

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

**JUDICIARY**  
**Senator Burgess, Chair**  
**Senator Gibson, Vice Chair**

**MEETING DATE:** Tuesday, November 30, 2021  
**TIME:** 9:00—11:30 a.m.  
**PLACE:** *Pat Thomas Committee Room, 412 Knott Building*

**MEMBERS:** Senator Burgess, Chair; Senator Gibson, Vice Chair; Senators Baxley, Boyd, Bradley, Broxson, Mayfield, Polsky, Rodrigues, Rouson, and Thurston

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 190</b> Brodeur (Similar CS/H 95)	Controlled Substances; Revising the elements that constitute the capital offense of murder in the first degree; prohibiting specified activities involving controlled substances within 1,000 feet of additional specified facilities; providing criminal penalties, etc.  JU      11/30/2021 Not Considered CJ RC	Not Considered
2	<b>SB 432</b> Wright (Identical H 391)	Public Records/Judicial Assistants; Providing an exemption from public records requirements for certain identifying and location information of current and former judicial assistants and their spouses and children; providing for retroactive application of the exemption; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc.  JU      11/30/2021 Favorable GO RC	Favorable Yeas 11 Nays 0
3	<b>SB 156</b> Broxson (Similar H 275)	Loss Run Statements; Specifying the entities that must receive requests for loss run statements; specifying that insurers must provide loss run statements under certain circumstances; revising the required claims history in loss run statements; providing applicability; limiting loss run statement requests with respect to group health insurance policies to group policyholders, etc.  BI      11/03/2021 Favorable JU      11/30/2021 Favorable RC	Favorable Yeas 11 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Judiciary

Tuesday, November 30, 2021, 9:00—11:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 552</b> Boyd (Compare H 397, S 310)	Clerks of the Circuit Court; Revising the distribution of filing fees in specified trial and appellate proceedings; revising the calculations for certain payment plans with clerks of court; revising the duties of the Clerks of Court Operations Corporation; revising the allocation to the fine and forfeiture fund of filing fees of certain claims filed in county courts; authorizing clerks of court to review the property records and motor vehicle title records of applicants for indigent status, etc.	Favorable Yeas 11 Nays 0
		JU 11/30/2021 Favorable ACJ AP	
5	<b>SB 634</b> Bradley (Similar H 677)	Judicial Notice; Authorizing courts to take judicial notice of certain information taken from web mapping services, global satellite imaging sites, or Internet mapping tools upon request of a party; requiring parties who intend to offer such information into evidence to file a notice of intent containing specified information; authorizing parties to object to the admissibility of such information; requiring courts to overrule such objection unless certain findings are made, etc.	Not Considered
		JU 11/30/2021 Not Considered CM RC	
Consideration of proposed bill:			
6	<b>SPB 7014</b>	COVID-19-related Claims Against Health Care Providers; Extending the duration of liability protections from COVID-19-related claims against health care providers, etc.	Submitted and Reported Favorably as Committee Bill Yeas 7 Nays 4
7	<b>SB 620</b> Hutson (Identical H 569)	Local Government; Authorizing certain businesses to claim business damages from a county or municipality if the county or municipality enacts or amends certain ordinances or charter provisions; authorizing businesses to recover costs and fees in a specified manner and if certain requirements are met; requiring courts to consider certain factors and follow specified guidance when assessing costs; specifying requirements for the courts in determining and awarding attorney fees; requiring attorneys and businesses to submit certain documentation relating to attorney fees, etc.	Favorable Yeas 7 Nays 4
		JU 11/30/2021 Favorable RC AP	

**COMMITTEE MEETING EXPANDED AGENDA**

Judiciary

Tuesday, November 30, 2021, 9:00—11:30 a.m.

---

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	<b>SB 736</b> Hutson (Similar H 583)	Construction Defect Claims; Revising the limitations period for certain actions founded on the design, planning, or construction of an improvement on real property; requiring a claimant to include the reasons for rejecting an offer in a notice rejecting a settlement offer to remedy a construction defect; requiring the court to stay an action if a claimant initiates an action without first accepting or rejecting a supplemental offer; requiring a court to appoint an expert to examine certain alleged construction defects and to prepare an examination report, under certain circumstances; requiring a claimant to repair a construction defect if the claimant receives compensation for an alleged construction defect from specified persons, etc.	Fav/CS Yeas 6 Nays 4
		JU 11/30/2021 Fav/CS CA RC	

---

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 190

INTRODUCER: Senator Brodeur

SUBJECT: Controlled Substances

DATE: November 29, 2021      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ravelo	Cibula	JU	<b>Pre-meeting</b>
2.			CJ	
3.			RC	

---

**I. Summary:**

SB 190 amends several sections of law regarding the unlawful distribution of controlled substances.

First, the bill amends the causation requirement for the capital offense of “death caused by the unlawful distribution of a controlled substance.” Currently, the substance needs to be the “proximate cause” of the death of the victim. Determining the proximate cause may be difficult in certain situations. A victims medical conditions, substance abuse history, and a “cocktail,” the use of multiple substances at once, may make it difficult to assess precisely what substance was the proximate cause of death. The bill replaces this standard with the “sufficient to cause death” standard. This language would essentially cover situations where an individual overdoses after taking multiple lethal substances, any of which could have caused his or her death.

Additionally, the bill incorporates two recommendations from the Statewide Task Force on Opioid Abuse (Task Force). The bill amends the list of controlled substances eligible for conviction under the above referenced offense to include methamphetamine. The list of substances eligible for this offense currently includes: Cocaine, Opium, Methadone, Alfentanil, Carfentanil, Fentanyl, Sufentanil or an analog of any of these substances.

The bill incorporates a second recommendation from the Task Force, creating an enhanced penalty for the sale of a controlled substance if the offense is committed within 1,000 feet of certain facilities that often provide health and substance abuse treatment. Depending on the substance, the enhancement may increase the penalty from a third degree felony to a second degree felony, or from a second degree felony to a first degree felony.

The bill provides an effective date of October 1, 2022.

## II. Present Situation:

On April 1, 2019, citing an increase in the number of opioid-caused deaths in Florida, Governor DeSantis created the Statewide Task Force on Opioid Abuse (Task Force).<sup>1</sup> The Governor directed the Task Force to develop a statewide strategy to identify best practices to combat the opioid epidemic through education, treatment, prevention, recovery, and law enforcement, and to compile a report containing legislative recommendations. Two specific recommendations made by the Task Force relating to law enforcement included:

- Adding methamphetamine as a controlled substance qualifying for prosecution as a first degree murder offense when its distribution proximately causes the user's death; and
- Enhancing criminal penalties for the sale of a controlled substance within 1,000 feet of substance abuse treatment facilities.<sup>2</sup>

The Task Force's report did not address the proximate cause requirement for the capital offense of the unlawful distribution certain controlled substances resulting in the death of the user.

### **First Degree Murder**

Under Florida law, first degree murder is a capital felony<sup>3</sup> punishable by a sentence of death or life imprisonment without the possibility of parole.<sup>4</sup> Although first degree murder is commonly thought of as requiring "premeditation," Florida law classifies three separate classes of first degree murder, two of which do not require any sort of premeditation or intent to cause a death.

#### ***Premeditated First Degree Murder***

Premeditated first degree murder<sup>5</sup> generally requires that:

- The death of the victim be caused by the criminal act of the defendant, and
- The defendant make a conscious decision to kill the victim.

#### ***Felony Murder***

First degree felony murder, often termed the "Felony Murder Rule," is an unlawful killing as a result of an individual engaging in the perpetration of, or in the attempt to perpetrate certain felonies, including:

- Certain drug trafficking offenses,<sup>6</sup>
- Arson,
- Sexual battery,
- Robbery,

---

<sup>1</sup> Fla. Exec. Order No. 19-97 (April 1, 2019), available at <https://www.flgov.com/wp-content/uploads/2019/04/EO-19-97.pdf>.

<sup>2</sup> Florida Statewide Task Force on Opioid Abuse, *Findings and Recommendation of the Statewide Task Force on Opioid Abuse*, 45 (April 1, 2020), available at <https://doseofrealityfl.com/pdfs/opioid-task-force-findings-recommendations-opioid-abuse.pdf>.

<sup>3</sup> Section 782.04(1)(a), F.S.

<sup>4</sup> Section 775.082(1)(a), F.S.

<sup>5</sup> Section 782.04(1)(a)1, F.S.

<sup>6</sup> See s. 893.135(1)(a), F.S., which includes knowingly selling, purchasing, manufacturing, delivering or bringing into the state certain amounts of cannabis, cannabis plants, cocaine, morphine, opium, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin.

- Burglary,
- Kidnapping,
- Escape,
- Aggravated child abuse,
- Aggravated abuse of an elderly person or disabled adult,
- Aircraft piracy,
- Unlawful throwing, placing, or discharging of a destructive device or bomb,
- Carjacking,
- Home-invasion robbery,
- Aggravated stalking,
- Murder of another human being,
- Resisting an officer with violence to his or her person,
- Aggravated fleeing or eluding with serious bodily injury or death,
- Any felony that is an act of terrorism or is in furtherance of an act of terrorism, and
- Human trafficking.<sup>7</sup>

### ***Death Caused by the Unlawful Distribution of a Controlled Substance***

First degree murder offenses include the unlawful distribution of certain controlled substances if committed by a person 18 years of age or older and the distribution *proximately causes* the death of a user. (Emphasis added).<sup>8</sup> The applicable controlled substances include:

- Cocaine,
- Opium or any synthetic or natural salt, compound, derivative, or preparation of opium,
- Methadone,
- Alfentanil,
- Carfentanil,
- Fentanyl,
- Sufentanil, and
- A controlled substance analog of any of the above controlled substances.<sup>9</sup>

The Florida Standard Jury instructions for death caused by the unlawful distribution of a controlled substance defines *proximate cause* as conduct “that was the *primary* or moving cause of the death; the death would not have occurred but for the defendant’s conduct; and the death was a natural and reasonably anticipated consequence of the defendant’s conduct.”<sup>10</sup> (Emphasis added). Because the instruction requires the substance be the *primary* cause of death, a prosecutor may encounter certain scenarios where he or she cannot prove a specific substance was the primary cause of death. A victim may, for example, have ingested lethal amounts of both cocaine and opium, each of which *equally* could have caused his or her death. Prosecutors have

<sup>7</sup> Section 782.04(1)(a)2., F.S.

<sup>8</sup> Section 782.04(1)(a)3., F.S.

<sup>9</sup> A “controlled substance analog” is defined in s. 893.0356(2)(a), F.S., as a substance which, due to its chemical structure and potential for abuse, meets the following criteria:

- Is substantially similar to that of a controlled substance listed in Schedule I or Schedule II of s. 893.03, F.S.; and
- Has a stimulant, depressant, or hallucinogenic effect on the central nervous system or is represented or intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than that of a controlled substance listed in Schedule I or Schedule II of s. 893.03, F.S.

