all medically necessary services for children. Most Florida Medicaid enrollees who are eligible for the full array of Florida Medicaid benefits are enrolled in an MMA plan. The agency maintains coverage policies for most Florida Medicaid services, which are incorporated by reference into Rule 59G-4, F.A.C. Florida Medicaid managed care plans cannot be more restrictive than these policies or the Florida Medicaid state plan (which is approved by the federal Centers for Medicare and Medicaid Services) in providing services to their enrollees.

The Agency is required to implement cost containment measures. Specifically, the Agency is required to implement a "step-therapy prior authorization approval process for medications excluded from the preferred drug list"¹⁰ with the assistance of the Pharmaceutical and Therapeutics (P&T) committee.¹¹ The P&T committee meets quarterly, reviews all drug classes included in the formulary at least every 12 months, and may recommend additions to and deletions from the agency's Medicaid PDL, such that the PDL provides for medically appropriate drug therapies for Florida Medicaid recipients and an array of choices for prescribers within each therapeutic class. The agency also manages the federally required Medicaid Drug

⁷ Agency for Health Care Administration, *2018 Legislative Bill Analysis of SB 98* (Oct. 31, 2017) (on file with the Senate Judiciary Committee).

⁸ Part III of ch. 409, F.S., governs the Medicaid program.

⁹ A managed care plan that is eligible to provide services under the SMMC program must have a contract with the agency to provide services under the Medicaid program and must also be a health insurer; an exclusive provider organization or a HMO authorized under ch. 624, 627, or 641, F.S., respectively; a provider service network authorized under s. 409.912(2), F.S., or an accountable care organization authorized under federal law. Section 409.962, F.S.

¹⁰ Section 409.912, F.S.

¹¹ Section 409.91195, F.S.

Utilization Board, which meets quarterly, and develops and reviews clinical prior authorization criteria, including step-therapy protocols for drugs that are not on the Medicaid PDL.

Florida Medicaid managed care plans serving MMA enrollees are required to provide all prescription drugs listed on the agency's PDL and otherwise covered by Medicaid.¹² As such, the Florida Medicaid managed care plans have not implemented their own plan-specific formulary or PDL. The Florida Medicaid managed care plan's prior authorization criteria and protocols related to prescription drugs cannot be more restrictive than the criteria established by the agency.

Prior Authorization Requirements

Florida Medicaid managed care plans may implement service authorization and utilization management requirements for the services they provide under the SMMC program. However, Florida Medicaid managed care plans are required to ensure that service authorization decisions are based on objective evidenced-based criteria; utilization management procedures are applied consistently; and all decisions to deny or limit a requested service are made by health care providers who have the appropriate clinical expertise in treating the enrollee's condition. The Florida Medicaid managed care plans are also required to adopt practice guidelines that are based on valid and reliable clinical evidence or a consensus of health care professionals in a particular field. These practice guidelines must also consider the needs of the enrollees, be adopted in consultation with providers and be reviewed and updated periodically, as appropriate.¹³

Florida Medicaid managed care plans must establish and maintain a utilization management system to monitor utilization of services, including an automated service authorization system for denials, service limitations, and reductions of authorization. Section 627.42392, F.S., requires the use of a standard prior authorization form by health insurers. A health insurer that does not provide an electronic prior authorization process for use by its providers is required to use the prior authorization form adopted by the Financial Services Commission for authorization of procedures, treatments, or prescription drugs. Currently, Medicaid managed care plans are required by contract to have electronic authorization processes and are therefore exempt from this provision.

The SMMC contract requires managed care plans to authorize or deny a standard request for prior authorization for services other than prescribed drugs within 7 days and authorize or deny an expedited request within 48 hours after receiving the request. Within 24 hours after receipt of a request, a managed care plan must respond (deny, approve, or request additional information) to a request for prior authorization for prescription drugs. The timeframe for standard authorization decisions can be extended up to 7 additional days if the enrollee or the provider requests an extension or the managed care plan justifies the need for additional information and describes how the extension is in the enrollee's interest.

¹² See Agency for Health Care Administration Pharmacy Policy available at: http://ahca.myflorida.com/Medicaid/Policy_and_Quality/Policy/pharmacy_policy/index.shtml (last viewed Nov. 5, 2017).

¹³ These guidelines are consistent with requirements found in federal and state regulations (See 42 CFR s. 438.236(b)). All service authorization decisions made by the managed care plans must be consistent with the State's Medicaid medical necessity definition. Rule 59G-1.010, F.A.C.

Enrollee Materials and Services

Managed care plans are contractually required to notify enrollees via the enrollee handbook of any procedures for obtaining required services and authorization requirements, including any services available without prior authorization. All enrollee communications, including written materials, spoken scripts, and websites, must be at or near the fourth grade reading level. Managed care plans are required by contract to issue a provider handbook to all providers that includes prior authorization and referral procedures, including required forms. Managed care plans are required to keep all provider handbooks and bulletins up to date and in compliance with state and federal laws. The managed care plans must notify its enrollees in writing of any changes to covered services or service authorization protocols at least 30 days in advance of the change.

The managed care plan must send a written notice of adverse benefit determination to the enrollee to inform the enrollee about a decision to deny, reduce, suspend, or terminate a requested service and provide directions on how the enrollee may ask for a plan appeal to dispute the managed care plan's adverse benefit determination. The enrollee has 60 days after the plan's adverse benefit determination to ask for a plan appeal. For decisions that are appealed, the managed care plan must have a second health care professional who was neither involved in any previous level of review or decision-making, nor a subordinate of any such individual. The managed care plan then has 30 days from the date of the enrollee's request to make a final decision. The managed care plan has 72 hours to respond to the enrollee or his or her authorized representative's request for an expedited plan appeal. The enrollee must complete the plan appeal process before asking for a Medicaid fair hearing.

Florida State Group Insurance Program

Under the authority of s. 110.123, F.S., the Department of Management Services (DMS), through the Division of State Group Insurance, administers the state group insurance program by providing employee benefits such as health, life, dental, and vision insurance products under a cafeteria plan consistent with s. 125, Internal Revenue Code. To administer the state group health insurance program, the DMS contracts with third party administrators, HMOs, and a PBM for the state employees' prescription drug program pursuant to s. 110.12315, F.S.

Contractually, health plans and contracted third party administrators are required to review urgent or emergency prior authorization requests within 24 hours after receipt and within 14 calendar days after initial receipt for routine requests. Current industry standards for utilization review change notices to plan participants or enrollees is 30 days.¹⁴

¹⁴ Department of Management Services, *2018 Legislative Bill Analysis SB 98* (Oct. 31, 2017) (on file with the Senate Judiciary Committee).

Federal Patient Protection and Affordable Care Act

Health Insurance Reforms

The federal Patient Protection and Affordable Care Act (PPACA) was signed into law on March 23, 2010.¹⁵ The PPACA requires health insurers to make coverage available to all individuals and employers, without exclusions for preexisting conditions and without basing premiums on any health-related factors. The PPACA also mandates required essential health benefits¹⁶ and other provisions.

The PPACA requires insurers and HMOs that offer qualified health plans (QHPs) to provide ten categories of essential health benefits (EHB), which includes prescription drugs.¹⁷ In Florida, the federal Health Insurance Marketplace must certify such plans of an insurer or HMO as meeting the EHB and other requirements.¹⁸ The federal deadline for insurers and HMOs to submit 2018 annual rates and forms to the Florida Office of Insurance Regulation was May 3, 2017.^{19,20} Recently, the U.S. Department of Health and Human Services (HHS) proposed federal regulations that included provisions to provide states with additional flexibility in the definition of EHBs for 2019 and 2020 and increase affordability of health insurance in the individual and small group markets.²¹

Prescription Drug Coverage

For purposes of complying with the federal EHB for prescription drugs, plans must include in their formulary drug list the greater of one drug for each U.S. Pharmacopeia (USP) category and class; or the same number of drugs in each USP category and class as the state's EHB benchmark plan. Plans must have a Pharmacy and Therapeutics Committee design formularies using scientific evidence that will include consideration of safety and efficacy, cover a range of drugs in a broad distribution of therapeutic categories and classes, and provide access to drugs that are included in broadly accepted treatment guidelines. The PPACA also requires plans to

¹⁵ The Patient Protection and Affordable Care Act (Pub. L. No. 111–148) was enacted on March 23, 2010. The Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111–152), which amended and revised several provisions of the Patient Protection and Affordable Care Act, was enacted on March 30, 2010.

¹⁶ 42 U.S.C. s.18022.

¹⁷ See Center for Consumer Information & Insurance Oversight, *Information on Essential Health Benefits (EHB) Benchmark Plans* <https://www.cms.gov/ccio/resources/data-resources/ehb.html> (last viewed Nov. 5, 2017) for Florida's benchmark plan.

¹⁸ Center for Consumer Information & Insurance Oversight, *Qualified Health Plans*, <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/qhp.html> (last viewed Nov. 5, 2017).

¹⁹ Office of Insurance Regulation, *Guidance to Insurers*, available at <http://www.flair.com/sitedocuments/PPACANoticeToIndustry201802032017.pdf> (last viewed Nov. 5, 2017).

²⁰ President Trump, Executive Order 13765, *Minimizing the Economic Burden of the Patient Protection and Affordable Care Act Pending Repeal*, <https://www.whitehouse.gov/the-press-office/2017/01/20/executive-order-minimizing-economic-burden-patient-protection-and> (Jan. 20, 2017). President Trump issued an executive order indicating that it is the intent of his administration to seek the prompt repeal of PPACA. (last viewed: Nov. 5, 2017).

²¹ See Proposed Rule, 82 FR 51052 (Nov. 2, 2017). The U.S. Department of Health and Human Services is soliciting comments on different applications of the state mandate policy to the proposed policy for EHB benchmark plan selections that would increase state flexibility, while also being cost effective for states, consumers, and the federal government. For plan years further in the future, the HHS is considering establishing a Federal default definition of EHBs that would better align medical risk in insurance products by balancing costs to the scope of benefits. Available at <https://www.federalregister.gov/documents/2017/11/02/2017-23599/patient-protection-and-affordable-care-act-hhs-notice-of-benefit-and-payment-parameters-for-2019> (last viewed Nov. 5, 2017).

implement an internal appeals and independent external review process if an insured is denied coverage of a drug on the formulary.²²

Plans are required to publish a current and complete list of all covered drugs on its formulary drug list, including any tiered structure and any restrictions on the way a drug can be obtained, in a manner that is easily accessible to insureds, prospective insureds, the state, and the public.²³ Restrictions include prior authorization, step therapy, quantity limits and access restrictions.²⁴

III. Effect of Proposed Changes:

Prior Authorization

Section 1 revises s. 627.42392, F.S., relating to prior authorization by a health insurer. A health insurer is defined as an authorized insurer offering major medical or similar comprehensive coverage, a Medicaid managed care plan, or an HMO. The section defines the term, “urgent care situation,” which has the same meaning as in s. 627.42393, F.S. (see section 2, below). A health insurer or a pharmacy benefits manager (PBM) on behalf of a health insurer is required to provide current prior authorization requirements, restrictions, and forms on a publicly accessible website and in written or electronic format upon request. The requirements must be described in clear and easily understandable language. Further, the bill requires any clinical criteria to be described in language easily understandable by a provider.

If a health insurer or a PBM on behalf of a health insurer intends to amend or implement new prior authorization requirements or restrictions, the health insurer or PBM must:

- Ensure that the new or amended requirements or restrictions are available on its website at least 60 days before the effective date of the changes.
- Provide notice to policyholders and providers who are affected by the changes at least 60 days before the effective date. Notice may be delivered electronically or by other methods mutually agreed upon by the insured or provider.

These notice requirements do not apply to an expansion of coverage.

Health insurers or PBMs on behalf of health insurers must approve or deny prior authorization requests in urgent and nonurgent care circumstances within 24 hours and 72 hours, respectively, after receipt of the prior authorization form. Notice must be given to the patient and the treating provider of the patient.

Step Therapy of “Fail-First” Protocols

Section 2 creates s. 627.42393, F.S., relating to step therapy or fail-first protocols. The bill defines the following terms:

²² 45 C.F.R. s. 147.136.

²³ 45 C.F.R. s. 156.122(d).

²⁴ According to Centers for MS, this formulary drug list website link should be the same direct formulary drug list link for obtaining information on prescription drug coverage in the Summary of Benefits Coverage, in accordance with 45 CFR s. 147.200(a)(2).

- “Fail-first protocol,” is a written protocol that specifies the order in which a certain medical procedure, prescription drugs, or course of treatment must be used to treat an insured’s condition.
- “Health insurer” has the same meaning as provided in s. 627.42392, F.S. (see section 1, above).
- “Preceding prescription drug or medical treatment,” is a medical procedure, course of treatment, or prescription drug that must be used pursuant to a health insurer’s fail-first protocol as a condition of coverage under a health insurance policy or HMO contract to treat an insured’s condition.
- “Protocol exception” is a determination by a health insurer that a fail-first protocol is not medically appropriate or indicated for treatment of an insured’s condition, and the health insurer authorizes the use of another medical procedure, course of treatment, or prescription drug prescribed or recommended by the treating provider for the insured’s condition.
- “Urgent care situation” is an injury or condition of an insured which, if medical care and treatment is not provided earlier than the time generally considered by the medical profession to be reasonable for a nonurgent situation, in the opinion of the insured’s treating physician, would seriously jeopardize the insured’s life or health or ability to regain maximum function or subject the patient to severe pain that cannot be managed adequately.

A health insurer is required to publish on its website and provide to an insured in writing the procedure for requesting a protocol exception, including the following:

- A description of the manner in which an insured may request a protocol exception.
- The manner and timeframe in which a health insurer is required to authorize or deny a protocol exception request or respond to an appeal to a health insurer’s authorization or denial of a request.
- The conditions in which the protocol exception request must be granted.

As is the case for a response to a request for a prior authorization, the health insurer must authorize or deny a protocol exception request or respond to an appeal of a health insurer’s authorization or denial of a request within 24 hours after receipt in an urgent care situation; or within 72 hours after receipt in a nonurgent care situation. The health insurer must include a detailed written explanation of the reason for the denial and the procedure to appeal the denial.

A health insurer must grant a protocol exception request if:

- A preceding prescription drug or medical treatment is contraindicated or will likely cause an adverse reaction or physical or mental harm to the insured;
- A preceding prescription drug is expected to be ineffective based on the medical history of the insured and the clinical evidence of the characteristics of the preceding prescription drug or medical treatment;
- The insured previously received a preceding prescription drug or another prescription drug or medical treatment that is in the same pharmacologic class or that has the same mechanism of action as a preceding prescription drug, respectively, and the drug or treatment lacked efficacy or effectiveness or adversely affected the insured; or
- A preceding prescription drug or medical treatment is not in the best interest of the insured because the insured’s use of the drug or treatment is expected to:

- Cause a significant barrier to the insured's adherence to or compliance with the insured's plan of care;
- Worsen the medical condition of the insured that exists simultaneously but independently with the condition under treatment; or
- Decrease the ability of the insured to achieve or maintain his or her ability to perform daily activities.

The health insurer may request a copy of relevant documentation from the insured's medical record in support of a protocol exception request.

Effective Date

Section 3 provides that the bill takes effect July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The bill does not address whether its provisions apply prospectively to future contracts between a person and an insurer or an HMO or to contracts in existence on the effective date of the bill. However, section 624.21, F.S., provides that any amendment to the Insurance Code²⁵ will be deemed to operate prospectively where no contrary intent is specified.

Article I, section 10 of the State Constitution provides:

Prohibited laws.—No bill of attainder, ex post facto law or law impairing the obligation of contracts shall be passed.