<sup>10</sup> Fla. Std. Jury Instr. (Crim.) 7.3(a); *see also Aumuller v. State*, 944 So. 2d 1137 (Fla. 2d DCA 2006).

reported difficulty obtaining convictions in scenarios such as this, as it is virtually impossible to determine if something was the *primary* cause if there are multiple sufficient possibilities that were all equally lethal.<sup>11</sup>

### **Sale of a Controlled Substance**

Florida law prohibits a person from selling, manufacturing,<sup>12</sup> or delivering<sup>13</sup> a controlled substance.<sup>14</sup> The penalty for selling a controlled substance varies depending on several factors, including the type and amount of the substance sold, and the location where the sale takes place. Generally, the sale of a controlled substance is punishable as either a second degree felony<sup>15</sup> or third degree felony.<sup>16</sup> The penalties are enhanced to a second degree felony or first degree felony if the sale occurs within 1,000 feet of the real property of specified locations, including a:

- Child care facility,
- Public or private elementary, middle, or secondary school,
- State, county, or municipal park,
- Community center or publicly owned recreational facility,
- Public or private college, university, or other postsecondary institution,
- Place of worship that conducts religious services,
- Convenience business,
- Public housing facility, or
- Assisted living facility

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

The bill amends several sections of law regarding the unlawful distribution of controlled substances.

**Section 1** of the bill amends s. 782.04(1)(a), F.S., to revise the causation requirement for the first degree murder offense of “death caused by the unlawful distribution of a controlled substance.” Under current law, a controlled substance is required to be the *proximate cause* of the death of the user. The bill, instead, only requires that the substance be a “substantial factor” in producing

---

<sup>11</sup> Office Memorandum to Bob Cortes from Daniel E. Faggard, Assistant State Attorney, Eighteenth Judicial Circuit, Re: Substantial Factor Test (Feb. 5, 2021) (on file with the Senate Committee on Judiciary).

<sup>12</sup> “Manufacture” means the production, preparation, propagation, compounding, cultivating, growing, conversion, or processing of a controlled substance, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation, compounding, packaging, or labeling of a controlled substance by:

- A practitioner or pharmacist as an incident to his or her administering or delivering of a controlled substance in the course of his or her professional practice.
- A practitioner, or his or her authorized agent under the practitioner’s supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis, and not for sale. Section 893.02(15)(a), F.S.

<sup>13</sup> “Deliver” or “delivery” means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship. Section 893.02(6), F.S.

<sup>14</sup> Section 893.13, F.S.

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

<sup>16</sup> Section 893.13(1), F.S. A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

the death of the user. This new language may cover situations where a user dies with a combination of multiple illegal substances in his or her body, each of which could have caused the user's death.

The bill further amends s. 782.04, F.S., to include methamphetamine to the list of substances that may subject the person who distributed the controlled substance to a conviction for first degree murder based any unlawful distribution. This specific provision was recommended by the Statewide Task Force on Opioid Abuse.<sup>17</sup>

**Section 2** of the bill incorporates a second recommendation from the Task Fork and creates an enhancement to the criminal act of selling, manufacturing, delivering, or possessing with the intent to sell, manufacture, or deliver a controlled substance within 1000 feet of any:

- Mental health facility under ch. 394, F.S.,
- Health care facility licensed under ch. 395, F.S., which provides substance abuse treatment,
- Licensed service provider as defined in s. 397.311, F.S.,
- Facility providing services that include clinical treatment, intervention, or prevention as described in s. 397.311(26), F.S.,
- Recovery residence as defined in s. 397.311, F.S., or
- Pain management clinic as defined in ss. 458.3265(1)(a)1.c. or s. 459.0137(1)(a)1.c., F.S.

Depending on the substance, the enhancement increases the penalty from a third degree felony to a second degree felony, or from a second degree felony to a first degree felony.

**Section 3** of the bill provides an effective date of October 1, 2022.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

---

<sup>17</sup> See Fla. Exec. Order No. 19-97 and Florida Statewide Task Force on Opioid Abuse, *supra* notes 1-2.



**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

SB 190, like CS/HB 325 (2021), a somewhat similar bill from last session is likely to increase the prison population by an indeterminate amount.<sup>18</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 782.04 and 893.13.

**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.

---

---

<sup>18</sup> Criminal Justice Impact Conference, Narrative Analysis of Adopted Impact for PCS for HB 325, (updated Mar. 4, 2021) <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/adoptedimpacts.cfm>.



103162

LEGISLATIVE ACTION

Senate

.  
. .  
. .  
. .  
. .

House

---

The Committee on Judiciary (Brodeur) recommended the following:

**Senate Amendment (with directory and title amendments)**

Delete lines 65 - 69

and insert:

punishable as provided in s. 775.082.

(4) The unlawful killing of a human being, when perpetrated without any design to effect death, by a person engaged in the perpetration of, or in the attempt to perpetrate, any felony other than any:

(a) Trafficking offense prohibited by s. 893.135(1),

(b) Arson,



103162

- 12 (c) Sexual battery,  
13 (d) Robbery,  
14 (e) Burglary,  
15 (f) Kidnapping,  
16 (g) Escape,  
17 (h) Aggravated child abuse,  
18 (i) Aggravated abuse of an elderly person or disabled  
19 adult,  
20 (j) Aircraft piracy,  
21 (k) Unlawful throwing, placing, or discharging of a  
22 destructive device or bomb,  
23 (l) Unlawful distribution of any substance listed in sub-  
24 subparagraphs (1) (a) 3.a.-j. controlled under s. 893.03(1),  
25 cocaine as described in s. 893.03(2) (a) 4., or opium or any  
26 synthetic or natural salt, compound, derivative, or preparation  
27 of opium by a person 18 years of age or older, when such  
28 substance drug is proven to have caused, or is proven to have  
29 been a substantial factor in producing, ~~be the proximate cause~~  
30 of the death of the user,  
31 (m) Carjacking,  
32 (n) Home-invasion robbery,  
33 (o) Aggravated stalking,  
34 (p) Murder of another human being,  
35 (q) Aggravated fleeing or eluding with serious bodily  
36 injury or death,  
37 (r) Resisting an officer with violence to his or her  
38 person, or  
39 (s) Felony that is an act of terrorism or is in furtherance  
40 of an act of terrorism, including a felony under s. 775.30, s.



103162

41 775.32, s. 775.33, s. 775.34, or s. 775.35,  
42  
43 is murder in the third degree and constitutes a felony of the  
44 second degree, punishable as provided in s. 775.082, s. 775.083,  
45 or s. 775.084.

46 (5) As used in this section, the term:

47 (a) "Substantial factor" means that the use of the  
48 substance or mixture alone is sufficient to cause death,  
49 regardless of whether any other substance or mixture used is  
50 also sufficient to cause death.

51 (b) "Terrorism" means an activity that:

52 1.a.(a)1. Involves a violent act or an act dangerous to  
53 human life which is a violation of the criminal laws of this  
54 state or of the United States; or

55 b.2. Involves a violation of s. 815.06; and

56 2.(b) Is intended to:

57 a.1. Intimidate, injure, or coerce a civilian population;

58 b.2. Influence the policy of a government by intimidation  
59 or coercion; or

60 c.3. Affect the conduct of government through destruction  
61 of property, assassination, murder, kidnapping, or aircraft  
62 piracy.

63  
64 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

65 And the directory clause is amended as follows:

66 Delete lines 13 - 14

67 and insert:

68 Section 1. Paragraph (a) of subsection (1) and subsections  
69 (4) and (5) of section 782.04, Florida Statutes, are amended to



103162

70 read:

71

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

73 And the title is amended as follows:

74       Between lines 4 and 5

75 insert:

76       revising the elements that constitute the felony

77       offense of murder in the third degree;

By Senator Brodeur

9-00020A-22

2022190\_\_

1 A bill to be entitled  
 2 An act relating to controlled substances; amending s.  
 3 782.04, F.S.; revising the elements that constitute  
 4 the capital offense of murder in the first degree;  
 5 defining the term "substantial factor"; amending s.  
 6 893.13, F.S.; prohibiting specified activities  
 7 involving controlled substances within 1,000 feet of  
 8 additional specified facilities; providing criminal  
 9 penalties; providing an effective date.

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

11 Section 1. Paragraph (a) of subsection (1) of section  
 12 782.04, Florida Statutes, is amended to read:

13 782.04 Murder.—

14 (1) (a) The unlawful killing of a human being:

15 1. When perpetrated from a premeditated design to effect  
 16 the death of the person killed or any human being;  
 17 2. When committed by a person engaged in the perpetration  
 18 of, or in the attempt to perpetrate, any:

19 a. Trafficking offense prohibited by s. 893.135(1),  
 20 b. Arson,  
 21 c. Sexual battery,  
 22 d. Robbery,  
 23 e. Burglary,  
 24 f. Kidnapping,  
 25 g. Escape,  
 26 h. Aggravated child abuse,  
 27 i. Aggravated abuse of an elderly person or disabled adult,  
 28  
 29

Page 1 of 4

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

9-00020A-22

2022190\_\_

30 j. Aircraft piracy,  
 31 k. Unlawful throwing, placing, or discharging of a  
 32 destructive device or bomb,  
 33 l. Carjacking,  
 34 m. Home-invasion robbery,  
 35 n. Aggravated stalking,  
 36 o. Murder of another human being,  
 37 p. Resisting an officer with violence to his or her person,  
 38 q. Aggravated fleeing or eluding with serious bodily injury  
 39 or death,  
 40 r. Felony that is an act of terrorism or is in furtherance  
 41 of an act of terrorism, including a felony under s. 775.30, s.  
 42 775.32, s. 775.33, s. 775.34, or s. 775.35, or  
 43 s. Human trafficking; or  
 44 3. Which resulted from the unlawful distribution by a  
 45 person 18 years of age or older of any of the following  
 46 substances, or mixture containing any of the following  
 47 substances, when such substance or mixture is proven to have  
 48 caused, or is proven to have been a substantial factor in  
 49 producing, ~~be the proximate cause of~~ the death of the user:

50 a. A substance controlled under s. 893.03(1);  
 51 b. Cocaine, as described in s. 893.03(2)(a)4.;  
 52 c. Opium or any synthetic or natural salt, compound,  
 53 derivative, or preparation of opium;  
 54 d. Methadone;  
 55 e. Alfentanil, as described in s. 893.03(2)(b)1.;  
 56 f. Carfentanil, as described in s. 893.03(2)(b)6.;  
 57 g. Fentanyl, as described in s. 893.03(2)(b)9.;  
 58 h. Sufentanil, as described in s. 893.03(2)(b)30.; ~~or~~

Page 2 of 4

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

9-00020A-22

2022190\_\_

59 i. Methamphetamine, as described in s. 893.03(2)(c)5.; or  
 60 j. A controlled substance analog, as described in s.  
 61 893.0356, of any substance specified in sub-subparagraphs a.-i.  
 62 ~~sub-subparagraphs a.-h.,~~  
 63  
 64 is murder in the first degree and constitutes a capital felony,  
 65 punishable as provided in s. 775.082. As used in this paragraph,  
 66 the term "substantial factor" means that the use of the  
 67 substance or mixture alone is sufficient to cause death,  
 68 regardless of whether any other substance or mixture used is  
 69 also sufficient to cause death.  
 70 Section 2. Paragraph (h) of subsection (1) of section  
 71 893.13, Florida Statutes, is amended to read:  
 72 893.13 Prohibited acts; penalties.—  
 73 (1)  
 74 (h) Except as authorized by this chapter, a person may not  
 75 sell, manufacture, or deliver, or possess with intent to sell,  
 76 manufacture, or deliver, a controlled substance in, on, or  
 77 within 1,000 feet of the real property comprising a mental  
 78 health facility, as that term is used in chapter 394; a health  
 79 care facility licensed under chapter 395 which provides  
 80 substance abuse treatment; a licensed service provider as  
 81 defined in s. 397.311; a facility providing services that  
 82 include clinical treatment, intervention, or prevention as  
 83 described in s. 397.311(26); a recovery residence as defined in  
 84 s. 397.311; an assisted living facility, as defined ~~that term is~~  
 85 used in chapter 429; or a pain management clinic as defined in  
 86 s. 458.3265(1)(a)1.c. or s. 459.0137(1)(a)1.c. A person who  
 87 violates this paragraph with respect to:

Page 3 of 4

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

9-00020A-22

2022190\_\_

88 1. A controlled substance named or described in s.  
 89 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.  
 90 commits a felony of the first degree, punishable as provided in  
 91 s. 775.082, s. 775.083, or s. 775.084.  
 92 2. A controlled substance named or described in s.  
 93 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7.,  
 94 (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of  
 95 the second degree, punishable as provided in s. 775.082, s.  
 96 775.083, or s. 775.084.  
 97 3. Any other controlled substance, except as lawfully sold,  
 98 manufactured, or delivered, must be sentenced to pay a \$500 fine  
 99 and to serve 100 hours of public service in addition to any  
 100 other penalty prescribed by law.  
 101 Section 3. This act shall take effect October 1, 2022.

Page 4 of 4

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

The Florida Senate

**APPEARANCE RECORD**

11/30/2021

190

Meeting Date

Bill Number or Topic

Judiciary

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

Committee

Amendment Barcode (if applicable)

Name Matt Dunagan

Phone 850-877-2165

Address 2617 Mahan Drive

Email mdunagan@flsheriffs.org

Street

Tallahassee

FL

32312

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**Florida Sheriffs Association**

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

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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

S-001 (08/10/2021)



4/30/21

# The Florida Senate APPEARANCE RECORD

SB 0190

Meeting Date

Bill Number or Topic

Judicia-7

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

Committee

Amendment Barcode (if applicable)

Name

Jack Campbell - FPAA

Phone

850 606 6012

Address

State Attorney's Office

Email

Street

Tallahassee FL

City

State

Zip

Speaking:

For

Against

Information

**OR**

Waive Speaking:

In Support

Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without  
compensation or sponsorship.

I am a registered lobbyist,  
representing:

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

11-30-2021 Meeting Date

SB190 Bill Number or Topic

Judiciary Committee

Amendment Barcode (if applicable)

Name Kim White

Phone 512 466-6323

Address 4351 Meadowland Dr Street

Email texasswimmom@yahoo.com

Mt. Dora, FL 32757 City State Zip

Speaking: [ ] For [X] Against [ ] Information OR Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

- [X] I am appearing without compensation or sponsorship. [ ] I am a registered lobbyist, representing: [ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. § 11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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

The Florida Senate

APPEARANCE RECORD

SB190

Bill Number or Topic

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

Amendment Barcode (if applicable)

11/30/21

Meeting Date

Judiciary

Committee

Name

Laurette Philipson

Phone

352-533-7202

Address

7240 Westwind Dr

Email

advocatephilipson@gmail.com

Street

POTS Aichey FL 34108

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

11-30-21

Meeting Date

Judiciary

Committee

SB190

Bill Number or Topic

(904)635-9493

Amendment Barcode (if applicable)

(904)635-9493

Name

Lorraine Lee

Phone

Address

2165 Cajon Rd.

Email

lee.lorraine07@gmail.com

Street

JAY

City

FL

State

32207

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](https://www.flsenate.gov/2020-2022-Joint-Rules.pdf)

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

The Florida Senate

APPEARANCE RECORD

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

no duplicate

SB 190

Bill Number or Topic

11/30/21

Meeting Date

JU

Committee

Amendment Barcode (if applicable)

Name Kate Ellison

Phone 352-283-5536

Address 971 SE 32nd Way  
Street

Email Kate.Clarity@gmail.com

Melrose

City

FL

State

32666

Zip

Speaking:  For  Against  Information

OR

Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

The Florida Senate

**APPEARANCE RECORD**

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

SB190

Bill Number or Topic

11/30/21

Meeting Date

Judiciary

Committee

Amendment Barcode (if applicable)

Name Cora Burton

Phone 404 418 0668

Address 801 Naomist Apt 822

Email coraburton1976@gmail.com

Street

Waycross

City

GA

State

3501

Zip

Speaking:

For

Against

Information

**OR**

Waive Speaking:

In Support

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

4/30/21 Meeting Date

190 Bill Number or Topic

Judiciary Committee

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Phone 407 376 4801

Address 134 E Colonial Dr Street

Email ida.eskamani@gmail.com

Orlando FL 32801 City State Zip

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [ ] In Support [x] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

Florida Rising Florida Immigrant Coalition

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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

11/30/2021

The Florida Senate  
**APPEARANCE RECORD**

190

Meeting Date  
**Judiciary**

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

Bill Number or Topic

Committee  
**Pamela Burch Fort**

Amendment Barcode (if applicable)  
**850-425-1344**

Name  
**104 S. Monroe Street**

Phone  
**TcgLobby@aol.com**

Address  
**Tallahassee**                      **FL**                      **32301**  
Street                                      City                                      State                                      Zip

**Reset Form**

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

<input type="checkbox"/> I am appearing without compensation or sponsorship.	<input checked="" type="checkbox"/> I am a registered lobbyist, representing: <b>NAACP Florida State Conference</b>	<input type="checkbox"/> I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:
------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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

S-001 (08/10/2021)



The Florida Senate

APPEARANCE RECORD

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

11/30/21

Meeting Date

SB 190

Bill Number or Topic

JUDICIARY

Committee

Amendment Barcode (if applicable)

Name FRANCES A. ROSSANO

Phone 352-278-6243

Address 108 SWAN LK TRAIL

Email farossano@gmail.com

Street PO BOX 1896

MELROSE FL 32666

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

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

11/30/2021

Meeting Date

Judiciary

Committed

SB 190

Bill Number or Topic

Amendment Barcode (if applicable)

Name Aurelie Colon Larrauri

Phone 954 881 8595

Address 1951 NW 7<sup>th</sup> Ave

Email aurelie@latina institute.org

Street

Miami

City

FL

State

33136

Zip

Speaking:  For  Against  Information

**OR**

Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Latina Institute for Reproductive Justice FL

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](https://www.flsenate.gov/2020-2022JointRules.pdf)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

11/30/21

Meeting Date

SB 190

Bill Number or Topic

Judiciary

Committee

Amendment Barcode (if applicable)

Name

Neisha-Rose Hines

Phone

786-363-104

Address

4343 W. Flagler St

Email

Street

Miami

City

FL

State

33134

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

AOLU FL

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](https://www.flsenate.gov/2020-2022-Joint-Rules.pdf)

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

S-001 (08/10/2021)

**OFFICE OF THE STATE ATTORNEY**  
EIGHTEENTH JUDICIAL COURT OF FLORIDA  
BREVARD AND SEMINOLE COUNTIES

**PHIL ARCHER**  
STATE ATTORNEY

**OFFICE MEMORANDUM**

November 24, 2021

TO: Bob Cortes  
FROM: Daniel E. Faggard  
SUBJECT: HB325  
MESSAGE: Re: Substantial Factor Test

As currently written HB325 reads in part, “3. Which resulted from the unlawful distribution by a person 18 years of age or older of any of the following substances, or mixture containing any of the following substances, when such substance or mixture is proven to have caused, tended to cause, or contributed to the death of the user...”

I understand there is some hesitation to “extend” culpability to situations where the drug distributor played only a minor role. The goal of amending the current statute is not to “cast a wider net.” Rather, it is to assist our Medical Examiners in forming an opinion in overdose homicide cases.

“Proximate Cause” is not defined in Chapter 782. However, in Aumuller v. State, 944 So.2d 1137 (Fla. 2d DCA 2006) Florida’s Second District Court of Appeal quoted from the jury instruction used in the trial court and seemed to approve of the definition used. The Aumuller court stated, “The State is required to prove the heroin was the proximate cause of the death. This means you must find that the heroin was the primary or moving cause in producing the death, and without it, the death would not have happened.” Recently, Florida Standard Criminal Jury Instruction 7.3(a) was promulgated and similarly defines Proximate Cause as, “[T]he primary or moving cause of the death; the death would not have occurred but for the defendant’s conduct; and the death was a natural and reasonably anticipated consequence of the defendant’s conduct.”

The trouble with the current definition stems from the fact that nearly one hundred percent of drug users choose to use multiple controlled substances, and alcohol. As a result, when, for example, the Medical Examiner is reviewing the toxicology of a deceased individual indicating fentanyl, cocaine, alcohol, THC and Diluadid in their system, under the current definition of

Proximate Cause, before the doctor can opine the fentanyl is the Proximate Cause, they must they must determine that every other substance (cocaine, alcohol, THC and Dilaudid) could NOT have caused their death. This produces an absurd, and extremely common, result. For example, in the scenario above, suppose the decedent was prescribed Dilaudid and taking it normally. Additionally, picture them going to a party, and several hours before that party they use some cocaine. It does not kill them, but they have a short “high” and their body starts to metabolize that cocaine. Finally, imagine they go to the party and smoke a little THC, drink a little alcohol and then buy some fentanyl from a dealer at the party. They shoot up in the bathroom and immediately die from a massive fentanyl overdose. The medical examiner sees an enormous amount of fentanyl in the blood. The Medical Examiner’s opinion is that the level of fentanyl observed would clearly be fatal one hundred percent of the time. Of course they also see some cocaine, Dilaudid and alcohol, which when combined together, the Medical Examiner articulates could have caused the death as well. The result is the Medical Examiner, using the current definition, would say they cannot say what the “primary or moving cause” is, because they cannot determine “the death would not have occurred but for the” drug dealer selling the decedent the fentanyl. This is the case even though we know the decedent would have certainly died if they had only taken the fentanyl. This is an absurd result.

Now envision a different murder case where Defendant Alpha shoots Victim at the same time Defendant Bravo separately and independently shoots victim. The Medical Examiner determines that Defendant Alpha’s shot would have been fatal by itself. But the Medical Examiner also determines that Defendant Bravo’s shot would have been fatal by itself. If we were to apply the current overdose homicide definition of proximate cause to this situation, the result would be absurd again. Even though Defendant Alpha’s shot would have been fatal by itself, Defendant Alpha cannot be responsible for Victim’s murder because the statute and jury instruction require that “the death would not have occurred but for the defendant’s conduct.” The victim is still dead from Defendant Bravo’s shot.

Causation in Florida is typically “but for,” but there are instances where “two causes, each alone sufficient to bring about the harmful result, operate together to cause it.” Eversley v State, 748 So.2d 963 (Fla. 1999) making “but for” testing impossible (Such as the example above). In these circumstances, the State may prove “cause in fact” causation by demonstrating that the defendant’s conduct was a substantial factor in bringing about the harm. This is known as the “Substantial Factor Test.”