This bill may potentially be challenged to the extent that its provisions substantially alter existing contracts. In *Pomponio v. Claridge of Pompano Condominium, Inc.*,²⁶ the Florida Supreme Court reviewed a statute which required the deposit of rent into a court registry during litigation involving obligations under a contract lease. The court invalidated the law as an unconstitutional impairment of contract, after applying a three-

²⁵ See s. 624.01, F.S. ("Chapters 624-632, 634, 635, 636, 641, 642, 648, and 651 constitute the 'Florida Insurance Code.'")

²⁶ *Pomponio v. Claridge of Pompano Condominium, Inc.*, 378 So. 2d 774, 779 (Fla. 1979).

prong test.”²⁷ The court noted that the inquiry is not required and the law will stand if the court initially finds that the alteration of contractual obligations is minimal.²⁸ However, a substantial or severe impairment of an existing contract requires the court to consider whether:

- The law was enacted to deal with a broad, generalized economic or social problem;
- The law operates in an area that was already subject to state regulation at the time the contract was entered into; and
- The effect on the contractual relationships is temporary or whether it is severe, permanent, immediate, and retroactive.²⁹

In *United States Fidelity & Guaranty Co. v. Department of Insurance*, the Florida Supreme Court followed *Pomponio*.³⁰ In so doing, the court stated that the overall query involves a balancing of a person’s interest to not have his or her contracts impaired, with the state’s interest in exercising legitimate police power.³¹ As provided in *Pomponio*, the severity of the impairment increases the level of scrutiny.³²

Relevant to whether an impairment of contract is constitutional is the degree to which the plaintiff’s industry had been regulated in the past. If the industry of the plaintiff was already heavily regulated at the time the plaintiff entered into the contract, further regulation is expected, and therefore considered to be reasonable by the court.³³

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Implementation of the bill may give health care providers greater flexibility in prescribing medications to meet the unique medical needs of their patients and reduce the administrative burden associated with the prior authorization process and the current step therapy or fail-first therapy protocols.

Insurers and HMOs may experience an indeterminate increase in costs associated with changes in the step therapy protocols provided in the bill, which could increase premiums for purchasers of health insurance, such as consumers,³⁴ which may include individuals and employers.

²⁷ *Id.* at 779, 782.

²⁸ In so doing, the court concluded, “[t]he severity of the impairment measures the height of the hurdle the state legislation must clear.” *Id.*

²⁹ *Id.*

³⁰ *United States Fidelity & Guaranty Co. v. Department of Insurance*, 453 So. 2d 1355, 1360 (Fla. 1984).

³¹ *Id.* at 1360.

³² *Id.*

³³ *Id.* at 1361.

³⁴ Office of Insurance Regulation, *2018 Legislative Bill Analysis of SB 98* (Aug. 30, 2017) (on file with the Senate Judiciary Committee).

The provisions of the bill do not apply to self-insured health plans because plans are preempted from state regulation under the federal Employee Retirement Income Security Act of 1974.

C. Government Sector Impact:

Office of Insurance Regulation³⁵

The bill does not have a fiscal impact on the Office of Insurance Regulation.

Medicaid³⁶

According to the Agency for Health Care Administration, the bill will have an indeterminate fiscal impact on the agency. The bill will require the agency to amend the Statewide Medicaid Managed Care Program (SMMC) contracts to modify the prior authorization requirements and the utilization review timeframes. The agency will use current agency resources to amend the contract. The bill will significantly affect the business (staffing, systems, etc.) and clinical operations of the Medicaid managed care plans. The bill requires the plans to shorten the time to review authorizations, which will increase the administrative costs.

Chapter 409, F.S., does not define urgent care. The bill defines an “urgent care situation” to have the same meaning as in s. 627.42393, F.S. As the Medicaid plans are required to comply with s. 627.42392, F.S., with regard to prior authorization, these proposed changes would impact the SMMC plans. This will require amendments to the SMMC contracts to revise existing contractual definitions of these terms and to incorporate their meanings within the scope of work under the SMMC program. While the definition for urgent care will have a minor operational impact and will not have a fiscal impact to the Medicaid program, the application of the urgent care definition to the proposed authorization timeframes will have both a fiscal and operational impact.

The agency notes that the situations specified in the bill, for which a plan would be required to authorize a request for a “protocol exception,” should already be contemplated in the plans’ clinical or evidence based authorization criteria under the SMMC program and are factors addressed in the application of the State’s Medicaid medical necessity definition. All Medicaid managed care plans must use the State’s Medicaid medical necessity definition in their approval and denial of services. The timely response standards for protocol exceptions will expedite authorization decisions and require the plans to increase their authorization staff and will result in an increase in administrative expenses. These increased costs will need to be reflected in the SMMC capitation rates as administrative expenses.

³⁵ *Id.*

³⁶ Agency for Health Care Administration, *2018 Legislative Bill Analysis of SB 98* (Oct. 31, 2017) (on file with the Senate Judiciary Committee).

Florida State Group Insurance/DMS³⁷

The State Group Insurance program indicates that the bill will have a fiscal impact on the program. The program's fully insured health maintenance organization (HMO) vendor, Capital Health Plan (CHP), estimated a fiscal impact of \$256,000 annually, based upon the need to employ an additional four medical staff and three support staff employees.

VI. Technical Deficiencies:

None.

VII. Related Issues:**Effective Date**

The bill provides an effective date of July 1, 2018. Many commercial plans as well as the Division of State Group Insurance, operate their plans on a calendar year basis. Generally, federal regulations relating to private health insurance require annual rate filings to be submitted prior to July 1. For example, the submission deadline for 2018 ACA-compliant form and rate filings in the individual and small group market was May 3, 2017. This deadline was applicable for products sold on and off the exchange.

The agency notes that at the implementation or effective date of the act, July 1, 2018, the agency and newly contracted managed care plans will be in the process of conducting readiness reviews for implementation of the new contracts. Given the magnitude of the changes proposed in the bill (including system changes, staffing changes, etc.) coinciding with the statutorily required reprocurement of the State Medicaid Managed Care (SMMC) program, it would pose operational challenges to Medicaid managed care plans to implement such changes by July 1, 2018. Further, since it is projected that these changes will affect the capitation rate setting process, the agency would need time to work with its actuaries to adjust the rates. An implementation timeframe of January 1, 2019 would align with the full implementation of the new SMMC contracts and allow the agency and their actuaries sufficient time to develop new capitation rates. This would also provide managed care plans with more time to implement any necessary operational changes concurrent with the new contracts, as well as provide the agency with the time needed to modify and execute revised SMMC contracts to reflect the proposed changes.

Implementation***Office of Insurance Regulation***

The provisions of section 1 of the bill apply to health insurers and pharmacy benefit managers on behalf of health insurers. The Office of Insurance Regulation (OIR) licenses and regulates health insurers. Insurers may contract with third parties to provide services or functions. Ultimately, the insurer must comply with the provisions of the Insurance Code. The OIR does not license or regulate pharmacy benefits managers (PBMs). Currently no agency licenses or regulates PBMs. It is unclear whether the health insurer is responsible for the actions of the PBM.

³⁷ Department of Management Services, *2018 Legislative Bill Analysis of SB 98* (Oct. 31, 2017) (on file with the Senate Judiciary Committee).

Section 1 of the bill provides that a prior authorization form may not require information that is not necessary for the determination of medical necessity of, or coverage for, the requested medical procedure, course of treatment, or prescription drug. However, it is unclear what information would be deemed “not necessary.” This provision may be difficult to enforce. The bill does not provide rulemaking authority for the OIR.

State Group Insurance³⁸

The Department of Management Services noted concerns of some of its contracted vendors. Specifically, CVS Caremark, a PBM for the State Group Insurance program had concerns regarding lines 83-88, which require “detailed descriptions of requirements and restrictions to obtain prior authorization.” CVS Caremark stated that clinical criteria could be specific to each medication and burdensome to a prescriber or member to identify and understand. CVS Caremark also indicated that this language also suggests that the insurer or PBM’s confidential and proprietary clinical criteria must be released to the general public, which could be in conflict with what is required by our manufacturer agreements. CVS Caremark raised similar concerns (lines 157-158) regarding the requirement to post publicly the conditions under which the protocol exception request must be granted. CVS Caremark stated that clinical exceptions criteria could be specific to each medication and burdensome to a prescriber or member to identify and understand. Further, CVS Caremark stated that this language also suggests that the insurer or PBM’s confidential and proprietary clinical exceptions criteria must be released to the general public which could be in conflict with what is required by CVS Caremark’s manufacturer agreements.

Notice of Prior Authorization Changes

Section 1 of the bill requires health insurers or a PBM to provide at least 60 days’ prior notice to insureds and physicians prior to implementing new requirements or restrictions to the prior authorization process. However, the bill does not allow for exceptions in circumstances where a drug or procedure is found to be hazardous or could result in harm to an insured.

VIII. Statutes Affected:

This bill substantially amends section 627.42392 of the Florida Statutes.

This bill creates section 627.42393 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.)

CS by Judiciary December 5, 2017:

The CS amends the definition of “urgent care situation” in s. 627.42393(1)(e), F.S., to clarify that, not just a treating physician, but a physician’s assistant or advanced registered nurse practitioner may also determine whether a health situation is urgent.

³⁸ *Id.*

B. Amendments:

None.

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



363404

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/06/2017	.	
	.	
	.	
	.	

The Committee on Judiciary (Steube) recommended the following:

Senate Amendment

1
2
3 Delete line 142
4 and insert:
5 opinion of the insured's treating physician, physician
6 assistant, or advanced registered nurse practitioner, would:



828472

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
12/06/2017	.	
	.	
	.	
	.	

The Committee on Judiciary (Thurston) recommended the following:

Senate Amendment

Delete lines 186 - 196

and insert:

adversely affected the insured;

(d) A preceding prescription drug or medical treatment is not in the best interest of the insured because the insured's use of such drug or treatment is expected to:

1. Cause a significant barrier to the insured's adherence to or compliance with the insured's plan of care;

2. Worsen an insured's medical condition that exists



828472

12 simultaneously but independently with the condition under
13 treatment; or

14 3. Decrease the insured's ability to achieve or maintain
15 his or her ability to perform daily activities; or

16 (e) A preceding prescription drug is an opioid and the
17 protocol exception request is for a nonopioid prescription drug
18 or treatment with a likelihood of similar or better results.

By Senator Steube

23-00013-18

201898__

1 A bill to be entitled
 2 An act relating to health insurer authorization;
 3 amending s. 627.42392, F.S.; redefining the term
 4 "health insurer"; defining the term "urgent care
 5 situation"; prohibiting prior authorization forms from
 6 requiring certain information; requiring health
 7 insurers and pharmacy benefits managers on behalf of
 8 health insurers to provide certain information
 9 relating to prior authorization by specified means;
 10 prohibiting such insurers and pharmacy benefits
 11 managers from implementing or making changes to
 12 requirements or restrictions to obtain prior
 13 authorization except under certain circumstances;
 14 providing applicability; requiring such insurers and
 15 pharmacy benefits managers to authorize or deny prior
 16 authorization requests and provide certain notices
 17 within specified timeframes; creating s. 627.42393,
 18 F.S.; defining terms; requiring health insurers to
 19 publish on their websites and provide to insureds in
 20 writing a procedure for insureds and health care
 21 providers to request protocol exceptions; specifying
 22 requirements for such procedure; requiring health
 23 insurers, within specified timeframes, to authorize or
 24 deny a protocol exception request or respond to
 25 appeals of their authorizations or denials; requiring
 26 authorizations or denials to specify certain
 27 information; requiring health insurers to grant
 28 protocol exception requests under certain
 29 circumstances; authorizing health insurers to request

Page 1 of 7

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

23-00013-18

201898__

30 documentation in support of a protocol exception
 31 request; providing an effective date.
 32

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

34
 35 Section 1. Section 627.42392, Florida Statutes, is amended
 36 to read:

37 627.42392 Prior authorization.—

38 (1) As used in this section, the term:

39 (a) "Health insurer" means an authorized insurer offering
 40 an individual or group insurance policy that provides major
 41 medical or similar comprehensive coverage health insurance as
 42 defined in s. 624.603, a managed care plan as defined in s.
 43 409.962(10), or a health maintenance organization as defined in
 44 s. 641.19(12).

45 (b) "Urgent care situation" has the same meaning as in s.
 46 627.42393.

47 (2) Notwithstanding any other provision of law, effective
 48 January 1, 2017, or six (6) months after the effective date of
 49 the rule adopting the prior authorization form, whichever is
 50 later, a health insurer, or a pharmacy benefits manager on
 51 behalf of the health insurer, which does not provide an
 52 electronic prior authorization process for use by its contracted
 53 providers, shall only use the prior authorization form that has
 54 been approved by the Financial Services Commission for granting
 55 a prior authorization for a medical procedure, course of
 56 treatment, or prescription drug benefit. Such form may not
 57 exceed two pages in length, excluding any instructions or
 58 guiding documentation, and must include all clinical

Page 2 of 7

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

23-00013-18

201898__

59 documentation necessary for the health insurer to make a
 60 decision. At a minimum, the form must include: (1) sufficient
 61 patient information to identify the member, date of birth, full
 62 name, and Health Plan ID number; (2) provider name, address and
 63 phone number; (3) the medical procedure, course of treatment, or
 64 prescription drug benefit being requested, including the medical
 65 reason therefor, and all services tried and failed; (4) any
 66 laboratory documentation required; and (5) an attestation that
 67 all information provided is true and accurate. The form, whether
 68 in electronic or paper format, may not require information that
 69 is not necessary for the determination of medical necessity of,
 70 or coverage for, the requested medical procedure, course of
 71 treatment, or prescription drug.

72 (3) The Financial Services Commission in consultation with
 73 the Agency for Health Care Administration shall adopt by rule
 74 guidelines for all prior authorization forms which ensure the
 75 general uniformity of such forms.

76 (4) Electronic prior authorization approvals do not
 77 preclude benefit verification or medical review by the insurer
 78 under either the medical or pharmacy benefits.

79 (5) A health insurer or a pharmacy benefits manager on
 80 behalf of the health insurer must provide the following
 81 information in writing or in an electronic format upon request,
 82 and on a publicly accessible Internet website:

83 (a) Detailed descriptions of requirements and restrictions
 84 to obtain prior authorization for coverage of a medical
 85 procedure, course of treatment, or prescription drug in clear,
 86 easily understandable language. Clinical criteria must be
 87 described in language easily understandable by a health care

Page 3 of 7

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23-00013-18

201898__

88 provider.

89 (b) Prior authorization forms.

90 (6) A health insurer or a pharmacy benefits manager on
 91 behalf of the health insurer may not implement any new
 92 requirements or restrictions or make changes to existing
 93 requirements or restrictions to obtain prior authorization
 94 unless:

95 (a) The changes have been available on a publicly
 96 accessible Internet website at least 60 days before the
 97 implementation of the changes.

98 (b) Policyholders and health care providers who are
 99 affected by the new requirements and restrictions or changes to
 100 the requirements and restrictions are provided with a written
 101 notice of the changes at least 60 days before the changes are
 102 implemented. Such notice may be delivered electronically or by
 103 other means as agreed to by the insured or health care provider.

104
 105 This subsection does not apply to expansion of health care
 106 services coverage.

107 (7) A health insurer or a pharmacy benefits manager on
 108 behalf of the health insurer must authorize or deny a prior
 109 authorization request and notify the patient and the patient's
 110 treating health care provider of the decision within:

111 (a) Seventy-two hours of obtaining a completed prior
 112 authorization form for nonurgent care situations.

113 (b) Twenty-four hours of obtaining a completed prior
 114 authorization form for urgent care situations.

115 Section 2. Section 627.42393, Florida Statutes, is created
 116 to read:

Page 4 of 7

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23-00013-18

201898__

117 627.42393 Fail-first protocols.-

118 (1) As used in this section, the term:

119 (a) "Fail-first protocol" means a written protocol that
 120 specifies the order in which a certain medical procedure, course
 121 of treatment, or prescription drug must be used to treat an
 122 insured's condition.