It is my recommendation that the current language in HB325 be amended incorporate the Substantial Factor Test, in lieu of the “tended to cause, or contributed to” language. Additionally, it would be prudent to define “Substantial Factor.” For example: “3. Which resulted from the unlawful distribution by a person 18 years of age or older of any of the following substances, or mixture containing any of the following substances, when such substance or mixture is proven to have caused, or is proven to be a substantial factor in producing, the death of the user... As used in this section, ‘Substantial factor’ means the substance alone is sufficient to cause the death, whether or not any other substance or substances are also sufficient to cause the death.”



The Florida Senate

## Committee Agenda Request

**To:** Senator Danny Burgess, Chair  
Committee on Judiciary

**Subject:** Committee Agenda Request

**Date:** October 1, 2021

---

I respectfully request that **Senate Bill 190**, relating to **Controlled Substances**, be placed on the:

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

A handwritten signature in cursive script that reads "Jason Brodeur".

---

Senator Jason Brodeur  
Florida Senate, District 9

**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 432

INTRODUCER: Senator Wright

SUBJECT: Public Records/Judicial Assistants

DATE: November 29, 2021

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cibula	JU	<b>Favorable</b>
2.			GO	
3.			RC	

---

**I. Summary:**

SB 432 creates a public record exemption for judicial assistants. The exemption protects specified information that may identify or locate current or former judicial assistants and their spouses and children. Judicial assistants provide administrative, secretarial, organizational, and clerical support to an assigned judge's office. They are employed in the county and circuit courts, district courts of appeal, and the Florida Supreme Court.

The bill exempts from public disclosure the following information that relates to a current or former judicial assistant:

- A judicial assistant's address, date of birth, and telephone number.
- The names, home addresses, telephone numbers, dates of birth, and places of employment of a judicial assistant's spouse and children.
- The names and locations of schools and day care facilities attended by a judicial assistant's children.

This exemption applies to information held by an agency before, on, or after July 1, 2022.

The bill provides a statement of public necessity as required by the State Constitution.

Because the bill creates a new public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage

The bill takes effect July 1, 2022.



## II. Present Situation:

### Access to Public Records - Generally

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

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.<sup>3</sup> Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.<sup>4</sup> Lastly, ch. 119, F.S., known as the Public Records Act, provides requirements for public records held by executive agencies.

### Executive Agency Records – The Public Records Act

The Public Records Act provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.<sup>5</sup>

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

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

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

---

<sup>1</sup> FLA. CONST. art. I, s. 24(a).

<sup>2</sup> *Id.*

<sup>3</sup> See Rule 1.48, *Rules and Manual of the Florida Senate*, (2018-2020) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2018-2020)

<sup>4</sup> *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

<sup>5</sup> Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

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

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

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.<sup>9</sup> The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>10</sup>

General exemptions from the public records requirements are contained in the Public Records Act.<sup>11</sup> Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.<sup>12</sup>

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

### **Open Government Sunset Review Act**

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act<sup>16</sup> (the Act), prescribe a legislative review process for newly created or substantially amended<sup>17</sup> public records or open meetings exemptions, with specified exceptions.<sup>18</sup> The Act requires the repeal of

---

<sup>7</sup> Section 119.07(1)(a), F.S.

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

<sup>9</sup> FLA. CONST. art. I, s. 24(c).

<sup>10</sup> *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

<sup>11</sup> *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

<sup>12</sup> *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

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

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

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

<sup>16</sup> Section 119.15, F.S.

<sup>17</sup> An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

<sup>18</sup> Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>19</sup>

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.<sup>20</sup> An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;<sup>21</sup>
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;<sup>22</sup> or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.<sup>23</sup>

The Act also requires specified questions to be considered during the review process.<sup>24</sup> In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.<sup>25</sup> If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.<sup>26</sup>

### **Public Records Exemptions for Enumerated Personnel**

Provisions in s. 119.071(4)(d), F.S., exempt from public disclosure the personal identification and location information of enumerated agency personnel, their spouses, and their children. The employing agency as well as the employee may assert the right to the exemption by submitting a

---

<sup>19</sup> Section 119.15(3), F.S.

<sup>20</sup> Section 119.15(6)(b), F.S.

<sup>21</sup> Section 119.15(6)(b)1., F.S.

<sup>22</sup> Section 119.15(6)(b)2., F.S.

<sup>23</sup> Section 119.15(6)(b)3., F.S.

<sup>24</sup> Section 119.15(6)(a), F.S. The specified questions are:

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

<sup>25</sup> See *generally* s. 119.15, F.S.

<sup>26</sup> Section 119.15(7), F.S.

written request to each agency which holds the employee's information.<sup>27</sup> Additionally, all of these exemptions have retroactive application.<sup>28</sup> In order to have such exemption applied to a court record or an official record held by a clerk of court, the party must make a request specifying the document name, type, identification number, and page number.<sup>29</sup> Any enumerated personnel who has his or her public records held exempt may file a written and notarized request to any record custodian to have the records released to an identified party.<sup>30</sup>

### ***Justices and Judges***

The state judiciary, as established in Article V of the State Constitution, is composed of the justices of the Supreme Court and the judges in Florida's five District Courts of Appeal, 20 Circuit Courts, and 67 County Courts.<sup>31</sup> When carrying out their official duties, the judges and justices often preside over matters that are emotionally charged, whether in a trial, appeal, criminal proceeding, dependency hearing, or domestic or family law matter.

In 1991, and in an effort to protect the members of the judiciary, the Legislature enacted a public records exemption for current justices and judges and their families. The exemption protected their home addresses and telephone numbers as well as the home addresses, telephone numbers, and places of employment of their spouses and children, and the names and locations of schools and day care facilities attended by their children.<sup>32</sup> In 2012, the Legislature expanded this exemption to include the dates of birth of the enumerated personnel as well as their family members.<sup>33</sup> The public necessity statement provided that dates of birth can be used to perpetrate fraud and that releasing dates of birth can cause great financial harm to an individual. In addition, the Legislature expanded the exemption to include former justices and judges as well as their families. The public necessity statement for this expansion indicated that justices and judges as well as their family members can be targets of revenge and that risk continues after justices and judges complete their public service.<sup>34</sup>

In 2017, the Legislature expanded this exemption to also exempt from disclosure the names of the justices' or judges' spouses and children.<sup>35</sup>

### ***Judicial Assistants***

Judicial assistants are assigned to individual justices or judges to provide administrative, secretarial, and clerical support. At the trial court level in particular, the judicial assistant is generally responsible for: maintaining the judge's professional and personal calendar; coordinating with attorneys to schedule hearings and trials; prepare orders, notices, and other correspondence; and preparing financial disclosures and travel vouchers. Most significantly, trial

---

<sup>27</sup> Section 119.071(4)(d)3., F.S.

<sup>28</sup> Section 119.071(4)(d)6., F.S.

<sup>29</sup> Section 119.0714(2)(f) and (3)(f), F.S.

<sup>30</sup> Section 119.071(4)(d)5., F.S.

<sup>31</sup> FLA. CONST. art V. *See also* Florida Courts, <http://www.flcourts.org/florida-courts> (last visited Nov. 22, 2021).

<sup>32</sup> Ch. 91-149, Laws of Fla. Because public necessity statements were not required for public records exemptions prior to the adoption of Article I, section 24, Florida Constitution, there is no public necessity statement explaining why the exemption was created.

<sup>33</sup> Ch. 2012-149, Laws of Fla.

<sup>34</sup> Ch. 2012-149, Laws of Fla.

<sup>35</sup> Ch. 2017-66, Laws of Fla.

court level judicial assistants interact “with judges, clerks of court, litigants, attorneys, law enforcement personnel, bailiffs, social services, witnesses, and the general public to exchange information or to facilitate task completion.”<sup>36</sup> They also interact “with attorneys and litigants and their family members to resolve problems such as scheduling conflicts or other case-related issues.”<sup>37</sup> The appellate courts also employ judicial assistants in the district courts of appeal and the Florida Supreme Court.<sup>38</sup>

Based on this type of interaction, several trial court judicial assistants have reported that attorneys, litigants, or a litigant’s family members have held the judicial assistant responsible for an adverse decision made by the judge. These judicial assistants reported instances of a litigant or litigant’s family members showing up at the judicial assistant’s home, contacting the judicial assistant on his or her personal cell phone, making threats against the judicial assistant, or naming the judicial assistant in a civil law suit.<sup>39</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 119.071(4)(d)2.e., F.S., to exempt certain information relating to judicial assistants from the public disclosure requirements of the public record laws. The following information for a current or former judicial assistant will be exempt:

- A judicial assistant’s address, date of birth, and telephone numbers.
- The names, home addresses, telephone numbers, dates of birth, and places of employment of a judicial assistant’s spouse and children.
- The names and locations of schools and day care facilities attended by a judicial assistant’s children.

The exemption applies to information held by an agency before, on, or after July 1, 2022.

**Section 2** contains the public necessity statement which explains why the exemption is necessary. The public necessity statement provides that, because judicial assistants may possibly engender ill will with litigants, the accused, the convicted, and their associates, judicial assistants and their families are at risk. Judicial assistants can become targets of fraud or revenge by disgruntled litigants who know the judicial assistants’ names, their personal information, and location. For these reasons, the identifying information of former and current judicial assistants and their family members should be exempt from public disclosure.

**Section 3** provides that the bill takes effect July 1, 2022.

---

<sup>36</sup> Florida State Courts System Classification Specification, Classification Title: Judicial Assistant – County Court <https://www.flcourts.org/content/download/751310/file/Judicial-Assistant-County-Court.pdf>.

<sup>37</sup> Florida State Courts System Classification Specification, Classification Title: Judicial Assistant – Circuit Court <https://www.flcourts.org/content/download/751317/file/Judicial-Assistant-Circuit-Court.pdf>.

<sup>38</sup> See also Florida State Courts System Classification Specification, Classification Title: Appellate Judicial Assistant – District Court, <https://www.flcourts.org/content/download/751180/file/appellate-judicial-assistant-district-court.pdf> and Florida State Courts System Classification Specification, Classification Title: Appellate Judicial Assistant – Supreme Court <https://www.flcourts.org/content/download/751181/file/appellate-judicial-assistant-supreme-court.pdf>.

<sup>39</sup> See Judicial Assistants Association of Florida, *JA Threats* (2021) (on file with the Senate Committee on Judiciary).

Please see section “VII. Related Issues” for a discussion of the shortened review and repeal date of this bill.

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

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

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties’ or municipalities’ ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

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

###### **Vote Requirement**

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill enacts a new exemption for records pertaining to judicial assistants; thus, the bill requires a two-thirds vote to be enacted.

###### **Public Necessity Statement**

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Section 2 of the bill contains a statement of public necessity for the exemption.

###### **Breadth of Exemption**

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

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

None.

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

None.

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

None identified.

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

None.

**B. Private Sector Impact:**

Any individual or business that currently obtains location information that is covered by the definition of “home addresses” in the bill will not be able to obtain that information from the records custodian without a signed waiver if the employee or the employee’s agency requests that the home address information be exempted..

**C. Government Sector Impact:**

SB 432 may have a minimal negative fiscal impact on agencies holding records that contain personal identifying information of judicial assistants because staff responsible for complying with public record requests may require training related to the new public record exemption. Additionally, agencies could incur costs associated with redacting the confidential and exempt information prior to releasing a record. However, the costs would be absorbed as they are part of the day-to-day agency responsibilities.

The Office of the State Courts Administrator (OSCA) submitted a 2022 Judicial Impact Statement for this bill and said that it does not anticipate any judicial or court workload to be created by the bill. Additionally, OSCA does not anticipate any impact to court rules or jury instructions or any fiscal impact on the judiciary..

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

According to s. 119.15(3), F.S., the Open Government Sunset Review Act, a newly enacted or substantially amended exemption is scheduled for review and repeal by the Legislature in the 5th year after creation, unless the Legislature acts to reenact the exemption. The bill inserts the newly created exemption into an existing paragraph with other exemptions that are scheduled for review and repeal in 2024, which is the 2nd year after enactment instead of the 5th year. It can be reasoned, however, that advancing the scheduled review and repeal by 3 years is not problematic because the Open Government Sunset Review Act does not apply to an exemption that applies solely to the State Court System. Additionally, the deviation from the schedule set forth in the Open Government Sunset Review Act is supported by the reasoning that a previous legislature cannot bind a future legislature.

**VIII. Statutes Affected:**

This bill substantially amends section 119.071 of the Florida Statutes.

**IX. Additional Information:**

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

None.

- B. **Amendments:**

None.

---

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

---



By Senator Wright

14-00144-22

2022432\_\_

1 A bill to be entitled  
 2 An act relating to public records; amending s.  
 3 119.071, F.S.; providing an exemption from public  
 4 records requirements for certain identifying and  
 5 location information of current and former judicial  
 6 assistants and their spouses and children; providing  
 7 for retroactive application of the exemption;  
 8 providing for future legislative review and repeal of  
 9 the exemption; providing a statement of public  
 10 necessity; providing an effective date.  
 11  
 12 Be It Enacted by the Legislature of the State of Florida:  
 13  
 14 Section 1. Paragraph (d) of subsection (4) of section  
 15 119.071, Florida Statutes, is amended to read:  
 16 119.071 General exemptions from inspection or copying of  
 17 public records.—  
 18 (4) AGENCY PERSONNEL INFORMATION.—  
 19 (d)1. For purposes of this paragraph, the term:  
 20 a. "Home addresses" means the dwelling location at which an  
 21 individual resides and includes the physical address, mailing  
 22 address, street address, parcel identification number, plot  
 23 identification number, legal property description, neighborhood  
 24 name and lot number, GPS coordinates, and any other descriptive  
 25 property information that may reveal the home address.  
 26 b. "Telephone numbers" includes home telephone numbers,  
 27 personal cellular telephone numbers, personal pager telephone  
 28 numbers, and telephone numbers associated with personal  
 29 communications devices.

Page 1 of 14

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

14-00144-22

2022432\_\_

30 2.a. The home addresses, telephone numbers, dates of birth,  
 31 and photographs of active or former sworn law enforcement  
 32 personnel or of active or former civilian personnel employed by  
 33 a law enforcement agency, including correctional and  
 34 correctional probation officers, personnel of the Department of  
 35 Children and Families whose duties include the investigation of  
 36 abuse, neglect, exploitation, fraud, theft, or other criminal  
 37 activities, personnel of the Department of Health whose duties  
 38 are to support the investigation of child abuse or neglect, and  
 39 personnel of the Department of Revenue or local governments  
 40 whose responsibilities include revenue collection and  
 41 enforcement or child support enforcement; the names, home  
 42 addresses, telephone numbers, photographs, dates of birth, and  
 43 places of employment of the spouses and children of such  
 44 personnel; and the names and locations of schools and day care  
 45 facilities attended by the children of such personnel are exempt  
 46 from s. 119.07(1) and s. 24(a), Art. I of the State  
 47 Constitution.  
 48 b. The home addresses, telephone numbers, dates of birth,  
 49 and photographs of current or former nonsworn investigative  
 50 personnel of the Department of Financial Services whose duties  
 51 include the investigation of fraud, theft, workers' compensation  
 52 coverage requirements and compliance, other related criminal  
 53 activities, or state regulatory requirement violations; the  
 54 names, home addresses, telephone numbers, dates of birth, and  
 55 places of employment of the spouses and children of such  
 56 personnel; and the names and locations of schools and day care  
 57 facilities attended by the children of such personnel are exempt  
 58 from s. 119.07(1) and s. 24(a), Art. I of the State

Page 2 of 14

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

14-00144-22

2022432\_\_

59 Constitution.

60 c. The home addresses, telephone numbers, dates of birth,  
61 and photographs of current or former nonsworn investigative  
62 personnel of the Office of Financial Regulation's Bureau of  
63 Financial Investigations whose duties include the investigation  
64 of fraud, theft, other related criminal activities, or state  
65 regulatory requirement violations; the names, home addresses,  
66 telephone numbers, dates of birth, and places of employment of  
67 the spouses and children of such personnel; and the names and  
68 locations of schools and day care facilities attended by the  
69 children of such personnel are exempt from s. 119.07(1) and s.  
70 24(a), Art. I of the State Constitution.

71 d. The home addresses, telephone numbers, dates of birth,  
72 and photographs of current or former firefighters certified in  
73 compliance with s. 633.408; the names, home addresses, telephone  
74 numbers, photographs, dates of birth, and places of employment  
75 of the spouses and children of such firefighters; and the names  
76 and locations of schools and day care facilities attended by the  
77 children of such firefighters are exempt from s. 119.07(1) and  
78 s. 24(a), Art. I of the State Constitution.

79 e. The home addresses, dates of birth, and telephone  
80 numbers of current or former justices of the Supreme Court,  
81 district court of appeal judges, circuit court judges, ~~and~~  
82 county court judges, and judicial assistants; the names, home  
83 addresses, telephone numbers, dates of birth, and places of  
84 employment of the spouses and children of current or former  
85 justices, ~~and judges, and judicial assistants~~; and the names and  
86 locations of schools and day care facilities attended by the  
87 children of current or former justices, ~~and judges, and judicial~~

Page 3 of 14

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

14-00144-22

2022432\_\_

88 assistants are exempt from s. 119.07(1) and s. 24(a), Art. I of  
89 the State Constitution.

90 f. The home addresses, telephone numbers, dates of birth,  
91 and photographs of current or former state attorneys, assistant  
92 state attorneys, statewide prosecutors, or assistant statewide  
93 prosecutors; the names, home addresses, telephone numbers,  
94 photographs, dates of birth, and places of employment of the  
95 spouses and children of current or former state attorneys,  
96 assistant state attorneys, statewide prosecutors, or assistant  
97 statewide prosecutors; and the names and locations of schools  
98 and day care facilities attended by the children of current or  
99 former state attorneys, assistant state attorneys, statewide  
100 prosecutors, or assistant statewide prosecutors are exempt from  
101 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

102 g. The home addresses, dates of birth, and telephone  
103 numbers of general magistrates, special magistrates, judges of  
104 compensation claims, administrative law judges of the Division  
105 of Administrative Hearings, and child support enforcement  
106 hearing officers; the names, home addresses, telephone numbers,  
107 dates of birth, and places of employment of the spouses and  
108 children of general magistrates, special magistrates, judges of  
109 compensation claims, administrative law judges of the Division  
110 of Administrative Hearings, and child support enforcement  
111 hearing officers; and the names and locations of schools and day  
112 care facilities attended by the children of general magistrates,  
113 special magistrates, judges of compensation claims,  
114 administrative law judges of the Division of Administrative  
115 Hearings, and child support enforcement hearing officers are  
116 exempt from s. 119.07(1) and s. 24(a), Art. I of the State

Page 4 of 14

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

14-00144-22 2022432\_\_

117 Constitution.

118 h. The home addresses, telephone numbers, dates of birth,

119 and photographs of current or former human resource, labor

120 relations, or employee relations directors, assistant directors,

121 managers, or assistant managers of any local government agency

122 or water management district whose duties include hiring and

123 firing employees, labor contract negotiation, administration, or

124 other personnel-related duties; the names, home addresses,

125 telephone numbers, dates of birth, and places of employment of

126 the spouses and children of such personnel; and the names and

127 locations of schools and day care facilities attended by the

128 children of such personnel are exempt from s. 119.07(1) and s.

129 24(a), Art. I of the State Constitution.

130 i. The home addresses, telephone numbers, dates of birth,

131 and photographs of current or former code enforcement officers;

132 the names, home addresses, telephone numbers, dates of birth,

133 and places of employment of the spouses and children of such

134 personnel; and the names and locations of schools and day care

135 facilities attended by the children of such personnel are exempt

136 from s. 119.07(1) and s. 24(a), Art. I of the State

137 Constitution.

138 j. The home addresses, telephone numbers, places of

139 employment, dates of birth, and photographs of current or former

140 guardians ad litem, as defined in s. 39.820; the names, home

141 addresses, telephone numbers, dates of birth, and places of

142 employment of the spouses and children of such persons; and the

143 names and locations of schools and day care facilities attended

144 by the children of such persons are exempt from s. 119.07(1) and

145 s. 24(a), Art. I of the State Constitution.

14-00144-22 2022432\_\_

146 k. The home addresses, telephone numbers, dates of birth,

147 and photographs of current or former juvenile probation

148 officers, juvenile probation supervisors, detention

149 superintendents, assistant detention superintendents, juvenile

150 justice detention officers I and II, juvenile justice detention

151 officer supervisors, juvenile justice residential officers,

152 juvenile justice residential officer supervisors I and II,

153 juvenile justice counselors, juvenile justice counselor

154 supervisors, human services counselor administrators, senior

155 human services counselor administrators, rehabilitation

156 therapists, and social services counselors of the Department of

157 Juvenile Justice; the names, home addresses, telephone numbers,

158 dates of birth, and places of employment of spouses and children

159 of such personnel; and the names and locations of schools and

160 day care facilities attended by the children of such personnel

161 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State

162 Constitution.

163 l. The home addresses, telephone numbers, dates of birth,

164 and photographs of current or former public defenders, assistant

165 public defenders, criminal conflict and civil regional counsel,

166 and assistant criminal conflict and civil regional counsel; the

167 names, home addresses, telephone numbers, dates of birth, and

168 places of employment of the spouses and children of current or

169 former public defenders, assistant public defenders, criminal

170 conflict and civil regional counsel, and assistant criminal

171 conflict and civil regional counsel; and the names and locations

172 of schools and day care facilities attended by the children of

173 current or former public defenders, assistant public defenders,

174 criminal conflict and civil regional counsel, and assistant

14-00144-22 2022432\_\_

175 criminal conflict and civil regional counsel are exempt from s.  
 176 119.07(1) and s. 24(a), Art. I of the State Constitution.