123 (b) "Health insurer" has the same meaning as provided in s.
 124 627.42392.

125 (c) "Preceding prescription drug or medical treatment"
 126 means a medical procedure, course of treatment, or prescription
 127 drug that must be used pursuant to a health insurer's fail-first
 128 protocol as a condition of coverage under a health insurance
 129 policy or a health maintenance contract to treat an insured's
 130 condition.

131 (d) "Protocol exception" means a determination by a health
 132 insurer that a fail-first protocol is not medically appropriate
 133 or indicated for treatment of an insured's condition and the
 134 health insurer authorizes the use of another medical procedure,
 135 course of treatment, or prescription drug prescribed or
 136 recommended by the treating health care provider for the
 137 insured's condition.

138 (e) "Urgent care situation" means an injury or condition of
 139 an insured which, if medical care and treatment are not provided
 140 earlier than the time generally considered by the medical
 141 profession to be reasonable for a nonurgent situation, in the
 142 opinion of the insured's treating physician, would:

- 143 1. Seriously jeopardize the insured's life, health, or
 144 ability to regain maximum function; or
 145 2. Subject the insured to severe pain that cannot be

Page 5 of 7

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201898__

146 adequately managed.

147 (2) A health insurer must publish on its website and
 148 provide to an insured in writing a procedure for an insured and
 149 health care provider to request a protocol exception. The
 150 procedure must include:

151 (a) A description of the manner in which an insured or
 152 health care provider may request a protocol exception.

153 (b) The manner and timeframe in which the health insurer is
 154 required to authorize or deny a protocol exception request or
 155 respond to an appeal of a health insurer's authorization or
 156 denial of a request.

157 (c) The conditions under which the protocol exception
 158 request must be granted.

159 (3) (a) The health insurer must authorize or deny a protocol
 160 exception request or respond to an appeal of a health insurer's
 161 authorization or denial of a request within:

162 1. Seventy-two hours of obtaining a completed prior
 163 authorization form for nonurgent care situations.

164 2. Twenty-four hours of obtaining a completed prior
 165 authorization form for urgent care situations.

166 (b) An authorization of the request must specify the
 167 approved medical procedure, course of treatment, or prescription
 168 drug benefits.

169 (c) A denial of the request must include a detailed,
 170 written explanation of the reason for the denial, the clinical
 171 rationale that supports the denial, and the procedure to appeal
 172 the health insurer's determination.

173 (4) A health insurer must grant a protocol exception
 174 request if:

Page 6 of 7

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23-00013-18

201898__

175 (a) A preceding prescription drug or medical treatment is
176 contraindicated or will likely cause an adverse reaction or
177 physical or mental harm to the insured;

178 (b) A preceding prescription drug is expected to be
179 ineffective, based on the medical history of the insured and the
180 clinical evidence of the characteristics of the preceding
181 prescription drug or medical treatment;

182 (c) The insured has previously received a preceding
183 prescription drug or medical treatment that is in the same
184 pharmacologic class or has the same mechanism of action, and
185 such drug or treatment lacked efficacy or effectiveness or
186 adversely affected the insured; or

187 (d) A preceding prescription drug or medical treatment is
188 not in the best interest of the insured because the insured's
189 use of such drug or treatment is expected to:

190 1. Cause a significant barrier to the insured's adherence
191 to or compliance with the insured's plan of care;

192 2. Worsen an insured's medical condition that exists
193 simultaneously but independently with the condition under
194 treatment; or

195 3. Decrease the insured's ability to achieve or maintain
196 his or her ability to perform daily activities.

197 (5) The health insurer may request a copy of relevant
198 documentation from the insured's medical record in support of a
199 protocol exception request.

200 Section 3. This act shall take effect July 1, 2018.

THE FLORIDA SENATE
APPEARANCE RECORD

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

12/5/17

Meeting Date

98

Bill Number (if applicable)

Topic patient access

Amendment Barcode (if applicable)

Name Pam Langford

Job Title Executive Director

Address PO Box 180813

Phone _____

Street

Tallahassee, FL 32318

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing HEALS of the South

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

12-5-17

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

Meeting Date

98

Bill Number (if applicable)

Topic Step Therapy

Amendment Barcode (if applicable)

Name Matt Jordan

Job Title GRD

Address 1922 Dellwood Dr

Phone _____

Street

Tallahassee

FL

32312

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing American Career Society

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

12-5-17

Meeting Date

SB 98

Bill Number (if applicable)

Topic Health Insurance Authorization

Amendment Barcode (if applicable)

Name Dorene Barker

Job Title Associate State Director

Address 200 W. College Ave

Phone 850 228 6387

Street

Jallahussee

City

FL

State

32303

Zip

Email dobarker@aarp.org

Speaking: For Against Information

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

Representing AARP FL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

12-5-17
Meeting Date

5B98
Bill Number (if applicable)

Topic Health Insurer Authorization Amendment Barcode (if applicable)

Name Joy Ryan

Job Title _____

Address 9037 Muirfield Ct
Street
Tallahassee, FL 32312
City State Zip

Phone 425-4000

Email joy@moenanlawfirm.com

Speaking: For Against Information

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

Representing America's Health Insurance Plans

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

SB 98
Bill Number (if applicable)

Amendment Barcode (if applicable)

Health Insurer Authorization

Audrey Brown

President and CEO

200 W. College Ave

Phone (850) 386-2904

Tallahassee, FL

32301

Email audrey@fahp.net

Street

City

State

Zip

Speaking: For Against Information

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

Representing Florida Association of Health Plans

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

5 Dec 2017

Meeting Date

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

SB 98

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Alli Liby-Schoonover

Job Title _____

Address 119 S Monroe St. Suite 200

Street

Phone 850-205-9000

TLH

FL

32301

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing BioFlorida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

12-5-2017
Meeting Date

SB 98
Bill Number (if applicable)

Topic HEALTH INSURER AUTHORIZATION

Amendment Barcode (if applicable)

Name STEPHEN R. WINN

Job Title EXECUTIVE DIRECTOR

Address 2544 BLAIRSTONE PINES DRIVE

Phone 878-1277

Street

TALLAHASSEE

FL

32301

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing FLORIDA OSTEOPATHIC MEDICAL ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

12/5/17

Meeting Date

98

Bill Number (if applicable)

Topic patient access

Amendment Barcode (if applicable)

Name Cheyl Elias

Job Title Executive Director

Address 2011 Delta Blvd.
Street

Phone _____

Tallahassee
City

FL
State

32303
Zip

Email _____

Speaking: For Against Information

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

Representing US Rural Health Network

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

12/5/17
Meeting Date

98
Bill Number (if applicable)

Topic patient accor

Amendment Barcode (if applicable)

Name Nicole Hill

Job Title Board Member

Address 1302 E 10th Ave.
Street

Phone _____

Tallahassee, FL 32303
City State Zip

Email _____

Speaking: For Against Information

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

Representing Epilepsy Association of the Big Bend

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

12-5-17

Meeting Date

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

SB 98

Bill Number (if applicable)

Topic Health Insurer Authorization

Amendment Barcode (if applicable)

Name Jarrod Fowler

Job Title Dir of Health Care Policy

Address 81430 Piedmont Dr. E

Phone 850-224-6496

Street

Tallahassee FL 32308

Email Jfowler@fimedical.org

City

State

Zip

Speaking: For Against Information

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

Representing Florida Medical Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

12/5/17

98

Meeting Date

Bill Number (if applicable)

Topic Health Insurer Authorization

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N. Adams St

Phone 224-7173

Street

Tallahassee

FL

32301

Email bbevis@aif.com

City

State

Zip

Speaking: For Against Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
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 Judiciary

BILL: SB 134

INTRODUCER: Senators Steube and Grimsley

SUBJECT: Concealed Weapons or Firearms

DATE: November 6, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stallard	Cibula	JU	Unfavorable
2.			GO	
3.			RC	

I. Summary:

SB 134 authorizes a person who has a concealed weapon or firearm license to carry a concealed weapon or firearm into a courthouse if he or she immediately notifies management or security personnel of the presence of the weapon or firearm. Then, the licensee must follow security or management personnel's instructions for removing, securing, and storing the item, or the licensee must surrender the item until the licensee is leaving the courthouse.

The bill also defines "courthouse" and states that any local ordinance, administrative rule, administrative order, or regulation that conflicts with the definition or the right to carry a weapon or firearm into a courthouse, as permitted by this bill, is preempted to the Legislature. Moreover, the bill subjects a person or entity that enacts or enforces a preempted ordinance, rule, order, or regulation to penalties including, but not limited to, fines and removal from office by the Governor.

II. Present Situation:

Concealed Carry of Weapons or Firearms

Lawful Concealed Carry of Weapons or Firearms

Chapter 790, F.S., regulates who may carry weapons or firearms and where and how these persons may carry them. In general, this chapter prohibits a person from carrying a concealed weapon or firearm unless the person has a concealed weapon or firearm license.¹

¹ See ss. 790.01 and 790.06, F.S.; but see s. 790.25(3), F.S., which provides that the prohibition against carrying a concealed weapon and the licensure requirement do not apply in certain circumstances.

Florida's concealed-carry-licensing scheme is set forth in s. 790.06, F.S. The license permits the concealed carry of handguns and certain non-firearm weapons.² Currently, there are roughly 1.8 million Floridians holding a standard concealed-carry license.³

To obtain a license, one must submit an application to the Department of Agriculture and Consumer Services, and the Department must grant the license to each applicant who:⁴

- Is a resident of the United States and a citizen of the United States or a permanent resident alien of the United States, as determined by the United States Bureau of Citizenship and Immigration Services, or is a consular security official of a foreign government that maintains diplomatic relations and treaties of commerce, friendship, and navigation with the United States and is certified as such by the foreign government and by the appropriate embassy in this country;
- Is 21 years of age or older;
- Does not suffer from a physical infirmity that prevents the safe handling of a weapon or firearm;
- Is not ineligible to possess a firearm by virtue of having been convicted of a felony;
- Has not been committed for the abuse of a controlled substance;
- Has not been found guilty of a crime relating to controlled substances within a 3-year period immediately preceding the date on which the application is submitted;
- Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired;
- Desires a legal means to carry a concealed weapon or firearm for lawful self-defense;
- Demonstrates competency in the use of a firearm;⁵
- Has not been, or is deemed not to have been, adjudicated an incapacitated person in a guardianship proceeding;
- Has not been, or is deemed not to have been, committed to a mental institution;
- Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony, or any misdemeanor crime of domestic violence, unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or expunction has occurred;
- Has not been issued an injunction that is currently in force and effect which restrains the applicant from committing acts of domestic violence or acts of repeat violence; and
- Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.

The licensing statute states that a license to carry a concealed weapon or firearm is “valid throughout the state,” which strongly implies that licensees may carry concealed throughout

² “For the purposes of this section, concealed firearms and concealed weapons are defined as a handgun, electronic weapon or device, tear gas gun, knife, or billie, but the term does not include a machine gun as defined” elsewhere in statute. Section 790.06(1), F.S.

³ As of October 31, 2017, 1,812,542 Floridians held a standard concealed carry license. Fla. Dept. of Ag., *Number of Licensees by Type*, http://www.freshfromflorida.com/content/download/7471/118627/Number_of_Licensees_By_Type.pdf (last visited November 3, 2017).

⁴ Section 790.06(2), F.S. On the other hand, the Department must *deny* a license to an applicant who meets any criterion set forth in s. 790.06(3), F.S.

⁵ See s. 790.06(2)(h), F.S., for the list of courses and other means of demonstrating competency, and for the required documentation that one must present to the state relative to this provision.

Florida.⁶ However, the statute also expressly states that the license “does not authorize” a licensee to carry a concealed weapon or firearm into any:⁷

- *Courthouse*;
- *Courtroom*;⁸
- Place of nuisance, such as a brothel or place where criminal gang activity takes place repeatedly;
- Police, sheriff, or highway patrol station;
- Detention facility, prison, or jail;
- Polling place;
- Meeting of the governing body of a county, public school district, municipality, or special district;
- Meeting of the Legislature or a committee of the Legislature;
- School, college, or professional athletic event not related to firearms;
- Elementary or secondary school facility or administration building;
- Career center;
- Portion of an establishment licensed to dispense alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to such purpose;
- College or university facility unless the licensee is a registered student, employee, or faculty member of such college or university and the weapon is a stun gun or nonlethal electric weapon or device designed solely for defensive purposes and the weapon does not fire a dart or projectile;
- Airport’s passenger terminal and sterile area, provided that no person shall be prohibited from carrying any legal firearm into the terminal, which firearm is encased for shipment for purposes of checking such firearm as baggage to be lawfully transported on any aircraft; or
- Place where the carrying of firearms is prohibited by federal law.

A licensee who carries a concealed weapon or firearm into a courthouse or other prohibited place commits a second degree misdemeanor, which is punishable by up to 60 days in jail and a fine not to exceed \$500.⁹

Preemption of Regulations on Firearms and Ammunition

In 1987, the Legislature enacted legislation to provide statewide uniformity in the regulation of firearms and ammunition. This law—the Joe Carlucci Uniform Firearms Act (Act), codified as s. 790.33, F.S.—includes an express statement of its policy and intent:

It is the intent of this section to provide uniform firearms laws in the state; to declare all ordinances and regulations null and void which have been enacted by

⁶ The licensing statute expressly states that licensees are not subject to the statute that criminalizes concealed carry. The licensing statute also expressly states that the license does not authorize carrying into specific places listed in the licensing statute. Thus, the licensing statute strongly implies, though nowhere expressly states, that licensees may carry generally throughout Florida.

⁷ Section 790.06(12)(a), F.S. (Emphasis added)

⁸ “Except that nothing in this section would preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in his or her courtroom.” Section 790.06(12)(a)5., F.S. Note that this provision does not refer to *firearms*, but only *weapons*.

⁹ Section 790.06(12)(d), F.S.; *see also* ss. 775.082(4)(b) and 775.083(1)(e), F.S.

any jurisdictions other than state and federal, which regulate firearms, ammunition, or components thereof; to prohibit the enactment of any future ordinances or regulations relating to firearms, ammunition, or components thereof unless specifically authorized by this section or general law; and to require local jurisdictions to enforce state firearms laws.¹⁰

The Act accomplished its stated purpose by “occupying the whole field of regulation of firearms and ammunition,” as stated in subsection (1) of the Act:

Except as expressly provided by the State Constitution or general law, the Legislature hereby declares that it is occupying the whole field of regulation of firearms and ammunition, including the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage, and transportation thereof, to the exclusion of all existing and future county, city, town, or municipal ordinances or any administrative regulations or rules adopted by local or state government relating thereto. Any such existing ordinances are hereby declared null and void.¹¹

Additionally, the Act requires the courts to impose civil fines of up to \$5,000 against certain government officials who willfully enact or cause an improper ordinance, regulation, or rule to be enforced. An offending government official may not use public funds to pay the fine. Moreover, he or she may be removed from office by the Governor.¹²

As exceptions to the broad preemption of the regulation of firearms and ammunition, the Act states that it does not prohibit:¹³

- Zoning ordinances that encompass firearms businesses along with other businesses, provided that they are not designed to restrict or prohibit the sale, purchase, transfer, or manufacture of firearms or ammunition;
- Regulations pertaining to firearms and ammunition issued to law enforcement agencies;
- Regulations prohibiting the carrying of firearms and ammunition by an employee of a local jurisdiction during and in the course of his or her official duties;
- A court or administrative law judge from hearing and resolving any case or controversy or issuing any opinion or order on a matter within the jurisdiction of that court or judge; or
- The Florida Fish and Wildlife Conservation Commission’s regulation of the use of firearms or ammunition to take wildlife or on shooting ranges managed by the commission.