177 m. The home addresses, telephone numbers, dates of birth,  
 178 and photographs of current or former investigators or inspectors  
 179 of the Department of Business and Professional Regulation; the  
 180 names, home addresses, telephone numbers, dates of birth, and  
 181 places of employment of the spouses and children of such current  
 182 or former investigators and inspectors; and the names and  
 183 locations of schools and day care facilities attended by the  
 184 children of such current or former investigators and inspectors  
 185 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 186 Constitution.

187 n. The home addresses, telephone numbers, and dates of  
 188 birth of county tax collectors; the names, home addresses,  
 189 telephone numbers, dates of birth, and places of employment of  
 190 the spouses and children of such tax collectors; and the names  
 191 and locations of schools and day care facilities attended by the  
 192 children of such tax collectors are exempt from s. 119.07(1) and  
 193 s. 24(a), Art. I of the State Constitution.

194 o. The home addresses, telephone numbers, dates of birth,  
 195 and photographs of current or former personnel of the Department  
 196 of Health whose duties include, or result in, the determination  
 197 or adjudication of eligibility for social security disability  
 198 benefits, the investigation or prosecution of complaints filed  
 199 against health care practitioners, or the inspection of health  
 200 care practitioners or health care facilities licensed by the  
 201 Department of Health; the names, home addresses, telephone  
 202 numbers, dates of birth, and places of employment of the spouses  
 203 and children of such personnel; and the names and locations of

Page 7 of 14

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

14-00144-22 2022432\_\_

204 schools and day care facilities attended by the children of such  
 205 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of  
 206 the State Constitution.

207 p. The home addresses, telephone numbers, dates of birth,  
 208 and photographs of current or former impaired practitioner  
 209 consultants who are retained by an agency or current or former  
 210 employees of an impaired practitioner consultant whose duties  
 211 result in a determination of a person's skill and safety to  
 212 practice a licensed profession; the names, home addresses,  
 213 telephone numbers, dates of birth, and places of employment of  
 214 the spouses and children of such consultants or their employees;  
 215 and the names and locations of schools and day care facilities  
 216 attended by the children of such consultants or employees are  
 217 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 218 Constitution.

219 q. The home addresses, telephone numbers, dates of birth,  
 220 and photographs of current or former emergency medical  
 221 technicians or paramedics certified under chapter 401; the  
 222 names, home addresses, telephone numbers, dates of birth, and  
 223 places of employment of the spouses and children of such  
 224 emergency medical technicians or paramedics; and the names and  
 225 locations of schools and day care facilities attended by the  
 226 children of such emergency medical technicians or paramedics are  
 227 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 228 Constitution.

229 r. The home addresses, telephone numbers, dates of birth,  
 230 and photographs of current or former personnel employed in an  
 231 agency's office of inspector general or internal audit  
 232 department whose duties include auditing or investigating waste,

Page 8 of 14

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

14-00144-22 2022432\_\_  
 233 fraud, abuse, theft, exploitation, or other activities that  
 234 could lead to criminal prosecution or administrative discipline;  
 235 the names, home addresses, telephone numbers, dates of birth,  
 236 and places of employment of spouses and children of such  
 237 personnel; and the names and locations of schools and day care  
 238 facilities attended by the children of such personnel are exempt  
 239 from s. 119.07(1) and s. 24(a), Art. I of the State  
 240 Constitution.

s. The home addresses, telephone numbers, dates of birth,  
 242 and photographs of current or former directors, managers,  
 243 supervisors, nurses, and clinical employees of an addiction  
 244 treatment facility; the home addresses, telephone numbers,  
 245 photographs, dates of birth, and places of employment of the  
 246 spouses and children of such personnel; and the names and  
 247 locations of schools and day care facilities attended by the  
 248 children of such personnel are exempt from s. 119.07(1) and s.  
 249 24(a), Art. I of the State Constitution. For purposes of this  
 250 sub-subparagraph, the term "addiction treatment facility" means  
 251 a county government, or agency thereof, that is licensed  
 252 pursuant to s. 397.401 and provides substance abuse prevention,  
 253 intervention, or clinical treatment, including any licensed  
 254 service component described in s. 397.311(26).

t. The home addresses, telephone numbers, dates of birth,  
 256 and photographs of current or former directors, managers,  
 257 supervisors, and clinical employees of a child advocacy center  
 258 that meets the standards of s. 39.3035(2) and fulfills the  
 259 screening requirement of s. 39.3035(3), and the members of a  
 260 Child Protection Team as described in s. 39.303 whose duties  
 261 include supporting the investigation of child abuse or sexual

14-00144-22 2022432\_\_  
 262 abuse, child abandonment, child neglect, and child exploitation  
 263 or to provide services as part of a multidisciplinary case  
 264 review team; the names, home addresses, telephone numbers,  
 265 photographs, dates of birth, and places of employment of the  
 266 spouses and children of such personnel and members; and the  
 267 names and locations of schools and day care facilities attended  
 268 by the children of such personnel and members are exempt from s.  
 269 119.07(1) and s. 24(a), Art. I of the State Constitution.

u. The home addresses, telephone numbers, places of  
 271 employment, dates of birth, and photographs of current or former  
 272 staff and domestic violence advocates, as defined in s.  
 273 90.5036(1)(b), of domestic violence centers certified by the  
 274 Department of Children and Families under chapter 39; the names,  
 275 home addresses, telephone numbers, places of employment, dates  
 276 of birth, and photographs of the spouses and children of such  
 277 personnel; and the names and locations of schools and day care  
 278 facilities attended by the children of such personnel are exempt  
 279 from s. 119.07(1) and s. 24(a), Art. I of the State  
 280 Constitution.

3. An agency that is the custodian of the information  
 282 specified in subparagraph 2. and that is not the employer of the  
 283 officer, employee, justice, judge, or other person specified in  
 284 subparagraph 2. must maintain the exempt status of that  
 285 information only if the officer, employee, justice, judge, other  
 286 person, or employing agency of the designated employee submits a  
 287 written and notarized request for maintenance of the exemption  
 288 to the custodial agency. The request must state under oath the  
 289 statutory basis for the individual's exemption request and  
 290 confirm the individual's status as a party eligible for exempt

14-00144-22 2022432\_\_  
 291 status.  
 292 4.a. A county property appraiser, as defined in s.  
 293 192.001(3), or a county tax collector, as defined in s.  
 294 192.001(4), who receives a written and notarized request for  
 295 maintenance of the exemption pursuant to subparagraph 3. must  
 296 comply by removing the name of the individual with exempt status  
 297 and the instrument number or Official Records book and page  
 298 number identifying the property with the exempt status from all  
 299 publicly available records maintained by the property appraiser  
 300 or tax collector. For written requests received on or before  
 301 July 1, 2021, a county property appraiser or county tax  
 302 collector must comply with this sub-subparagraph by October 1,  
 303 2021. A county property appraiser or county tax collector may  
 304 not remove the street address, legal description, or other  
 305 information identifying real property within the agency's  
 306 records so long as a name or personal information otherwise  
 307 exempt from inspection and copying pursuant to this section are  
 308 not associated with the property or otherwise displayed in the  
 309 public records of the agency.  
 310 b. Any information restricted from public display,  
 311 inspection, or copying under sub-subparagraph a. must be  
 312 provided to the individual whose information was removed.  
 313 5. An officer, an employee, a justice, a judge, or other  
 314 person specified in subparagraph 2. may submit a written request  
 315 for the release of his or her exempt information to the  
 316 custodial agency. The written request must be notarized and must  
 317 specify the information to be released and the party authorized  
 318 to receive the information. Upon receipt of the written request,  
 319 the custodial agency must release the specified information to

Page 11 of 14

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

14-00144-22 2022432\_\_  
 320 the party authorized to receive such information.  
 321 6. The exemptions in this paragraph apply to information  
 322 held by an agency before, on, or after the effective date of the  
 323 exemption.  
 324 7. Information made exempt under this paragraph may be  
 325 disclosed pursuant to s. 28.2221 to a title insurer authorized  
 326 pursuant to s. 624.401 and its affiliates as defined in s.  
 327 624.10; a title insurance agent or title insurance agency as  
 328 defined in s. 626.841(1) or (2), respectively; or an attorney  
 329 duly admitted to practice law in this state and in good standing  
 330 with The Florida Bar.  
 331 8. The exempt status of a home address contained in the  
 332 Official Records is maintained only during the period when a  
 333 protected party resides at the dwelling location. Upon  
 334 conveyance of real property after October 1, 2021, and when such  
 335 real property no longer constitutes a protected party's home  
 336 address as defined in sub-subparagraph 1.a., the protected party  
 337 must submit a written request to release the removed information  
 338 to the county recorder. The written request to release the  
 339 removed information must be notarized, must confirm that a  
 340 protected party's request for release is pursuant to a  
 341 conveyance of his or her dwelling location, and must specify the  
 342 Official Records book and page, instrument number, or clerk's  
 343 file number for each document containing the information to be  
 344 released.  
 345 9. Upon the death of a protected party as verified by a  
 346 certified copy of a death certificate or court order, any party  
 347 can request the county recorder to release a protected  
 348 decedent's removed information unless there is a related request

Page 12 of 14

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

14-00144-22 2022432\_\_  
 349 on file with the county recorder for continued removal of the  
 350 decedent's information or unless such removal is otherwise  
 351 prohibited by statute or by court order. The written request to  
 352 release the removed information upon the death of a protected  
 353 party must attach the certified copy of a death certificate or  
 354 court order and must be notarized, must confirm the request for  
 355 release is due to the death of a protected party, and must  
 356 specify the Official Records book and page number, instrument  
 357 number, or clerk's file number for each document containing the  
 358 information to be released. A fee may not be charged for the  
 359 release of any document pursuant to such request.

360 10. This paragraph is subject to the Open Government Sunset  
 361 Review Act in accordance with s. 119.15 and shall stand repealed  
 362 on October 2, 2024, unless reviewed and saved from repeal  
 363 through reenactment by the Legislature.

364 Section 2. The Legislature finds that it is a public  
 365 necessity that the home addresses, dates of birth, and telephone  
 366 numbers of current or former judicial assistants; the names,  
 367 home addresses, telephone numbers, dates of birth, and places of  
 368 employment of the spouses and children of such judicial  
 369 assistants; and the names and locations of schools and day care  
 370 facilities attended by the children of such judicial assistants  
 371 be made exempt from s. 119.07(1), Florida Statutes, and s.  
 372 24(a), Article I of the State Constitution. Such identifying and  
 373 location information can be used as a tool to perpetuate fraud  
 374 against an individual or to acquire sensitive personal,  
 375 financial, medical, and familial information, the release of  
 376 which could cause great financial harm to the individual. In the  
 377 course of assisting in making rulings, entering judgments,

14-00144-22 2022432\_\_  
 378 imposing sentences, or reviewing cases, judicial assistants may  
 379 possibly engender ill will with litigants, the accused, the  
 380 convicted, and their associates and families, thus making the  
 381 judicial assistants, and their spouses and children, targets for  
 382 acts of revenge. This risk continues after judicial assistants  
 383 complete their public service. Disgruntled individuals may wait  
 384 until the employment of a judicial assistant ends to commit an  
 385 act of revenge. If such identifying and location information is  
 386 released, the safety of current or former judicial assistants  
 387 and their spouses and children could be seriously jeopardized.  
 388 For these reasons, the Legislature finds that it is a public  
 389 necessity that such information be made exempt from public  
 390 records requirements.

391 Section 3. This act shall take effect July 1, 2022.

11 / 30 / 21  
Meeting Date

Judiciary  
Committee

The Florida Senate  
**APPEARANCE RECORD**

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

SB 432  
Bill Number or Topic

Amendment Barcode (if applicable)

Name Alison B. Dudley

Phone 850/559-1139

Address 108 S Monroe St  
Street

Email alison@dudleyanddudleyandassociates.com

Tall FL 32301  
City State Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:  
Judicial Assistants Association of Fla

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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



CIRCUIT	THREAT
6 <sup>TH</sup> CIRCUIT - CLEARWATER - JJ	<p>My Judge served as a referee in a case with the Florida bar. During the 2<sup>nd</sup> day of hearings where she was going to disbar the attorney, he brought a loaded 45 gun with extra magazines through security. He was stopped and apprehended however, for the year leading up to the hearing, I had contact with him as he was pro se. My name is on all of the letterhead and business cards for my Judge.</p> <p>In addition to speaking to the defendants, I speak to victims as we are on our 5<sup>th</sup> year of domestic violence criminal court so I am the one that is blamed for ruined families. Sadly, growing up in this area, I have seen multiple arrests of people from high school and a former neighborhood. It just exposes us too much now.</p>
2 <sup>nd</sup> DCA-JO	<p>I had to prepare an order once that prevented an individual from pulling money from his account. That individual showed up and also called several times threatening me. We had to get the HCSO involved and his picture had to be put up in the courthouse with the hopes that he would not get through to my office. Being a Judicial Assistant can be just as threatening at times. We are the gateway to our Judges. No one can talk to or get to the Judge without going through us, so it does put us at a risk in my opinion. I have been scared quite a few times. Phone calls, people showing up and walking into my office screaming...all because they know my name.</p>
1 <sup>ST</sup> CIRCUIT - PENSACOLA-KA	<p>I have defendant's families friend me and send me messages on Facebook all the time. It really freaks me out. But I know that is just all part of being on social media.</p> <p>It has always worried me that all anyone has to do is a google search of my Judge's name and it pulls up my name also. Then all they have to do is pull up my name on property records, etc. to pull up my home address, etc. or type my name in on "anywho" to pull up my address and phone number. It's really scary.</p> <p>My Judge sentences murderers, drug addicts and thieves, if they get mad enough and can't find out the judge's information, they just might come after the JA.</p>
18 <sup>TH</sup> CIRCUIT - VIERA-NA	<p>When I was married to my ex-husband. He is a deputy at the jail, in many instances the inmates were so smart that they would figure out in their orders, or paperwork that my last name was the same as his. Somehow they knew I was married to him and who I worked for. Couple of years ago, an inmate told my ex, "when I come out I will go to your house because I know where you live and rape your wife Nina Aponte and make you watch it." Even if it was just talk...these inmates receive paperwork with our names on there, they can easily find where we live.</p>
6 <sup>TH</sup> CIRCUIT - CLEARWATER - AF	<p>As my name is a little unusual, it would be very easy to find me, if one knew how to look. I have been a JA since 1997 and recall at least once that I had to call deputies to patrol my neighborhood when I was frightened by a criminal defendant. I usually refuse to give my last name when speaking to defendants or their families on the phone, but again, if one knows where to look, they can easily find my last name.</p>

<p>1<sup>ST</sup> CIRCUIT - PENSACOLA-KA</p>	<p>R. Ardis has numerous cases in our county. If he doesn't like the ruling he will file lawsuits on Judges and also list the Judge's JA's names in the lawsuits. He has threatened my Judge and his family, along with several other Judges here in Escambia County. He is a very scary individual. I wouldn't put it past him to wait until we got off work and follow a JA home. He has found out where some judges live and have mentioned it in emails and documents before. If he can find their addresses, he can certainly find the JAs addresses that aren't protected.</p>
<p>1<sup>ST</sup> CIRCUIT - MILTON-NM</p>	<p>There is a man in our circuit deemed a vexatious litigant by the DCA and by Circuit Court Judge Bergosh. This man has sued almost every judge in Escambia County, and a few judicial assistants, including myself. This person has a family law case before Judge Dickey. A 2009 family law case involving his child – who is 9 years old.</p> <p>Long story short, former wife was granted authorization to relocate to Tampa from Pensacola (Tampa is approx. 450 miles from Pensacola). The distance restricted the former husband's contact w/ his son, who is autistic and enrolled in a special program for autistic children at USF. Basically, this person feels like he lost everything.</p> <p>It was the granting of the former wife's relocation that triggered the former husband. He stated in a voice mail message to the maternal grandmother that he was a man with nothing to lose (this was admitted into evidence in the DV case). The former husband emailed me an answer to Judge Dickey's order to show cause and in it he described where Judge Dickey lived and said a lesser person in his shoes would grab Judge Dickey on her way to the check the mail, pull her hair back, tilt her neck back and slice her throat from ear to ear. He also described in great detail how a person could hire a hit man using bitcoins and a TOR browser to kill her.</p> <p>No, I am not the judge but I am the one who answers the phone when he calls. A judicial assistant is an extension of their judge so it would be very appreciated if judicial assistants could have their personal info and their family's info protected.</p> <p>This man was arrested for threatening Judge Dickey. But it made me wonder how he was able to find her information, so I decided google her name. Her address appeared using google. So, then I googled my name and my address populated. Then, what sickened me, was my house's Zillow listing and all its photos populated.</p>
<p>1<sup>ST</sup> CIRCUIT - DEFUNIAK SPRINGS-DA</p>	<p>I have been working for Judge Wells for 15 years and throughout those years I have had numerous defendants contact me via my home phone, cell phone and even show up at my house to try and get me to persuade the Judge to rule differently for them. The one incident that really stood out for me is the following:</p> <p>A defendant, a habitual offender was looking at 11month 29 days jail sentence. A few days before he was to be sentenced he showed up at my house very drunk. Only myself and young daughter were there. I told her to stay inside. I managed to keep him on my front porch and he insisted that I could make the Judge change his sentence. I tried to explain that was not possible and to keep him from getting any more upset. He was belligerent, refusing to leave and not wanting to listen to anything I said. I was very afraid. Thankfully, my sister just happened to drive up to my house shortly after he had gotten there. He immediately left. The next day, we learned that he had committed suicide by blowing his head off with a shotgun. I have never really gotten over this, it could have so easily been another scenario. One where he decided that he would take my life and possibly my daughter's life and his own.</p>

<p>17<sup>th</sup> CIRCUIT- PLANTATION - PG</p>	<p>I was the victim of numerous threats from a Defendant in a Tenant Eviction case. The Defendant eventually went to jail because of his threats and I as well as my Judge had to testify. It was a nightmare on top of being extremely scary for myself and my family. He left messages on the answering machine at the office and threatened to kill me, and my family. The case is documented in the 17th Circuit.</p>
<p>17<sup>th</sup> CIRCUIT- FT. LAUDERDALE - AQ</p>	<p>My Judge was threatened and the man threatening him also threatened me. (The man harassed many judges in the Broward courthouse and now is in jail pending trial.) It has turned into a criminal case. I had to sit for a depo and will be called to testify in trial.</p> <p>You can read more about the case in the article below.</p> <p><a href="https://www.miamiherald.com/news/local/community/broward/article162469033.html">https://www.miamiherald.com/news/local/community/broward/article162469033.html</a></p>
<p>17<sup>th</sup> CIRCUIT-FT. LAUDERDALE - WM</p>	<p>A few years ago, I had 3 young people showed up to my <b>home</b> harassing me and saying I had stolen their car. I immediately called the police. It turned out there was a fatality DUI that happened up the block from me and the driver was a defendant before my judge. I was contacted several times by BSO and eventually I was advised the individuals found me on line and were family of the defendant</p>
<p>20<sup>TH</sup> CIRCUIT - FORT MYERS - LT</p>	<p>We have a case pending in Lee County where the Defendant (Randall Thomas Rosado, 16CF275) has 15 pending charges for the following:</p> <ul style="list-style-type: none"> <li>-Obstructing Justice Influence/Intimidate/Hinder Leo Duties</li> <li>-Fraud Simulate Legal Process Fraudulent Actions</li> </ul> <p>The victims in this case include Judges, The Clerk of Court, Attorneys, a CFO and a CEO. The charges allege that the victims were all targeted by the Defendant. It is a general fear to have my name listed on any of the court documents due to his current pending charges as I do not want to become one of his victims.</p> <p>I work for Judge Fuller and Judge Fuller is one of the victims in this particular case. It is alleged that the defendant did simulate legal process to wit: fictitious documents from the "International Court of Commerce," which target Circuit Judge Joseph Fuller and include actions affecting title to real estate or personal property, liens, orders, judgments, or other legal documents or proceedings or the basis of any such actions to be fraudulent, contrary to Florida Statute(s) 843.0855(3); 777.011. Judge Fuller was recently served with a summons in this case and they requested I sign the summons and requested my full name be listed on the summons. I requested that the summons simply say it was served on Judicial Assistant to prevent my name from appearing on any documents in the case.</p> <p>If I remember correctly, this Defendant was able to successfully place a lien against Judge Fuller in Pinellas County. A Civil lawsuit was filed to get this lien set aside. This is even more scary because Judge Fuller's personal information is kept confidential and the Defendant was still able to obtain enough information to place a lien against him. Since my information is all public it would be much easier for the defendant to place a lien against me.</p> <p>We currently handle felony cases and deal with a large number of convicted felons. I am required to interact with the defendants on a daily basis and I often have to tell them things they do not want to hear. They are often very upset with me because I am not able to give them legal advice, I cannot allow them to speak with the judge on the phone, I cannot give them expedited hearing time or just simply because the ruling the court gave was not in their favor.</p>