But even beyond these exceptions, cities and universities have attempted to regulate firearms, resulting in litigation. And while these cases have revealed that the Act has not preempted every firearm regulation, the Act has not been held to be unconstitutional.¹⁴

¹⁰ Section 790.33(2)(a), F.S.

¹¹ Section 790.33(1), F.S.

¹² Section 790.33(3), F.S.

¹³ Section 790.33(4), F.S.

¹⁴ See, e.g., *National Rifle Association v. City of South Miami*, 812 So. 2d 504 (Fla. 3d DCA 2002) (holding that a city ordinance regulating firearms was preempted by the Act); *Florida Carry, Inc. v. Univ. of Fla.*, 180 So. 3d 137 (Fla. 1st DCA 2015) (holding that the university’s prohibition of firearms in university housing, which was consistent with a statute that broadly prohibited possessing a firearm on campus, was not preempted by the Act); *Florida Carry, Inc. v. Univ. of N. Fla.*, 133 So. 3d 966 (Fla. 1st DCA 2013) (holding that the university’s prohibition on keeping a firearm in a locked vehicle on

III. Effect of Proposed Changes:

SB 134 authorizes a person who has a concealed weapon or firearm license to carry a concealed weapon or firearm into a courthouse if he or she immediately notifies management or security personnel of the presence of the weapon or firearm. Then, the licensee must:

- Follow the security or management personnel’s instructions for removing, securing, and storing the weapon or firearm; or
- Temporarily surrender the weapon or firearm to the security or management personnel, who shall store the weapon or firearm in a locker, safe, or other secure location and return the weapon or firearm to the licensee when he or she is exiting the courthouse.

As such, the bill does not permit carrying a firearm past the entryway of most courthouses.¹⁵

The bill also defines “courthouse” and states that any local ordinance, administrative rule, administrative order, or regulation that conflicts with the definition or the right to carry a weapon or firearm into a courthouse is preempted to the Legislature. Moreover, the bill subjects a person or entity that enacts or enforces a preempted ordinance, rule, order, or regulation to penalties including, but not limited to, fines and removal from office by the Governor.

The bill takes effect July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The Florida Constitution requires counties to bear the “cost of construction or lease, maintenance, utilities, and security of facilities for the trial courts”¹⁶ Therefore, to the extent that money must be spent for trial courts to implement the bill—perhaps to buy a new firearm safe—the counties must bear this cost. However, any required expenditures are expected to be minimal.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

campus was preempted by the Act because such possession was authorized in statute as an exception to the general ban on possessing a firearm on campus).

¹⁵ However, some Florida courthouses have no security checkpoints at their entrances.

¹⁶ FLA. CONST. art. V, s. 14(c); *see also*, s. 29.008, F.S. (repeating the constitutional obligations of counties to fund court-related functions).

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Florida Constitution requires that “[f]unding for the state courts system . . . be provided from state revenues appropriated by general law.”¹⁷ Moreover, the Florida Statutes require that state revenues appropriated by general law be used to fund the “[c]onstruction or lease of facilities, maintenance, utilities, and security for the district courts of appeal and the Supreme Court.”¹⁸ Therefore, to the extent that money must be spent for the district courts of appeal and the Florida Supreme Court to implement the bill—perhaps to buy new firearm safes—the state must bear this cost. However, any required expenditures are expected to be minimal.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 790.06 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.

¹⁷ FLA. CONST. art. V, s. 14(a).

¹⁸ Section 29.004(4), F.S.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/05/2017	.	
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	.	
	.	

The Committee on Judiciary (Steube) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 790.053, Florida Statutes, is amended to
read:

790.053 Open carrying of weapons.—

(1) Except as otherwise provided by law and in subsection
(2), it is unlawful for any person to openly carry on or about
his or her person any firearm or electric weapon or device. ~~It~~
~~is not a violation of this section for a person licensed to~~



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12 ~~carry a concealed firearm as provided in s. 790.06(1), and who~~
13 ~~is lawfully carrying a firearm in a concealed manner, to briefly~~
14 ~~and openly display the firearm to the ordinary sight of another~~
15 ~~person, unless the firearm is intentionally displayed in an~~
16 ~~angry or threatening manner, not in necessary self-defense.~~

17 (2) A person may openly carry, for purposes of lawful self-
18 defense:

19 (a) A self-defense chemical spray.

20 (b) A nonlethal stun gun or dart-firing stun gun or other
21 nonlethal electric weapon or device that is designed solely for
22 defensive purposes.

23 (3) (a) A ~~Any~~ person violating this section who is not
24 licensed under s. 790.06 commits a misdemeanor of the second
25 degree, punishable as provided in s. 775.082 or s. 775.083.

26 (b) A person violating this section who is licensed under
27 s. 790.06 commits:

28 1. A noncriminal violation with a penalty of:

29 a. Two hundred and fifty dollars, payable to the clerk of
30 the court, for a first violation; or

31 b. Five hundred dollars, payable to the clerk of the court,
32 for a second violation.

33 2. A misdemeanor of the second degree, punishable as
34 provided in s. 775.082 or s. 775.083, for a third or subsequent
35 violation.

36 Section 2. Subsection (1) and paragraph (a) of subsection
37 (12) of section 790.06, Florida Statutes, are amended, present
38 subsection (17) of that section is redesignated as subsection
39 (18), and a new subsection (17) is added to that section, to
40 read:



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41 790.06 License to carry concealed weapon or firearm.-
42 (1) The Department of Agriculture and Consumer Services is
43 authorized to issue licenses to carry concealed weapons or
44 concealed firearms to persons qualified as provided in this
45 section. Each such license must bear a color photograph of the
46 licensee. For the purposes of this section, concealed weapons or
47 concealed firearms are defined as a handgun, electronic weapon
48 or device, tear gas gun, knife, or billie, but the term does not
49 include a machine gun as defined in s. 790.001(9). Such licenses
50 are ~~shall be~~ valid throughout the state for a period of 7 years
51 after ~~from~~ the date of issuance. Any person in compliance with
52 the terms of such license may carry a concealed weapon or
53 concealed firearm notwithstanding ~~the provisions of~~ s. 790.01.
54 The licensee must carry the license, together with valid
55 identification, at all times in which the licensee is in actual
56 possession of a concealed weapon or firearm and must display
57 both the license and proper identification upon demand by a law
58 enforcement officer. A person licensed to carry a concealed
59 firearm under this section whose firearm becomes openly
60 displayed to the ordinary sight of another person does not
61 violate s. 790.053 and may not be arrested or charged with a
62 noncriminal or criminal violation of s. 790.053. Violations of
63 ~~the provisions of~~ this subsection ~~shall~~ constitute a noncriminal
64 violation with a penalty of \$25, payable to the clerk of the
65 court.
66 (12) (a) A license issued under this section does not
67 authorize any person to openly carry a handgun or carry a
68 concealed weapon or firearm into:
69 1. Any place of nuisance as defined in s. 823.05;



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- 70 2. Any police, sheriff, or highway patrol station;
71 3. Any detention facility, prison, or jail;
72 4. Any courthouse, except when a licensee approaches
73 security or management personnel upon arrival at a courthouse
74 and notifies them of the presence of the weapon or firearm and
75 follows the security or management personnel's instructions for
76 temporarily surrendering the weapon or firearm to the security
77 or management personnel, who shall store the weapon or firearm
78 in a locker, safe, or other secure location and return the
79 weapon or firearm to the licensee when he or she is exiting the
80 courthouse;
81 5. Any courtroom, except that nothing in this section would
82 preclude a judge from carrying a concealed weapon or determining
83 who will carry a concealed weapon in his or her courtroom;
84 6. Any polling place;
85 7. Any meeting of the governing body of a county, public
86 school district, municipality, or special district;
87 8. Any meeting of the Legislature or a committee thereof;
88 9. Any school, college, or professional athletic event not
89 related to firearms;
90 10. Any elementary or secondary school facility or
91 administration building;
92 11. Any career center;
93 12. Any portion of an establishment licensed to dispense
94 alcoholic beverages for consumption on the premises, which
95 portion of the establishment is primarily devoted to such
96 purpose;
97 13. Any college or university facility unless the licensee
98 is a registered student, employee, or faculty member of such



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99 college or university and the weapon is a stun gun or nonlethal
100 electric weapon or device designed solely for defensive purposes
101 and the weapon does not fire a dart or projectile;

102 14. The inside of the passenger terminal and sterile area
103 of any airport, provided that no person shall be prohibited from
104 carrying any legal firearm into the terminal, which firearm is
105 encased for shipment for purposes of checking such firearm as
106 baggage to be lawfully transported on any aircraft; or

107 15. Any place where the carrying of firearms is prohibited
108 by federal law.

109 (17) (a) As used in this section, the term "courthouse"
110 means a building the primary purpose of which is to house
111 judicial chambers or to hold trials, hearings, or oral arguments
112 before a judge. The term also includes a portion of any other
113 building if the portion:

114 1. Is conspicuously marked as a courthouse at each public
115 entrance; and

116 2. Has as its primary purpose the housing of judicial
117 chambers or the holding of trials, hearings, or oral arguments
118 before a judge.

119 (b) A local ordinance, administrative rule, administrative
120 order, or regulation in conflict with the definition of the term
121 "courthouse" in paragraph (a) or the rights set forth under
122 subparagraph (12) (a)4. is preempted to the Legislature under s.
123 790.33. The person, justice, judge, county, agency,
124 municipality, district, or other entity that enacts or causes to
125 be enforced a local ordinance, administrative rule,
126 administrative order, or regulation that is preempted is subject
127 to the penalties set forth in s. 790.33, including, but not



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128 limited to, civil fines and removal from office by the Governor.

129 Section 3. Paragraph (a) of subsection (1) of section
130 790.065, Florida Statutes, is amended, and present subsections
131 (4) through (13) of that section are redesignated as subsections
132 (5) through (14), respectively, a new subsection (4) is added to
133 that section, and present paragraph (a) of subsection (4) and
134 present paragraphs (b) and (c) of subsection (12) are
135 republished, to read:

136 790.065 Sale and delivery of firearms.—

137 (1) (a) A licensed importer, licensed manufacturer, or
138 licensed dealer may not sell or deliver from her or his
139 inventory at her or his licensed premises any firearm to another
140 person, other than a licensed importer, licensed manufacturer,
141 licensed dealer, or licensed collector, until she or he has:

142 1. Obtained a completed form from the potential buyer or
143 transferee, which form shall have been ~~promulgated by the~~
144 ~~Department of Law Enforcement~~ and provided by the licensed
145 importer, licensed manufacturer, or licensed dealer, which must
146 ~~shall~~ include the name, date of birth, gender, and race, ~~and~~
147 ~~social security number or other identification number of the~~
148 ~~such~~ potential buyer or transferee and questions about the
149 buyer's criminal history and other information relating to the
150 potential buyer or transferee's eligibility to purchase a
151 firearm, and has inspected proper identification including an
152 identification containing a photograph of the potential buyer or
153 transferee.

154 2. Collected a fee from the potential buyer for processing
155 the criminal history check of the potential buyer. The fee shall
156 be established by the Department of Law Enforcement and may not



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157 exceed \$8 per transaction. The Department of Law Enforcement may
158 reduce, or suspend collection of, the fee to reflect payment
159 received from the Federal Government applied to the cost of
160 maintaining the criminal history check system established by
161 this section as a means of facilitating or supplementing the
162 National Instant Criminal Background Check System. The
163 Department of Law Enforcement shall, by rule, establish
164 procedures for the fees to be transmitted by the licensee to the
165 Department of Law Enforcement. All such fees shall be deposited
166 into the Department of Law Enforcement Operating Trust Fund, but
167 shall be segregated from all other funds deposited into such
168 trust fund and must be accounted for separately. Such segregated
169 funds must not be used for any purpose other than the operation
170 of the criminal history checks required by this section. The
171 Department of Law Enforcement, each year prior to February 1,
172 shall make a full accounting of all receipts and expenditures of
173 such funds to the President of the Senate, the Speaker of the
174 House of Representatives, the majority and minority leaders of
175 each house of the Legislature, and the chairs of the
176 appropriations committees of each house of the Legislature. In
177 the event that the cumulative amount of funds collected exceeds
178 the cumulative amount of expenditures by more than \$2.5 million,
179 excess funds may be used for the purpose of purchasing soft body
180 armor for law enforcement officers.

181 3. Requested, by means of a toll-free telephone call, the
182 Department of Law Enforcement to conduct a check of the
183 information as reported and reflected in the Florida Crime
184 Information Center and National Crime Information Center systems
185 as of the date of the request.



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186 4. Received a unique approval number for that inquiry from
187 the Department of Law Enforcement, and recorded the date and
188 such number on the consent form.

189 (4) (a) In any case in which records reviewed pursuant to
190 subsection (2) indicate that the potential buyer or transferee
191 is prohibited from having in her or his care, custody,
192 possession, or control a firearm under state or federal law and
193 the potential transfer, sale, or purchase has received a
194 nonapproval number, the Department of Law Enforcement shall send
195 notice of the nonapproval to the federal or state correctional,
196 law enforcement, prosecutorial, and other relevant criminal
197 justice agencies having jurisdiction in the county where the
198 attempted transfer or purchase was made.

199 (b) The Department of Law Enforcement shall, for each
200 county, identify appropriate federal or state correctional, law
201 enforcement, prosecutorial, and other criminal justice agencies
202 to receive the notice described in paragraph (a).

203 (c) The notice described in paragraph (a) must include the
204 identity of the potential buyer or transferee, the identity of
205 the licensee who made the inquiry, the date and time when a
206 nonapproval number was issued, the prohibiting criteria for the
207 nonapproval, and the location where the attempted purchase or
208 transfer occurred.

209 (d) The Department of Law Enforcement shall make the notice
210 described in paragraph (a) within 1 week after issuance of the
211 nonapproval number, and may aggregate any notices required
212 pursuant to paragraph (a) and issue them together within the
213 required timeframe, except that a notice may be delayed for as
214 long as necessary to avoid compromising an ongoing



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215 investigation.

216 (e) The Department of Law Enforcement may make the notice
217 required pursuant to paragraph (a) in any form, including, but
218 not limited to, by oral or written communication or by
219 electronic means.

220 (f) If a nonapproval is reversed on appeal, the Department
221 of Law Enforcement shall send a notice of the reversal to each
222 agency notified of the nonapproval. The notice of reversal must
223 be made in writing or in an electronic format and must clearly
224 identify the potential buyer or transferee whose nonapproval was
225 reversed.

226 (5) ~~(4)~~ (a) Any records containing any of the information set
227 forth in subsection (1) pertaining to a buyer or transferee who
228 is not found to be prohibited from receipt or transfer of a
229 firearm by reason of Florida and federal law which records are
230 created by the Department of Law Enforcement to conduct the
231 criminal history record check shall be confidential and exempt
232 from the provisions of s. 119.07(1) and may not be disclosed by
233 the Department of Law Enforcement or any officer or employee
234 thereof to any person or to another agency. The Department of
235 Law Enforcement shall destroy any such records forthwith after
236 it communicates the approval and nonapproval numbers to the
237 licensee and, in any event, such records shall be destroyed
238 within 48 hours after the day of the response to the licensee's
239 request.

240 (13) ~~(12)~~

241 (b) Any licensed importer, licensed manufacturer, or
242 licensed dealer who violates the provisions of subsection (1)
243 commits a felony of the third degree punishable as provided in



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244 s. 775.082 or s. 775.083.

245 (c) Any employee or agency of a licensed importer, licensed
246 manufacturer, or licensed dealer who violates the provisions of
247 subsection (1) commits a felony of the third degree punishable
248 as provided in s. 775.082 or s. 775.083.

249 Section 4. Subsection (3) of subsection 790.115, Florida
250 Statutes, is amended to read:

251 790.115 Possessing or discharging weapons or firearms at a
252 school-sponsored event or on school property prohibited;
253 penalties; exceptions.—

254 (3)(a) This section does not apply to any law enforcement
255 officer as defined in s. 943.10(1), (2), (3), (4), (6), (7),
256 (8), (9), or (14).

257 (b) This section and s. 790.06(12)(a)10., 11., and 13. do
258 not prohibit a person who is licensed under s. 790.06 from
259 carrying a concealed weapon or concealed firearm on private
260 school property if a religious institution, as defined in s.
261 496.404, is located on the property.

262 Section 5. The Legislature of the State of Florida urges
263 the United States Congress and the President of the United
264 States of America, Donald J. Trump, to instruct the United
265 States Bureau of Alcohol, Tobacco, Firearms and Explosives to
266 revisit and review all previous rulings relating to bump stocks
267 and issue a clarifying ruling and a national policy that will
268 apply uniformly to all states.

269 Section 6. Paragraph (e) of subsection (3) of section
270 790.335, Florida Statutes, is amended to read:

271 790.335 Prohibition of registration of firearms; electronic
272 records.—



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273 (3) EXCEPTIONS.—The provisions of this section shall not
274 apply to:

275 (e)1. Records kept pursuant to the recordkeeping provisions
276 of s. 790.065; however, nothing in this section shall be
277 construed to authorize the public release or inspection of
278 records that are made confidential and exempt from the
279 provisions of s. 119.07(1) by s. 790.065(5) (a) ~~s. 790.065(4) (a)~~.

280 2. Nothing in this paragraph shall be construed to allow
281 the maintaining of records containing the names of purchasers or
282 transferees who receive unique approval numbers or the
283 maintaining of records of firearm transactions.

284 Section 7. For the purpose of incorporating the amendment
285 made by this act to section 790.053, Florida Statutes, in a
286 reference thereto, paragraph (b) of subsection (3) of section
287 943.051, Florida Statutes, is reenacted to read:

288 943.051 Criminal justice information; collection and
289 storage; fingerprinting.—

290 (3)

291 (b) A minor who is charged with or found to have committed
292 the following offenses shall be fingerprinted and the
293 fingerprints shall be submitted electronically to the
294 department, unless the minor is issued a civil citation pursuant
295 to s. 985.12:

296 1. Assault, as defined in s. 784.011.

297 2. Battery, as defined in s. 784.03.

298 3. Carrying a concealed weapon, as defined in s. 790.01(1).

299 4. Unlawful use of destructive devices or bombs, as defined
300 in s. 790.1615(1).

301 5. Neglect of a child, as defined in s. 827.03(1) (e).



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302 6. Assault or battery on a law enforcement officer, a
303 firefighter, or other specified officers, as defined in s.
304 784.07(2)(a) and (b).

305 7. Open carrying of a weapon, as defined in s. 790.053.

306 8. Exposure of sexual organs, as defined in s. 800.03.

307 9. Unlawful possession of a firearm, as defined in s.
308 790.22(5).

309 10. Petit theft, as defined in s. 812.014(3).

310 11. Cruelty to animals, as defined in s. 828.12(1).

311 12. Arson, as defined in s. 806.031(1).

312 13. Unlawful possession or discharge of a weapon or firearm
313 at a school-sponsored event or on school property, as provided
314 in s. 790.115.

315 Section 8. For the purpose of incorporating the amendment
316 made by this act to section 790.053, Florida Statutes, in a
317 reference thereto, paragraph (b) of subsection (1) of section
318 985.11, Florida Statutes, is reenacted to read:

319 985.11 Fingerprinting and photographing.—

320 (1)

321 (b) Unless the child is issued a civil citation or is
322 participating in a similar diversion program pursuant to s.
323 985.12, a child who is charged with or found to have committed
324 one of the following offenses shall be fingerprinted, and the
325 fingerprints shall be submitted to the Department of Law
326 Enforcement as provided in s. 943.051(3)(b):

327 1. Assault, as defined in s. 784.011.

328 2. Battery, as defined in s. 784.03.

329 3. Carrying a concealed weapon, as defined in s. 790.01(1).

330 4. Unlawful use of destructive devices or bombs, as defined



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331 in s. 790.1615(1).

332 5. Neglect of a child, as defined in s. 827.03(1)(e).

333 6. Assault on a law enforcement officer, a firefighter, or
334 other specified officers, as defined in s. 784.07(2)(a).

335 7. Open carrying of a weapon, as defined in s. 790.053.

336 8. Exposure of sexual organs, as defined in s. 800.03.

337 9. Unlawful possession of a firearm, as defined in s.
338 790.22(5).

339 10. Petit theft, as defined in s. 812.014.

340 11. Cruelty to animals, as defined in s. 828.12(1).

341 12. Arson, resulting in bodily harm to a firefighter, as
342 defined in s. 806.031(1).

343 13. Unlawful possession or discharge of a weapon or firearm
344 at a school-sponsored event or on school property as defined in
345 s. 790.115.

346

347 A law enforcement agency may fingerprint and photograph a child
348 taken into custody upon probable cause that such child has
349 committed any other violation of law, as the agency deems
350 appropriate. Such fingerprint records and photographs shall be
351 retained by the law enforcement agency in a separate file, and
352 these records and all copies thereof must be marked "Juvenile
353 Confidential." These records are not available for public
354 disclosure and inspection under s. 119.07(1) except as provided
355 in ss. 943.053 and 985.04(2), but shall be available to other
356 law enforcement agencies, criminal justice agencies, state
357 attorneys, the courts, the child, the parents or legal
358 custodians of the child, their attorneys, and any other person
359 authorized by the court to have access to such records. In



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360 addition, such records may be submitted to the Department of Law
361 Enforcement for inclusion in the state criminal history records
362 and used by criminal justice agencies for criminal justice
363 purposes. These records may, in the discretion of the court, be
364 open to inspection by anyone upon a showing of cause. The
365 fingerprint and photograph records shall be produced in the
366 court whenever directed by the court. Any photograph taken
367 pursuant to this section may be shown by a law enforcement
368 officer to any victim or witness of a crime for the purpose of
369 identifying the person who committed such crime.

370 Section 9. This act shall take effect July 1, 2018.

371
372 ===== T I T L E A M E N D M E N T =====

373 And the title is amended as follows:

374 Delete everything before the enacting clause
375 and insert:

376 A bill to be entitled
377 An act relating to weapons and firearms; amending s.
378 790.053, F.S.; deleting a statement of applicability
379 relating to violations of carrying a concealed weapon
380 or firearm; providing civil penalties applicable to a
381 person licensed to carry a concealed weapon or firearm
382 for a first or second violation of specified
383 provisions relating to openly carrying certain
384 weapons; making a fine payable to the clerk of the
385 court; amending s. 790.06, F.S.; providing that a
386 person licensed to carry a concealed weapon or firearm
387 does not violate a certain provision if the firearm
388 becomes openly displayed; authorizing a concealed



117468

389 weapons or concealed firearms licensee to temporarily
390 surrender a weapon or firearm if the licensee
391 approaches courthouse security or management personnel
392 upon arrival at the courthouse and follows their
393 instructions; defining the term "courthouse";
394 preempting to the Legislature certain ordinances,
395 rules, orders, and regulations that conflict with that
396 definition or with certain rights; subjecting the
397 persons or entities responsible for enacting, or
398 causing the enforcement of, preempted ordinances,
399 rules, orders, and regulations to specified penalties;
400 amending s. 790.065, F.S.; requiring the Department of
401 Law Enforcement to include on a standard form certain
402 questions concerning a potential firearm buyer's
403 criminal history or other information relating to the
404 person's eligibility to make a firearm purchase;
405 requiring the department to notify law enforcement
406 officials when a potential sale or transfer receives a
407 nonapproval number and when a nonapproval is reversed
408 on appeal; providing requirements for such notices;
409 amending s. 790.115, F.S.; providing that a person
410 licensed to carry a concealed weapon or concealed
411 firearm is not prohibited by specified laws from such
412 carrying on the property of certain institutions;
413 urging the United States Congress and the President of
414 the United States to instruct the United States Bureau
415 of Alcohol, Tobacco, Firearms and Explosives to
416 revisit and review its rulings relating to bump
417 stocks; amending s. 790.335, F.S.; conforming a cross-



117468

418 reference; reenacting ss. 943.051(3)(b) and
419 985.11(1)(b), F.S., both relating to fingerprinting of
420 a minor for violating specified provisions, to
421 incorporate the amendment made to s. 790.053, F.S., in
422 references thereto; providing an effective date.



271670

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
12/05/2017	.	
	.	
	.	
	.	

The Committee on Judiciary (Powell) recommended the following:

1 **Senate Amendment to Amendment (117468) (with title**
2 **amendment)**

3
4 Delete lines 106 - 108

5 and insert:

6 baggage to be lawfully transported on any aircraft; ~~or~~

7 15. Any place where the carrying of firearms is prohibited
8 by federal law; or

9 16. Any tax collector office.

10
11 ===== T I T L E A M E N D M E N T =====



271670

12 And the title is amended as follows:

13 Delete line 393

14 and insert:

15 instructions; prohibiting a licensee from openly
16 carrying a handgun or carrying a concealed weapon or
17 concealed firearm into a tax collector office;
18 defining the term "courthouse";



277514

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
12/05/2017	.	
	.	
	.	
	.	

The Committee on Judiciary (Powell) recommended the following:

Senate Amendment (with title amendment)

Between lines 66 and 67
insert:
16. Any tax collector office.

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

And the title is amended as follows:

Delete line 7
and insert:
upon arrival and follows their instructions;



12 | prohibiting a licensee from openly carrying a handgun
13 | or carrying a concealed weapon or concealed firearm
14 | into a tax collector office; defining

By Senator Steube

23-00016-18

2018134__

1 A bill to be entitled
 2 An act relating to concealed weapons or firearms;
 3 amending s. 790.06, F.S.; authorizing a concealed
 4 weapons or concealed firearms licensee to temporarily
 5 surrender a weapon or firearm if the licensee
 6 approaches courthouse security or management personnel
 7 upon arrival and follows their instructions; defining
 8 the term "courthouse"; preempting certain ordinances,
 9 rules, orders, and regulations that conflict with that
 10 definition or with certain rights; subjecting the
 11 persons or entities responsible for enacting, or
 12 causing the enforcement of, preempted ordinances,
 13 rules, orders, and regulations to specified penalties;
 14 providing an effective date.
 15
 16 Be It Enacted by the Legislature of the State of Florida:
 17
 18 Section 1. Present subsection (17) of section 790.06,
 19 Florida Statutes, is redesignated as subsection (18), a new
 20 subsection (17) is added to that section, and paragraph (a) of
 21 subsection (12) of that section is amended, to read:
 22 790.06 License to carry concealed weapon or firearm.—
 23 (12) (a) A license issued under this section does not
 24 authorize any person to openly carry a handgun or carry a
 25 concealed weapon or firearm into:
 26 1. Any place of nuisance as defined in s. 823.05;
 27 2. Any police, sheriff, or highway patrol station;
 28 3. Any detention facility, prison, or jail;
 29 4. Any courthouse, except when a licensee approaches

Page 1 of 3

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

23-00016-18

2018134__

30 security or management personnel upon arrival at a courthouse
 31 and notifies them of the presence of the weapon or firearm and
 32 follows the security or management personnel's instructions for
 33 removing, securing, and storing such weapon or firearm, or when
 34 the licensee temporarily surrenders such weapon or firearm to
 35 the security or management personnel, who shall store the weapon
 36 or firearm in a locker, safe, or other secure location and
 37 return the weapon or firearm to the licensee when he or she is
 38 exiting the courthouse;
 39 5. Any courtroom, except that nothing in this section would
 40 preclude a judge from carrying a concealed weapon or determining
 41 who will carry a concealed weapon in his or her courtroom;
 42 6. Any polling place;
 43 7. Any meeting of the governing body of a county, public
 44 school district, municipality, or special district;
 45 8. Any meeting of the Legislature or a committee thereof;
 46 9. Any school, college, or professional athletic event not
 47 related to firearms;
 48 10. Any elementary or secondary school facility or
 49 administration building;
 50 11. Any career center;
 51 12. Any portion of an establishment licensed to dispense
 52 alcoholic beverages for consumption on the premises, which
 53 portion of the establishment is primarily devoted to such
 54 purpose;
 55 13. Any college or university facility unless the licensee
 56 is a registered student, employee, or faculty member of such
 57 college or university and the weapon is a stun gun or nonlethal
 58 electric weapon or device designed solely for defensive purposes

Page 2 of 3

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

23-00016-18

2018134__

59 and the weapon does not fire a dart or projectile;

60 14. The inside of the passenger terminal and sterile area
61 of any airport, provided that no person shall be prohibited from
62 carrying any legal firearm into the terminal, which firearm is
63 encased for shipment for purposes of checking such firearm as
64 baggage to be lawfully transported on any aircraft; or

65 15. Any place where the carrying of firearms is prohibited
66 by federal law.

67 (17) (a) As used in this section, the term "courthouse"
68 means a building in which trials and hearings are conducted on a
69 regular basis. If a building is used primarily for purposes
70 other than the conduct of hearings and trials and housing
71 judicial chambers, the term includes only that portion of the
72 building that is primarily used for hearings and trials and
73 judicial chambers.

74 (b) A local ordinance, administrative rule, administrative
75 order, or regulation that is in conflict with the definition of
76 the term "courthouse" in this subsection or the rights set forth
77 under subparagraph (12) (a)4. is preempted to the Legislature
78 under s. 790.33. The person, justice, judge, county, agency,
79 municipality, district, or other entity that enacts or causes to
80 be enforced a local ordinance, administrative rule,
81 administrative order, or regulation that is preempted is subject
82 to the penalties set forth in s. 790.33, including, but not
83 limited to, civil fines and removal from office by the Governor.

84 Section 2. This act shall take effect July 1, 2018.

THE FLORIDA SENATE
APPEARANCE RECORD

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

12/05/2017

Meeting Date

SB-134

Bill Number (if applicable)

Topic Concealed Firearms/Courthouses

Amendment Barcode (if applicable)

Name Marion P. Hammer

Job Title _____

Address PO Box 1387

Phone 850-222-9518

Street

Tallahassee

FL

32302

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing National Rifle Association & Unified Sportsmen of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

12/5/2017
Meeting Date

SB 134
Bill Number (if applicable)

Topic Guns in Courthouse

Senate Courthouse
Amendment Barcode (if applicable)

Name Linda Miklowitz

Job Title _____

Address 2542 ARTHUR'S COURT
Tallahassee FL 32301
Street City State Zip

Phone 850, 878, 4320

Email LMiklowitz@aol.com

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

11/5/17

Meeting Date

134

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Hannah Willard

Job Title Senior Policy Director

Address 1627 1/2 E Concord St

Phone 407 451 5460

Street

Orlando FL 32803

City

State

Zip

Email hannah@egfl.org

Speaking: For Against Information

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

Representing Equality Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

12/5/17
Meeting Date

134
Bill Number (if applicable)

Topic ~~Open House~~ Courthouse Carry

Amendment Barcode (if applicable)

Name Jamie Ito

Job Title Volunteer, Moms Demand Action

Address 411 Wilson Ave
Street

Phone 284 9517

Tallahassee FL 32303
City State Zip

Email jamie.ito@gmail.com

Speaking: For Against Information

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

Representing Moms Demand Action For Gun Sense in America

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

12-5-17

Meeting Date

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

SB 134

Bill Number (if applicable)

Topic Concealed weapons - courthouse

Amendment Barcode (if applicable)

Name Patricia Brigham

Job Title 1st Vice President

Address 614 Wilking St.

Phone 407-792-2562

City Orlando State FL Zip 32804

Email pattibrigham@gmail.com

Speaking: For Against Information

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

Representing LWV of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

12-5-17
Meeting Date

134
Bill Number (if applicable)

Topic Concealed Weapons

Amendment Barcode (if applicable)

Name Barbara DeBene

Job Title MS

Address 625 E Broadway St
Street

Phone 251-420

Tall FL 32308
City State Zip

Email barbaradebene1@yahoo.com

Speaking: For Against Information

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

Representing FL NOW

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

12/05/2017

134

Meeting Date

Bill Number (if applicable)

Topic COURTHOUSE CARRY
Concealed Weapons and Firearms in Multiuse Facilities;

Amendment Barcode (if applicable)

Name Roy F. Blondeau Jr.

Job Title Attorney at Law

Address 6712 Buck Lake Road

Phone 850-877-9599

Street

Tallahassee

Fl

32317

Email rfbl@comcast.net

City

State

Zip

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

12/5/17
Meeting Date

134
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Angie Grillo

Job Title Legislation Chair

Address 1747 Central Fl Pkwy

Phone _____

Street

Orlando

FL

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

12/05/17
Meeting Date

134
Bill Number (if applicable)

Topic SB 134

Amendment Barcode (if applicable)

Name SCOTT WHIGHAM

Job Title DIRGCTOR

Address _____
Street

Phone _____

City _____ State _____ Zip _____

Email SCOTT.WHIGHAM@FLORIDACARRY.ORG

Speaking: For Against Information

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

Representing FLORIDA CARRY

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

Dec 5

Meeting Date

SB 134

Bill Number (if applicable)

Topic CONCEALED WEAPONS

Amendment Barcode (if applicable)

Name KEITH FLAUGH

Job Title MANAGING DIRECTOR, FLORIDA CITIZENS ALLIANCE

Address 1390 QUINTANA CT

Phone 239-250-3320

Street

MARCO ISLAND FL 34145

Email KEFLAUGH@ME.COM

City

State

Zip

Speaking: [X] For [] Against [] Information

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

Representing FLORIDA CITIZENS ALLIANCE

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

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

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

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THE FLORIDA SENATE APPEARANCE RECORD

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

12-5-17

134

Meeting Date

Bill Number (if applicable)

Topic Concealed Weapons or Firearms

Amendment Barcode (if applicable)

Name Paul Henry

Job Title _____

Address PO Box 698

Phone 850-629-9550

Street

Monticello

FL

32345

Email paul@libertyfirstfl.org

City

State

Zip

Speaking: For Against Information

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

Representing Liberty First Network

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

12-5-17
Meeting Date

SB 134
Bill Number (if applicable)

Topic Concealed Firearms

Amendment Barcode (if applicable)

Name Eric Friday

Job Title General Counsel

Address 118 W Adams St STE 320
Street

Phone 904-722-8333

Jax FL 32202
City State Zip

Email efriday@ericfriday.com

Speaking: For Against Information

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

Representing Florida Carry

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

12/5/17

Meeting Date

SB 134

Bill Number (if applicable)

117468

Amendment Barcode (if applicable)

Topic Concealed Weapons or Firearms

Name Paul Henry

Job Title _____

Address PO Box 698

Phone 850-629-9550

Street

Monticello

FL

32345

Email paul@libertyfirstfl.org

City

State

Zip

Speaking: For Against Information

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

Representing Liberty First Network

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

12-5-17

Meeting Date

SB134

Bill Number (if applicable)

117468

Amendment Barcode (if applicable)

Topic Concealed Firearms

Name Eric Friday

Job Title General Counsel

Address 118 W. Adams STE 320

Street

Phone 904-722-3333

Jax

City

FL

State

32202

Zip

Email efriday@ericfriday.com

Speaking: For Against Information

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

Representing Florida Carry

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

1205/2017

Meeting Date

SB 134

Bill Number (if applicable)

117468

Amendment Barcode (if applicable)

Topic Amendments to SB 134

Name Scott Whigham

Job Title Training Director

Address 6349 Fordham Circle East

Street

Jacksonville

City

FL

State

32217

Zip

Phone

Email scott.whigham@floridacarry.org

Speaking: For Against Information

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

Representing

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

12/5/17
Meeting Date

134
Bill Number (if applicable)
117468
Amendment Barcode (if applicable)

Topic _____

Name Angie Gallo

Job Title Legislation Chair

Address 1747 Orlando Central PKWY Phone _____
Street

Orl FL 3280 Email _____
City State Zip

Speaking: For Against Information

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

Representing Florida PTA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/5
Meeting Date

134
Bill Number (if applicable)

117468
Amendment Barcode (if applicable)

Topic Strike-all amendment

Name Hannah Willard

Job Title Senior Policy Director

Address 1627 1/2 E Concord St
Street

Phone _____

Orlando FL 32803
City State Zip

Email hannah@eqfl.org

Speaking: For Against Information

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

Representing Equality Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE

APPEARANCE RECORD

12-5-17
Meeting Date

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

SB 134
Bill Number (if applicable)

Topic SB134 - Strikeall Amendment

1172/68
Amendment Barcode (if applicable)

Name PATRICIA BRIBHAM

Job Title 1st VP

Address 614 W. King St.
Street

Phone 407-297-2562

Orlando 32804
City State Zip

Email

Speaking: For Against Information

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

Representing

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

12/05/2017

Meeting Date

SB-134

Bill Number (if applicable)

117468 - Steube

Amendment Barcode (if applicable)

Topic Concealed Firearms/Courthouses

Name Marion P. Hammer

Job Title

Address PO Box 1387

Phone 850-222-9518

Street

Tallahassee

FL

32302

Email

City

State

Zip

Speaking: [X] For [] Against [] Information

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

Representing National Rifle Association & Unified Sportsmen of Florida

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

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

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

12/5/17
Meeting Date

134
~~134~~

Bill Number (if applicable)

Topic Concealed Weapons

steube strike-all
Amendment Barcode (if applicable)

Name Doug Bell

~~117468~~
117468

Job Title _____

Address 119 S. Monroe St.
Street

Phone 205-9000

TLH
City State Zip

Email doug.bell@mhdfirm.com

Speaking: For Against Information

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

Representing Pediatricians - Florida Chapter American Academy

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

11/5/17
Meeting Date

W/D

Bill Number (if applicable) 34
Amendment Barcode (if applicable) 597522

Topic Background checks amendment

Name Hannah Willard

Job Title Senior Policy Director

Address 1627 1/2 E Concord St
Street

Phone 407 401 5466

Orlando
City

FL
State

32803
Zip

Email hannah@eqfl.org

Speaking: For Against Information

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

Representing Equality Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

12/5/17
Meeting Date

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

¹³⁴
~~597522~~
Bill Number (if applicable)

Topic Background check Amendment

597522
Amendment Barcode (if applicable)

Name Patricia Brittan

Job Title 1st VP

Address 614 W. King St.
Street

Phone 407-777-2802

Orlando FL 32804
City State Zip

Email _____

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

139
Bill Number (if applicable)

Topic Background checks

597522
Amendment Barcode (if applicable)

Name Angie Gallo

Job Title Legislation CMAA

Address 1747 Central A Pkwy

Phone _____

Street

Orl
City

FL
State

Zip

Email _____

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

12/05/2017

Meeting Date

SB-134

Bill Number (if applicable)

277514 - Powell

Amendment Barcode (if applicable)

Topic Concealed Firearms/Courthouses

Name Marion P. Hammer

Job Title _____

Address PO Box 1387

Street

Tallahassee

City

FL

State

32302

Zip

Phone 850-222-9518

Email _____

Speaking: For Against Information

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

Representing National Rifle Association & Unified Sportsmen of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

12/5/17
Meeting Date

SB 134
Bill Number (if applicable)
277514
Amendment Barcode (if applicable)

Topic Concealed Weapons or Firearms

Name Paul Henry

Job Title _____

Address PO Box 698

Phone 850-629-9550

Street

Monticello

FL

32345

Email paul@libertyfirstfl.org

City

State

Zip

Speaking: For Against Information

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

Representing Liberty First Network

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE APPEARANCE RECORD

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12/05/2017

Meeting Date

SB-134

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277514 - Powell

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Name Marion P. Hammer

Job Title _____

Address PO Box 1387

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FL

32302

Email _____

City

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Speaking: For Against Information

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

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Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
APPEARANCE RECORD

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

12-5-17

Meeting Date

SB 134

Bill Number (if applicable)

277514

Amendment Barcode (if applicable)

Topic Concealed Fire arms

Name Eric Friday

Job Title General Counsel

Address 118 W Adams St STE 320

Phone 904-722-3333

Street

Jax

City

FL

State

32202

Zip

Email efriday@ericfriday.com

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

12-05-2017
Meeting Date

SB134
Bill Number (if applicable)

277514
Amendment Barcode (if applicable)

Topic CNL in Jax Collector Office

Name Lisa Cullen

Job Title Tax Collector, Brevard County

Address 400 South St 6th Floor
Street

Phone 321-264-6930

Titusville FL 32780
City State Zip

Email Lisa.Cullen@Brevardtc.com

Speaking: For Against Information

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

Representing My Office and Myself

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

12-05-2014
Meeting Date

134
Bill Number (if applicable)
277514
Amendment Barcode (if applicable)

Topic _____

Name DARLE JEAN JORDAN

Job Title Tax Collector - Indian River

Address P.O. Box 1509

Phone 772-226-1334

Vero Beach FL 32961
City State Zip

Email djordan@IRITAX.COM

Speaking: For Against Information

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

Representing myself

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE APPEARANCE RECORD

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

12/5/17
Meeting Date

SB 134
Bill Number (if applicable)

271670
Amendment Barcode (if applicable)

Topic Concealed Weapons or Firearms

Name Paul Henry

Job Title _____

Address PO Box 698

Phone 850-629-9550

Street

Monticello

FL

32345

Email paul@libertyfirstfl.org

City

State

Zip

Speaking: For Against Information

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

Representing Liberty First Network

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

12-5-17

Meeting Date

SB 134

Bill Number (if applicable)

271670

Amendment Barcode (if applicable)

Topic Concealed Firearms

Name Eric Friday

Job Title General Counsel

Address 118 W. Adams St

Street

Jax FL

City

State

32202

Zip

Phone 904-722-3333

Email _____

Speaking: For Against Information

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

Representing Florida Carry

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: SB 148

INTRODUCER: Senator Steube

SUBJECT: Weapons and Firearms

DATE: November 13, 2017 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stallard	Cibula	JU	Unfavorable
2.			GO	
3.			RC	

I. Summary:

SB 148 modifies the nature and consequences of a violation of the ban on openly carrying a firearm by a person who has a license to carry a concealed weapon or firearm. The bill also clarifies the manner in which a legally concealed firearm may briefly be displayed without violating the open-carry ban.

Under current law, any person who violates the ban on openly carrying a firearm commits a second degree misdemeanor. Under the bill, a person who has a concealed weapon or firearm license commits a noncriminal violation of the ban for a first or second violation. The penalties for these violations are \$25 for the first violation and \$500 for the second. A third or subsequent violation by a licensee is a second degree misdemeanor.

Current law provides that a licensee who briefly displays his or her firearm in a certain manner does not violate the ban on the open carry of firearms. However, the terms of this “safe harbor” are set forth in a complex, 63-word sentence that may be open to different interpretations. The sentence might be read to mean that the safe harbor applies only when a firearm is displayed in necessary self-defense. Thus, an inadvertent display of a firearm would not be protected by the safe harbor; however, the revised language covers inadvertent displays. Additionally, the bill removes the safe harbor’s express requirement that the brief display not be “in an angry or threatening manner.” Nonetheless, the display of a firearm in an angry or threatening manner remains prohibited by other laws.

II. Present Situation:

Overview

In general, the open carry of a firearm is illegal. A person who violates the ban on openly carrying a firearm commits a second degree misdemeanor, regardless of whether he or she has a

concealed-carry license. However, not every display of a firearm by a licensee constitutes a violation of the open-carry ban. A licensee does not violate the ban by a brief display of the type described in statute.

Lawful Brief Display of a Firearm by a Concealed-Carry Licensee

In general, carrying a firearm openly is a second degree misdemeanor, punishable by up to 60 days in jail and a fine not to exceed \$500.¹ However, the statute banning the open carry of a firearm provides a safe harbor from criminal liability for a brief display of a firearm by a licensee. The safe harbor protects a licensee:

[W]ho is lawfully carrying a firearm in a concealed manner [and] briefly and openly display[s] the firearm to the ordinary sight of another person, unless the firearm is intentionally displayed in an angry or threatening manner, not in necessary self-defense.²

This language is not completely clear. It might be read to require that a display of a firearm be in necessary self-defense. As a result of this narrow reading, the inadvertent display of a concealed firearm might subject a person to arrest for violating the open-carry ban. Also, the statute might be read to ban any display that is “angry or threatening,” regardless of whether such a display would be necessary to defend oneself.

Concealed Carry of Weapons or Firearms

Concealed Carry Generally Prohibited

In general, a person who does not have a concealed-carry license and who carries a concealed firearm commits a third degree felony.³ And an unlicensed person who carries other types of concealed weapons, or a concealed electric weapon or device, commits a first degree misdemeanor.⁴ This prohibition on the possession of a concealed weapon or firearm is subject to exceptions, including this state’s concealed-carry licensing scheme.⁵

¹ Sections 775.082(4)(b) and 775.083(1)(e), F.S. Neither “openly carrying,” “open carry,” nor any derivation of these terms is defined in the Florida Statutes. The ban on open carrying of firearms is subject to exceptions. Specifically, s. 790.25(3), F.S., sets forth a long and diverse list of persons who are not subject to the ban on openly carrying a firearm, including on-duty law enforcement officers, persons who are hunting, fishing or camping, and investigators of a public defender or state attorney.

² Section 790.053(1), F.S.

³ A third degree felony is punishable by a prison sentence not to exceed 5 years and a \$5,000 fine. Sections 775.082(3)(e), and 775.083(1)(c), F.S. Section 790.02, F.S., provides that the carrying of a concealed firearm in violation of section 790.01, F.S., constitutes a breach of peace, for which an officer may make a warrantless arrest if the officer has “reasonable grounds or probable cause to believe that the offense of carrying a concealed weapon is being committed.”

⁴ A first degree misdemeanor is punishable by a jail sentence not to exceed 1 year and a \$1,000 fine. Sections 775.082(4)(a), 775.083(1)(d), F.S.

⁵ Section 790.25(3), F.S., sets forth a long and diverse list of persons who are not subject to the licensing scheme, and who apparently may carry concealed without a license, including on-duty law enforcement officers, persons who are hunting, fishing or camping, and investigators of a public defender or state attorney, just to name a few.

Licensed Concealed Carry

Florida's concealed carry licensing scheme is set forth at s. 790.06, F.S. The license only permits the concealed carry of handguns and certain non-firearm weapons.⁶ Currently, over 1.8 million Floridians hold a standard concealed-carry license.⁷

To obtain a license, one must submit an application to the Department of Agriculture and Consumer Services. The Department *must* grant this license to each applicant who:⁸

- Is a resident of the United States and a citizen of the United States or a permanent resident alien of the United States, as determined by the United States Bureau of Citizenship and Immigration Services, or is a consular security official of a foreign government that maintains diplomatic relations and treaties of commerce, friendship, and navigation with the United States and is certified as such by the foreign government and by the appropriate embassy in this country;
- Is 21 years of age or older;
- Does not suffer from a physical infirmity which prevents the safe handling of a weapon or firearm;
- Is not ineligible to possess a firearm by virtue of having been convicted of a felony;
- Has not been committed for the abuse of a controlled substance or been found guilty of a crime relating to controlled substances within a 3-year period immediately preceding the date on which the application is submitted;
- Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired;
- Desires a legal means to carry a concealed weapon or firearm for lawful self-defense;
- Demonstrates competence with a firearm;⁹
- Has not been adjudicated an incapacitated person in a guardianship proceeding, unless 5 years have elapsed since the applicant's restoration to capacity by court order;
- Has not been committed to a mental institution, unless the applicant produces a certificate from a licensed psychiatrist that he or she has not suffered from disability for at least 5 years before the date of submission of the application;
- Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony, or any misdemeanor crime of domestic violence, unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or expunction has occurred;
- Has not been issued an injunction that is currently in force and effect and that restrains the applicant from committing acts of domestic violence or acts of repeat violence; and
- Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.

⁶ "For the purposes of this section, concealed firearms and concealed weapons are defined as a handgun, electronic weapon or device, tear gas gun, knife, or billie, but the term does not include a machine gun." Section 790.06(1), F.S.

⁷ As of October 31, 2017, 1,812,542 Floridians held a standard concealed carry license. Fla. Dept. of Ag., *Number of Licensees by Type*, http://www.freshfromflorida.com/content/download/7471/118627/Number_of_Licensees_By_Type.pdf (last visited November 3, 2017).

⁸ Section 790.06(2), F.S. Accordingly, Florida is referred to as a "shall-issue" state, as opposed to a "may-issue" state. Also, the Department must deny a license to an applicant who meets criteria set forth in s. 790.06(3), F.S.

⁹ See s. 790.06(2)(h), F.S., for the list of courses and other means of demonstrating competency and for the required documentation that one must present to the state relative to the provision.

The licensing statute states that a “person in compliance with the terms of such license may carry a concealed weapon or concealed firearm notwithstanding the [ban on the concealed carry of a weapon or firearm].”¹⁰

However, the statute also expressly states that the license does not permit a licensee to carry into any of a long list of places set forth in the statute, including K-12 facilities, college or university facilities, courthouses, bars, airport terminals, several types of government meetings, and any place prohibited by federal law.¹¹ If a licensee carries into any of these places without independent justification,¹² he or she commits a second degree misdemeanor, punishable by up to 60 days in jail and a fine not to exceed \$500.¹³

III. Effect of Proposed Changes:

Violation of the Prohibition on the Open Carry of a Firearm

Under current law, the open carry of a firearm is generally prohibited, constituting a second degree misdemeanor, punishable by up to 60 days in jail and a fine not to exceed \$500.¹⁴

The bill modifies the nature and consequences of a violation of the open-carry ban *by a person who has a concealed weapons and firearms license*. Under the bill, a licensee’s first two violations of the open-carry ban are non-criminal offenses. The first violation has a penalty of \$25, and the second has a penalty of \$500. A licensee’s third violation is a second degree misdemeanor, punishable by 60 days in jail and a fine not to exceed \$500. Under current law, any violation of the open carry ban by any person is a second degree misdemeanor.¹⁵

Lawful Temporary and Open Display of Firearm by Concealed-Carry Licensees

The bill, like current law, specifies that a concealed-carry licensee who is lawfully carrying concealed, then briefly displays a firearm in the manner described in statute, does not violate the statute banning the open carry of firearms. However, the bill clarifies this “safe harbor,” which currently states that a licensee does not violate the statute if he or she “briefly and openly display[s] the firearm to the ordinary sight of another person, unless the firearm is intentionally displayed in an angry or threatening manner, not in necessary self-defense.”¹⁶

This language is unclear as to whether the display must be in self-defense and as to whether a necessary-self-defense display is prohibited if it is “angry or threatening.”

¹⁰ Section 790.06(1), F.S.

¹¹ Section 790.06(12)(a), F.S.

¹² For example, s. 790.25(3), F.S. authorizes the persons there listed to carry concealed without a license and expressly exempts these persons from the licensing statute. Therefore, a licensee who is also one of the persons listed at section 790.25(3), F.S., might have an independent justification to carry into the places listed in the licensing statute as place into which a license not authorize carrying a weapon or firearm.

¹³ Note that this does not appear to be the type of crime that would be grounds for the revocation of the license pursuant to s. 790.06(3), F.S.

¹⁴ Sections 775.082(4)(b), 775.083(1)(e), F.S. Neither “openly carrying,” “open carry,” nor any derivation of these terms is defined in the Florida Statutes.

¹⁵ Under the bill, a non-licensee who violates the open-carry ban is treated just as he or she would be under current law.

¹⁶ Section 790.053(1), F.S.

Accordingly, one revision made by the bill is the removal of the language relating to “angry or threatening” displays. However, this change does not mean that a licensee may temporarily display his or her weapon in an angry or threatening manner whenever he or she chooses. For instance, by displaying a firearm in an angry and threatening manner without justification, one may commit an aggravated assault.¹⁷ Additionally, the display of a firearm in an “angry[] or threatening manner, not in necessary self-defense,” remains prohibited under another statute not affected by the bill, s. 790.10, F.S.

Also, the bill clarifies that the brief display of a firearm by a licensee no longer needs to be in self-defense. Thus, a licensee whose firearm is temporarily and *inadvertently* displayed should be within the safe harbor.

Finally, the bill expressly states that a licensee who temporarily and openly displays a firearm may not be arrested or charged with a criminal or noncriminal violation of the statute banning the open carry of firearms.

Effective Date

The bill takes effect July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹⁷ See ss. 784.011 and 784.021, F.S.

B. Private Sector Impact:

The bill reduces penalties for a concealed-carry licensee's first two violations of the ban on open carry of a firearm from a second degree misdemeanor to a non-criminal offense, punishable by a \$25 fine for a first offense and a \$500 fine for a second offense.

C. Government Sector Impact:

By reducing penalties for non-violent offenses with a firearm, the bill may reduce the burden on the court system, as well as on prosecutors and public defenders.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 790.053 and 790.06.

This bill re-enacts the following sections of the Florida Statutes: 943.051 and 985.11.

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

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

None.

B. Amendments:

None.

By Senator Steube

23-00015-18

2018148__

1 A bill to be entitled
 2 An act relating to weapons and firearms; amending s.
 3 790.053, F.S.; deleting a statement of applicability
 4 relating to violations of carrying a concealed weapon
 5 or firearm; reducing the penalties applicable to a
 6 person licensed to carry a concealed weapon or firearm
 7 for a first or second violation of specified
 8 provisions relating to openly carrying weapons; making
 9 a fine payable to the clerk of the court; amending s.
 10 790.06, F.S.; providing that a person licensed to
 11 carry a concealed weapon or firearm does not violate
 12 certain provisions if the firearm is temporarily and
 13 openly displayed; reenacting ss. 943.051(3)(b) and
 14 985.11(1)(b), F.S., both relating to fingerprinting of
 15 a minor for violating specified provisions, to
 16 incorporate the amendment made to s. 790.053, F.S., in
 17 references thereto; providing an effective date.
 18
 19 Be It Enacted by the Legislature of the State of Florida:
 20
 21 Section 1. Section 790.053, Florida Statutes, is amended to
 22 read:
 23 790.053 Open carrying of weapons.—
 24 (1) Except as otherwise provided by law and in subsection
 25 (2), it is unlawful for any person to openly carry on or about
 26 his or her person any firearm or electric weapon or device. ~~It~~
 27 ~~is not a violation of this section for a person licensed to~~
 28 ~~carry a concealed firearm as provided in s. 790.06(1), and who~~
 29 ~~is lawfully carrying a firearm in a concealed manner, to briefly~~

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

23-00015-18

2018148__

30 ~~and openly display the firearm to the ordinary sight of another~~
 31 ~~person, unless the firearm is intentionally displayed in an~~
 32 ~~angry or threatening manner, not in necessary self-defense.~~
 33 (2) A person may openly carry, for purposes of lawful self-
 34 defense:
 35 (a) A self-defense chemical spray.
 36 (b) A nonlethal stun gun or dart-firing stun gun or other
 37 nonlethal electric weapon or device that is designed solely for
 38 defensive purposes.
 39 (3) (a) A ~~Any~~ person violating this section who is not
 40 licensed under s. 790.06 commits a misdemeanor of the second
 41 degree, punishable as provided in s. 775.082 or s. 775.083.
 42 (b) A person violating this section who is licensed under
 43 s. 790.06 commits:
 44 1. A noncriminal violation with a penalty of:
 45 a. Twenty-five dollars, payable to the clerk of the court,
 46 for a first violation; or
 47 b. Five hundred dollars, payable to the clerk of court, for
 48 a second violation.
 49 2. A misdemeanor of the second degree, punishable as
 50 provided in s. 775.082 or s. 775.083, for a third or subsequent
 51 violation.
 52 Section 2. Subsection (1) of section 790.06, Florida
 53 Statutes, is amended to read:
 54 790.06 License to carry concealed weapon or firearm.—
 55 (1) The Department of Agriculture and Consumer Services is
 56 authorized to issue licenses to carry concealed weapons or
 57 concealed firearms to persons qualified as provided in this
 58 section. Each such license must bear a color photograph of the

Page 2 of 6

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

23-00015-18 2018148__

59 licensee. For the purposes of this section, concealed weapons or
 60 concealed firearms are defined as a handgun, electronic weapon
 61 or device, tear gas gun, knife, or billie, but the term does not
 62 include a machine gun as defined in s. 790.001(9). Such licenses
 63 shall be valid throughout the state for a period of 7 years
 64 ~~after~~ ~~from~~ the date of issuance. Any person in compliance with
 65 the terms of such license may carry a concealed weapon or
 66 concealed firearm notwithstanding the provisions of s. 790.01.
 67 The licensee must carry the license, together with valid
 68 identification, at all times in which the licensee is in actual
 69 possession of a concealed weapon or firearm and must display
 70 both the license and proper identification upon demand by a law
 71 enforcement officer. A person licensed to carry a concealed
 72 firearm under this section whose firearm is temporarily and
 73 openly displayed to the ordinary sight of another person does
 74 not violate s. 790.053 and may not be arrested or charged with a
 75 noncriminal or criminal violation of s. 790.053. Violations of
 76 the provisions of this subsection shall constitute a noncriminal
 77 violation with a penalty of \$25, payable to the clerk of the
 78 court.

79 Section 3. For the purpose of incorporating the amendment
 80 made by this act to section 790.053, Florida Statutes, in a
 81 reference thereto, paragraph (b) of subsection (3) of section
 82 943.051, Florida Statutes, is reenacted to read:

83 943.051 Criminal justice information; collection and
 84 storage; fingerprinting.—

85 (3)

86 (b) A minor who is charged with or found to have committed
 87 the following offenses shall be fingerprinted and the

23-00015-18 2018148__

88 fingerprints shall be submitted electronically to the
 89 department, unless the minor is issued a civil citation pursuant
 90 to s. 985.12:
 91 1. Assault, as defined in s. 784.011.
 92 2. Battery, as defined in s. 784.03.
 93 3. Carrying a concealed weapon, as defined in s. 790.01(1).
 94 4. Unlawful use of destructive devices or bombs, as defined
 95 in s. 790.1615(1).
 96 5. Neglect of a child, as defined in s. 827.03(1)(e).
 97 6. Assault or battery on a law enforcement officer, a
 98 firefighter, or other specified officers, as defined in s.
 99 784.07(2)(a) and (b).
 100 7. Open carrying of a weapon, as defined in s. 790.053.
 101 8. Exposure of sexual organs, as defined in s. 800.03.
 102 9. Unlawful possession of a firearm, as defined in s.
 103 790.22(5).
 104 10. Petit theft, as defined in s. 812.014(3).
 105 11. Cruelty to animals, as defined in s. 828.12(1).
 106 12. Arson, as defined in s. 806.031(1).
 107 13. Unlawful possession or discharge of a weapon or firearm
 108 at a school-sponsored event or on school property, as provided
 109 in s. 790.115.

110 Section 4. For the purpose of incorporating the amendment
 111 made by this act to section 790.053, Florida Statutes, in a
 112 reference thereto, paragraph (b) of subsection (1) of section
 113 985.11, Florida Statutes, is reenacted to read:

114 985.11 Fingerprinting and photographing.—

115 (1)

116 (b) Unless the child is issued a civil citation or is

23-00015-18 2018148__

117 participating in a similar diversion program pursuant to s.
 118 985.12, a child who is charged with or found to have committed
 119 one of the following offenses shall be fingerprinted, and the
 120 fingerprints shall be submitted to the Department of Law
 121 Enforcement as provided in s. 943.051(3)(b):

- 122 1. Assault, as defined in s. 784.011.
- 123 2. Battery, as defined in s. 784.03.
- 124 3. Carrying a concealed weapon, as defined in s. 790.01(1).
- 125 4. Unlawful use of destructive devices or bombs, as defined
 126 in s. 790.1615(1).
- 127 5. Neglect of a child, as defined in s. 827.03(1)(e).
- 128 6. Assault on a law enforcement officer, a firefighter, or
 129 other specified officers, as defined in s. 784.07(2)(a).
- 130 7. Open carrying of a weapon, as defined in s. 790.053.
- 131 8. Exposure of sexual organs, as defined in s. 800.03.
- 132 9. Unlawful possession of a firearm, as defined in s.
 133 790.22(5).
- 134 10. Petit theft, as defined in s. 812.014.
- 135 11. Cruelty to animals, as defined in s. 828.12(1).
- 136 12. Arson, resulting in bodily harm to a firefighter, as
 137 defined in s. 806.031(1).
- 138 13. Unlawful possession or discharge of a weapon or firearm
 139 at a school-sponsored event or on school property as defined in
 140 s. 790.115.

141

142 A law enforcement agency may fingerprint and photograph a child
 143 taken into custody upon probable cause that such child has
 144 committed any other violation of law, as the agency deems
 145 appropriate. Such fingerprint records and photographs shall be

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146 retained by the law enforcement agency in a separate file, and
 147 these records and all copies thereof must be marked "Juvenile
 148 Confidential." These records are not available for public
 149 disclosure and inspection under s. 119.07(1) except as provided
 150 in ss. 943.053 and 985.04(2), but shall be available to other
 151 law enforcement agencies, criminal justice agencies, state
 152 attorneys, the courts, the child, the parents or legal
 153 custodians of the child, their attorneys, and any other person
 154 authorized by the court to have access to such records. In
 155 addition, such records may be submitted to the Department of Law
 156 Enforcement for inclusion in the state criminal history records
 157 and used by criminal justice agencies for criminal justice
 158 purposes. These records may, in the discretion of the court, be
 159 open to inspection by anyone upon a showing of cause. The
 160 fingerprint and photograph records shall be produced in the
 161 court whenever directed by the court. Any photograph taken
 162 pursuant to this section may be shown by a law enforcement
 163 officer to any victim or witness of a crime for the purpose of
 164 identifying the person who committed such crime.

165 Section 5. This act shall take effect July 1, 2018.

THE FLORIDA SENATE
APPEARANCE RECORD

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

12/05/2017

Meeting Date

SB 148

Bill Number (if applicable)

Topic SB 148

Amendment Barcode (if applicable)

Name Scott Whigham

Job Title Director

Address 6949 Fordham Circle East

Phone _____

Street

Jacksonville

FL

32217

Email scott.whigham@floridacarry.org

City

State

Zip

Speaking: For Against Information

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

Representing Florida Carry, Inc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

12/5/17
Meeting Date

148
Bill Number (if applicable)

Topic Open Carry

Amendment Barcode (if applicable)

Name Jamie Ito

Job Title Volunteer, Moms Demand Action

Address 411 Wilson Ave
Street

Phone jamie.ito@gmail.com

Tallahassee FL 32303
City State Zip

Email 284 9517

Speaking: For Against Information

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

Representing Moms Demand Action for Gun Sense in America

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

12-5-17

Meeting Date

SB148

Bill Number (if applicable)

Topic Weapons & Firearms

Amendment Barcode (if applicable)

Name Patricia Brigham

Job Title ~~City Working St.~~ 1st Vice President

Address 614 Wilking St.

Phone 407-997-2562

City Orlando State FL Zip 32804

Email patbrigham@gmail

Speaking: For Against Information

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

Representing LWV of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

12-5-17

Meeting Date

148

Bill Number (if applicable)

Topic Jobanna's Dream

Amendment Barcode (if applicable)

Name Barbara Deane

Job Title MS

Address 625 E Broadway St

Phone 281-4280

Street

City

Tallah

State

FL

Zip

32308

Email barbaradeane@johns.com

Speaking: For Against Information

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

Representing FL MSW

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

12-5-17

Meeting Date

SB 148

Bill Number (if applicable)

Topic Concealed Firearms

Amendment Barcode (if applicable)

Name Eric Friday

Job Title General Counsel

Address 118 W Adams St STE 320

Phone 904-722-3333

Street

Jax

City

FL

State

32202

Zip

Email efriday@ericfriday.com

Speaking: For Against Information

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

Representing Florida Carry

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

12/5/2017
Meeting Date

SB 148
Bill Number (if applicable)
Gun Carries
Penalty
Amendment Barcode (if applicable)

Topic Penalties for unlawful carry

Name Linda Miklowitz

Job Title _____

Address 2542 Arthur's Court
Street

Phone 850.878.4320

Tallahassee FL 32301
City State Zip

Email LMiklowitz@aol.com

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

Dec 5
Meeting Date

SB 148
Bill Number (if applicable)

Topic WEAPONS & FIREARM

Amendment Barcode (if applicable)

Name KEITH FLAUGH

Job Title MANAGING DIRECTOR, FLORIDA CITIZENS ALLIANCE

Address 1398 QUINLAN CT
Street

Phone 239-250-3320

MARCO ISLAND, FL 34145
City State Zip

Email KOFLAUGH@me.com

Speaking: For Against Information

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

Representing FLORIDA CITIZENS ALLIANCE

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

12/05/2017

Meeting Date

148

Bill Number (if applicable)

Topic Concealed Weapons-Open Carry

Amendment Barcode (if applicable)

Name Roy F. Blondeau Jr.

Job Title Attorney at Law

Address 6712 Buck Lake Road

Phone 850-877-9599

Street

Tallahassee

FL

32317

Email rfbl@comcast.net

City

State

Zip

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

LCS/2013/03/01

THE FLORIDA SENATE
APPEARANCE RECORD

12/5/17

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

148

Meeting Date

Bill Number (if applicable)

Topic Weapons and Firearms

Amendment Barcode (if applicable)

Name Amy Mercer

Job Title Executive Director

Address PO Box 14038

Phone 850-219-3631

Street

Tallahassee

FL

32317

Email amercer@fpca.com

City

State

Zip

Speaking: For Against Information

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

Representing The Florida Police Chiefs Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

12/05/2017

Meeting Date

SB-148

Bill Number (if applicable)

Topic Open Carry of Firearms/Prohibit Abuse

Amendment Barcode (if applicable)

Name Marion P. Hammer

Job Title

Address PO Box 1387

Phone 850-222-9518

Street

Tallahassee

FL

32302

Email

City

State

Zip

Speaking: [X] For [] Against [] Information

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

Representing National Rifle Association & Unified Sportsmen of Florida

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

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

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

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THE FLORIDA SENATE APPEARANCE RECORD

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

12-5-17

Meeting Date

148

Bill Number (if applicable)

Topic Weapons and Firearms

Amendment Barcode (if applicable)

Name Paul Henry

Job Title _____

Address PO Box 698

Phone 850-629-9550

Street

Monticello

FL

32345

Email paul@libertyfirstfl.org

City

State

Zip

Speaking: For Against Information

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

Representing Liberty First Network

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

CourtSmart Tag Report

Room: EL 110

Case No.:

Type:

Caption: Senate Judiciary Committee Judge:

Started: 12/5/2017 2:04:00 PM

Ends: 12/5/2017 3:46:47 PM Length: 01:42:48

2:04:03 PM Meeting called to order by Chair Steube
2:04:20 PM Roll call by Administrative Assistant Joyce Butler
2:04:26 PM Quorum present
2:04:32 PM Comments from Chair Steube
2:04:51 PM Introduction of SB 220 by Chair Steube
2:05:12 PM Explanation of SB 220 by Senator Passidomo
2:05:47 PM Kenneth Pratt, Senior Vice President of Governmental Affairs, Florida Bankers Association waives in support
2:05:51 PM Senator Passidomo waives closure
2:06:00 PM Roll call on SB 220 by Administrative Assistant Joyce Butler
2:06:00 PM
2:06:24 PM SB 220 reported favorably
2:06:35 PM Introduction of SB 760 by Chair Steube
2:06:51 PM Explanation of SB 760 by Senator Bean
2:07:17 PM Question from Senator Powell
2:07:26 PM Response from Senator Bean
2:09:34 PM Follow-up question from Senator Powell
2:09:42 PM Response from Senator Bean
2:10:13 PM Follow-up question from Senator Powell
2:10:18 PM Response from Senator Bean
2:10:47 PM Question from Senator Gibson
2:11:01 PM Response from Senator Bean
2:11:34 PM Brewster Bevis, Senior Vice President, Associated Industries of Florida waives in support
2:11:44 PM Carlos Muniz, Partner, McGuire Woods, AIF for information only
2:11:55 PM Senator Bean waives closure
2:12:15 PM Roll call on SB 760 by Administrative Assistant Joyce Butler
2:12:25 PM SB 760 reported favorably
2:12:36 PM SB 512 introduced by Chair Steube
2:12:46 PM Explanation of SB 512 by Senator Young
2:13:50 PM Michael Dobson, Attorney, Florida Bar, Real Property Section waives in support
2:14:35 PM Debate by Senator Gibson
2:14:44 PM Closure by Senator Young
2:15:54 PM Roll call on SB 512 by Administrative Assistant Joyce Butler
2:16:07 PM SB 512 reported favorably
2:16:20 PM SB 274 introduced by Chair Steube
2:16:32 PM Explanation of SB 274 by Senator Stargel
2:17:31 PM Question from Senator Powell
2:18:13 PM Response from Senator Stargel
2:18:52 PM Question from Senator Garcia
2:19:06 PM Response from Senator Stargel
2:20:13 PM Scott Whigham, Director, Florida Carry waives in support

2:20:24 PM Angie Gallo, Florida PTA waives in opposition
2:20:31 PM Eric Friday, General Counsel, Florida Carry waives in support
2:21:26 PM Speaker Roy F. Blondeau, Jr. in opposition
2:24:43 PM Speaker Keith Flaugh, Managing Director, Florida Citizens Alliance in support
2:25:22 PM Speaker Patricia Brigham, 1st Vice President, League of Women Voters in opposition
2:26:18 PM Speaker Kate Kile, Moms Demand Action in opposition
2:27:59 PM Speaker Paul Henry, Liberty First Network in support
2:28:06 PM Barbara DeVane, Florida NOW waives in opposition
2:28:13 PM Amber Kelly, Director of Policy & Communications, Florida Family Action waives in support
2:28:23 PM Doug Bell, Florida Chapter American Academy of Pediatrics waives in opposition
2:29:13 PM Speaker Marion Hammer, National Rifle Association & Unified Sportsmen of Florida in support
2:30:26 PM Linda Miklowitz waives in opposition
2:30:47 PM Senator Garcia in debate
2:31:57 PM Senator Gibson in debate
2:33:23 PM Senator Mayfield in Debate in support of Bill
2:34:48 PM
2:34:55 PM Closure by Senator Stargel
2:36:16 PM Roll call on SB 274 by Administrative Assistant Joyce Butler
2:36:52 PM SB 274 is reported unfavorably
2:37:12 PM Chair passed to Senator Benacquisto
2:37:19 PM Introduction of SB 98 by Chair Benacquisto
2:37:29 PM Explanation of SB 98 by Senator Steube
2:37:58 PM Amendment Barcode No. 363404 introduced by Chair Benacquisto
2:38:03 PM Explanation of Amendment Barcode No. 363404 by Senator Steube
2:38:27 PM Amendment Barcode No. 363404 adopted
2:38:36 PM Late-filed Amendment Barcode No. 828472 introduced by Chair Benacquisto
2:38:54 PM Explanation of Late-filed Amendment Barcode No. 828472 by Senator Thurston
2:39:54 PM Comments from Senator Steube regarding unfriendly amendment
2:40:45 PM Senator Gibson in debate
2:41:47 PM Chair Benacquisto in debate
2:42:24 PM Closure on Late-filed Amendment Barcode No. 828472 by Senator Thurston
2:42:57 PM Late-filed Amendment Barcode No. 828472 is not adopted
2:43:44 PM Speaker Pam Langford, Executive Director, HEALS of the South
2:45:18 PM Matt Jordan, GRD, American Cancer Society waives in support
2:45:24 PM Dorene Barker, Associate State Director, AARP FL waives in support
2:45:32 PM Joy Ryan, America's Health Insurance Plans in opposition
2:46:11 PM Speaker Audrey Brown, President & CEO, Florida Association of Health Plans in opposition
2:47:10 PM Speaker Brewster Bevis, Senior Vice President, Associated Industries of Florida in opposition
2:47:16 PM Alli Liby-Schoonover, Bio Florida waives in support
2:47:25 PM Stephen Winn, Executive Director, Florida Osteopathic Medical Association waives in support
2:47:28 PM Cheryl Elias, Executive Director, US Rural Health Network waives in support
2:47:34 PM Nicole Hill, Board Member, Epilepsy Association of the Big Bend waives in support
2:47:38 PM Jarod Fowler, Director of Health Care Policy, Florida Medical Association waives in support
2:47:52 PM Senator Mayfield in debate
2:50:08 PM Senator Garcia in debate
2:52:13 PM Senator Steube waives closure

2:52:26 PM Roll call on CS/SB 98 by Administrative Assistant Joyce Butler
2:52:38 PM CS/SB 98 reported favorably
2:52:43 PM SB 134 introduced, along with Amendment Barcode No. 117468 by Chair Benacquisto
2:53:01 PM Explanation of Amendment Barcode No. 117468 by Senator Steube
2:55:00 PM Comments from Chair Benacquisto
2:55:17 PM Comments from Senator Garcia
2:55:52 PM Response from Senator Steube
2:56:55 PM Question from Senator Gibson
2:57:07 PM Response from Senator Steube
2:57:37 PM Follow-up question from Senator Gibson
2:58:02 PM Response from Senator Steube
2:58:29 PM Question from Senator Powell
2:58:46 PM Response from Senator Steube
3:00:12 PM Follow-up question from Senator Powell
3:00:22 PM Response from Senator Steube
3:00:35 PM Question from Senator Thurston
3:00:58 PM Response from Senator Steube
3:01:21 PM Follow-up question from Senator Thurston
3:01:44 PM Response from Senator Steube
3:02:03 PM Question from Senator Bracy
3:02:10 PM Response from Senator Steube
3:03:03 PM Follow-up question from Senator Bracy
3:03:09 PM Response from Senator Steube
3:03:29 PM Question from Senator Gibson
3:04:34 PM Response from Senator Steube
3:05:05 PM Paul Henry, Liberty First Network waives in support
3:05:33 PM Speaker Eric Friday, General Counsel, Florida Carry in opposition of Amendment
3:08:03 PM Scott Whigham, Training Director waives in opposition
3:08:36 PM Speaker Angie Gallo, Florida PTA in opposition of Amendment
3:09:21 PM Comments from Chair Benacquisto
3:09:27 PM Response from Ms. Gallo
3:10:20 PM Speaker Hannah Willard, Senior Policy Director, Quality Florida in opposition
3:11:08 PM Speaker Patricia Brigham, First Vice President, Women League of Florida in opposition
3:12:13 PM Speaker Marion Hammer, National Rifle Association & Unified Sportsmen of Florida in support
3:12:58 PM Amendment Barcode No. 597522 introduced by Chair Benacquisto
3:13:17 PM Explanation of Amendment Barcode No. 597522 by Senator Powell
3:14:58 PM Comments from Chair Benacquisto regarding late-file Amendment being withdrawn
3:15:13 PM Amendment Barcode No. 271670 introduced by Chair Benacquisto
3:16:05 PM Amendment Barcode No. 271670 explained by Senator Powell
3:16:41 PM Speaker Paul Henry, Liberty First Network in opposition of Amendment
3:17:31 PM Speaker Eric Friday, General Counsel, Florida Carry in opposition of Amendment
3:18:15 PM Senator Powell closes on Amendment Barcode No. 271670
3:19:01 PM Amendment Barcode No. 271670 is not adopted
3:19:15 PM Closure waived on delete-all Amendment Barcode No. 117468 by Senator Steube
3:19:43 PM Strike-all Amendment Barcode No. 117468 adopted
3:19:52 PM Question from Senator Thurston
3:20:14 PM Response from Senator Steube
3:20:23 PM Follow-up question from Senator Thurston
3:20:27 PM Response from Senator Steube
3:21:43 PM Speaker Keith Flaugh, Managing Director, Florida Citizens Alliance in support
3:22:35 PM Speaker Paul Henry, Liberty First Network in opposition

3:23:52 PM Speaker Eric Friday, General Counsel in opposition
3:24:08 PM Scott Whigham, Director, Florida Carry waives in opposition
3:24:13 PM Angie Gallo, Legislation Chair in opposition
3:24:40 PM Speaker Roy Blondeau, Jr. in opposition
3:25:58 PM Barbara DeVane, FL NOW in opposition
3:26:03 PM Patricia Brigham, First Vice President, League of Women's of Florida in opposition
3:26:34 PM Speaker Jamie Ito, Volunteer, Moms Demand Action in opposition
3:31:02 PM Speaker Hannah Willard, Senior Policy Director, Equality Florida in opposition
3:32:00 PM Linda Miklowitz in opposition
3:32:05 PM Marion Hammer, National Rifle Association & Unified Sportsmen of Florida in support
3:32:13 PM Doug Bell, Florida Chapter of American Academy of Pediatricians waives in support
3:32:36 PM Senator Bradley in debate
3:33:08 PM Senator Garcia in debate
3:36:05 PM Senator Thurston in debate
3:37:10 PM Senator Gibson in debate
3:39:35 PM Closure by Senator Steube
3:43:27 PM Roll call on CS/SB 134 by Administrative Assistant Joyce Butler
3:43:41 PM CS/SB 134 not reported favorably
3:43:51 PM SB 148 introduced by Senator Benacquisto
3:44:03 PM Explanation of SB 148 by Senator Steube
3:44:45 PM Amy Mercer, Executive Director, The Florida Police Chiefs of Police waives in support
3:44:48 PM Marion Hammer, Florida Rifle Association & Unified Sportsmen of Florida waives in support
3:44:51 PM Paul Henry, Liberty First Network waives in support
3:44:57 PM Keith Flaugh Managing Director, Florida Citizens Alliance waives in support
3:44:59 PM Jamie Ito, Moms Demands Action waives in opposition
3:45:02 PM Linda Miklowitz waives in opposition
3:45:06 PM Eric Friday, General Counsel, Florida Carry waives in opposition
3:45:08 PM Scott Whigham, Director, Florida Carry waives in opposition
3:45:11 PM Roy Blondeau, Jr. waives in opposition
3:45:15 PM Patricia Brigham, League of Women's Voters waives in opposition
3:45:20 PM Barbara DeVane, FL NOW waives in opposition
3:45:23 PM Senator Steube waives closure
3:45:31 PM Roll call by Administrative Assistant Joyce Butler
3:45:56 PM SB 148 is not reported favorably
3:46:00 PM Chair returned to Senator Steube
3:46:08 PM Senator Mayfield moves to vote in favor of SB 220
3:46:18 PM Senator Garcia moves to vote in favor of SB 220 and SB 760
3:46:26 PM Senator Benacquisto moves to vote in favor of SB 220
3:46:36 PM Senator Benacquisto moves to adjourn
3:46:40 PM Meeting adjourned