<p>17<sup>th</sup> CIRCUIT-FT. LAUDERDALE - JS</p>	<p>1. While working for my prior judge who happened to be in the middle of a lengthy divorce and domestic violence case, one of the parties somehow obtained my cell phone number and called me wanting to talk about the cases. After that judge retired, a new judge took over the case and even though I have been away from that division for 3 years, the same litigant called me once again on my cell phone. This was about 3 months ago. She wanted information about the new staff working on the case and I was worried that she was going to be waiting at my home to try to speak to me about the case.</p> <p>2. A few years ago our division was handing a child custody case and one of the parties started harassing me by leaving 50-80 voice mail messages after hours each night and over the weekends. The judge hearing the case entered an order preventing the litigant entry into the court house. She was still able to enter the court house, walk into my office and right up to my desk and threaten me. She was detained by police and then arrested for battery on a law enforcement officer. I was afraid of her because she projected all of her feelings that she had about the judge on to me because she had better access to me. I was fearful that she would look up property records and find my home.</p>
<p>2<sup>ND</sup> DCA - CA</p>	<p>I had a situation about a year ago, when an attorney (Steven Fox) in Sarasota harassed me to the point the Judge I was working with at the time, told me to stop answering the phone. He was mad because he promised his client something, but his motion was denied by the judge. He was upset that he couldn't get the judge, so he decided to come after me. He was crying and screaming every time he called. He would call from three different phone numbers to get me to answer him. The last time I spoke to him, he threatened to look up my personal information, and file a lawsuit against me.</p>
<p>9<sup>TH</sup> CIRCUIT – ORLANDO -JH</p>	<p>I have had an experience with a Respondent in a Domestic case that my Judge and I have had. This Respondent would call and fill our voicemail with loud music nightly. He started leaving messages giving detailed information about the Judge's personal life. Enough detail that it showed us that he was doing his research. His calls to me in the office would become more and more aggressive. He was trespassed from the building and was only allowed to be here when he would have a court date. He became so well known here in our large courthouse that when any deputy would see him, though he was here for court, the deputies would call me to let me know so that I would stay in my office unless I absolutely had to go out. The Sheriff's Office did an investigation into the harassment that became a daily issue for my Judge and I. His picture was posted in our office.</p> <p>This Respondent knew my name but did not know me by sight. I walked around the courthouse with my hand over my name badge so that when he was here he would not know who I was.</p> <p>The Sheriff's Office was able to gather enough evidence to hand over to the State Attorney who did charge him with harassment of a public official. The case went to a jury trial and the Judge and I had to testify. This was the first time this Respondent had seen me and it was extremely uncomfortable to know that he now knows what I look like. The jury found him guilty as charged and he was given a jail sentence.</p> <p>These are the types of people that concern me and with the information age what it is today, I fear for my personal information to be public</p>
<p>9<sup>TH</sup> CIRCUIT - ORLANDO - LH</p>	<p>I was sitting at my desk one morning when I received this text attached. It was very early and I was probably the only person in the building. I had no idea who this was from and needless to say I was pretty shocked and a little disturbed by it. I immediately contacted the corporal for the criminal division to report it to him. He came to my office and took this</p>

	<p>screenshot. He said he would look into it but didn't seem that concerned by it and told me to ignore it. I, of course told my Judge about it.</p> <p>I researched the case number and found out that the case referenced was set for arraignment that day so I contacted the State attorney to try to get more info. Apparently, whoever sent this was "probably" the victim in the identity theft case that was set. I reached out to the defense attorney for that case and he said he also was receiving threats of sort via email, personal texts, etc.. from this person and they were actually a co-defendant for this case. Confused? Me too.</p> <p>My main concern was how the heck they got my personal cell phone number? I was scared because the Judges receive threatening letters all the time, which we as JAs open. We're the person they call to gripe to. They know our names and due to social media and the accessibility to same, it is easy to find our info, family members info, etc... Please express the importance of our personal safety concerns. Thank you so much.</p>
<p>9<sup>TH</sup> CIRCUIT – ORLANDO - ML</p>	<p>My judge has had threats made against her from an inmate who said he was in a gang and his gang would kill her, chop up her body and her family would never find her. When you are dealing with people of that mentality it is not unreasonable to believe if they can't find the judge they will get at the judge by attacking the judge's assistant.</p>
<p>9<sup>TH</sup> CIRCUIT – ORLANDO-LM</p>	<p>I don't have the specific case # or defendant, but when I was in Civil I had to call and tell someone his Motion to Stay was denied. He asked, "What time does your shift end?" Needless to say, since we give our names when we call, he could easily look up my information if he so desired. In County Civil, we had to make those types of calls almost on a daily basis.</p>
<p>9<sup>TH</sup> CIRCUIT – ORLANDO – LS</p>	<p>A girl that was on our list to bring in as a temporary substitute JA if we were out of the office was removed from the list because she was doing some crazy things while in the offices. She mistakenly thought I was to blame (it was another JA as I had never used her in my office). One evening I came out of my garage and she was at the end of my driveway staring at me. I live an hour from the courthouse so it was no accident that she was at my house. I reported it and then asked court administration to remove my personal information from any address lists, including ones that the other JAs may have. I now only give my personal information to those I know I can trust.</p> <p>When I worked for Judge Cohen we had a defendant that was charged with attempted murder, stalking, etc. Throughout the pendency of the case he threatened the judge and staff constantly. He went to victims houses and watched them prior to trial. Eventually he was tried, while representing himself, and sent to prison. He continued to send letters to the Court with threats while in prison. Upon release from prison several years later, he was transported back from DOC and told to report directly to probation a block away from where he was released. They had deputies watching him and instead of reporting to probation, he walked towards the courthouse. We were put on lock down until they detained him and a VOP warrant was issued and signed for failure to report. He was put back in prison for VOP. I had his mug shot on the bulletin board for years so others would know he was a problem if he should return for any reason.</p> <p>Recently, Judge Munyon had a RICO case where MBI would come to the office weekly and give reports and have the Judge sign warrants, phone orders, etc. This went on for several months. During the investigation it was determined that the defendants were threatening</p>

	witnesses and dismembering people involved in the case. The investigators would warn the judge and she was concerned that her signature was on all these documents but felt a little safer since her personal information was private. It didn't make me feel the same as my information is public record and could be obtained by anyone in attempt to get to her.
12 <sup>th</sup> CIRCUIT - JH	I've never had an issue that I can recall off the top of my head, but I know of someone that was contacted from an inmate in custody on her home phone since her name was on a document. I've always felt this is an issue. There are other people that are afforded privacy due to their job – probation officers, JPO's, etc – and I think if it's looked from that angle, it may be better understood where we are coming from.
12 <sup>TH</sup> CIRCUIT - MM	Over the past 9 years I have received threatening phone calls from a man named Patrick Guinan and have been threatened and cussed at approximately 10 other times by pro se litigants and their family members. He has left numerous voice messages threatening the Judge and me.
12 <sup>TH</sup> CIRCUIT - PL	
5 <sup>TH</sup> CIRCUIT – TAVARES-SM	Several years ago, my judge and I were notified by the Sheriff's department that one of the defendants had made threats against us and were actually following both of us to our homes.
2 <sup>ND</sup> CIRCUIT – TALLAHASSEE-KP	<p>I originally worked as the JA for Judge George Reynolds before being hired to work as the JA for Judge Frank Allman. In 2015/16 Judge Reynolds presided over a case involving Florida's bears and how they should be managed. It involved the Florida Wildlife Commission requesting approval to allow a hunt for black bears. There were several people and organizations who opposed the hunt including the Sierra Club.</p> <p>I received emails through my work email, one of which was a bit personal from Scott Richards (<a href="mailto:sandsrwe@yahoo.com">sandsrwe@yahoo.com</a>) who commented "[E]njoy that a gov'ment paycheck, huh? Bet you do... ." The subject line was "Kelly &amp; George, the idiot team" which initially made me laugh until I read his message. It was a bit disconcerting to become the focus of this man's attention. There were protests outside the courthouse regarding the case. My response was to forward all similar emails to our Court Administration Director so that security would be aware of any possible threats.</p> <p>The emails weren't sent to my personal email, but it made me much more aware that if someone wanted to find me it wouldn't be that difficult.</p> <p>[Obviously, Mr. Richards wasn't aware that Circuit Court JAs (and County Court JAs) salaries are near the poverty level, but I love my job and balance happy job with not so happy paycheck.]</p>
2 <sup>ND</sup> CIRCUIT – APALACHICOLA-LW	Several years ago, we had a local Defendant who was sentenced to Chattahoochee for murdering his grandmother. The Circuit Court handled the case but somehow the Defendant got it in his head it was Judge Russell. After being in Chattahoochee some time; they let him use the phone and every morning he would call our office wanting to talk to the Judge and every day I would have to explain why he could not talk to the Judge. He would get very angry and upset with me and if I did not answer the phone; he would take up my entire answering machine space with his rambling messages. His father was a retired post office clerk who came by my office and told me how upset his son was with me and how the father thought I should know in case they let him out. I did finally call Chattahoochee and had his telephone privileges modified so he could not call our office.

BC	I had a very scary incident in Circuit Court with this. They had to put up flyers throughout the courthouse and extra security because of the individual threatening me
MS	We have a dependency case in which the mom has left me hundreds of messages (Many of them are saved on a zip drive) she threatens the lives of myself, my child, and my grandchild on a regular basis. So I am in total agreement of this passing
18 <sup>TH</sup> CIRCUIT – VIERA - KM	Last year when I was pregnant back in March 10 <sup>th</sup> , 2020, I received a phone call from the defendant’s father, he was very upset about his daughter’s case and before he hung up he said: “I’m going to go to Florida and f#\$%%& shoot all of you in that office”. Of course, being pregnant I was very emotional and scared. I filed a police report with BCSO. The police called the defendant but of course he denied ever saying that. The police said they were going to keep an eye out but thank God nothing occurred after that. But I was scared for a few weeks, always watching my back. I’ll never forget his mugshot for sure
18 <sup>TH</sup> CIRCUIT – VIERA - PA	This may have been reported to her already, but there was a criminal court case in Martin County that stemmed from a threat from a litigant to a judge & JA, and their families. The defendant’s last name is DOLAN and the case number for the criminal charges is 43-2019-CF-000623-A. Judge McKibben was the judge assigned by the Supreme Court to handle it due to all of Martin County judges recusing themselves. Sorry if this is duplicated information
18 <sup>TH</sup> CIRCUIT – VIERA - DL	Judge Segal and I actually have an active case right now where the Respondent (father), Michael Locke, threatened many times in emails to kill us or harm us. The emails started to list our exact addresses of our homes
VM	I have personally had two prose litigants appear in chambers demanding to see me, refusing to leave. On both occasions, they got confrontational with the bailiff and ended up having to be escorted out of the building by liaison. Both of these litigants have emailed me after hours, on weekends and have included me in pleadings, etc. I have felt, on both occasions, afraid for my safety. One of the litigants even shoved the bailiff in an attempt to enter chambers to speak to me. There are too many resources available online and I definitely feel like our addresses are easy to find with just the slightest bit of research. These two gentlemen could certainly find mine if they wanted to.
SE	I had an experience with a pro se defendant in a foreclosure matter who felt I was hindering his case. He subpoenaed me to be deposed. In his pleadings he made various accusations stating that I was “in cahoots with the banks attorney”, he called me “uneducated” and “arrogant”. If I were to go back through the court file, I’m sure I could find plenty of examples of him calling me names and accusing me of wrong-doing. There were never threats of violence but when I saw my home address filed in the court file, I was pretty shaken up and had to have a conversation with my family.  He completed the subpoena with my work address however when the sheriff’s office received the subpoena and entered my name into their system my home address printed onto their Deputy Worksheet. That was then filed into the court file, unreacted so, now the pro se defendant, and everyone else, knows where my children and I live
LG	Just yesterday this occurred, I am still waiting to find out if they can download the 5 messages this man left. He kept calling throughout day but did not leave any further messages. I was worried he would find me on social media (my stuff is private anyway but just in case) since he repeatedly said my full name in the messages left, and I was able to locate and blocked him.  The defendant in the matter he was upset over has a history of mental issues and per report, claims that her parents do all well. This heightens my concern.

	<p>You would have to hear his tone of voice, the anger, the grasping of air – clearly heard from his rambling, and overload of ugly words. Once I get them to download, I will ask if I can send. Or if there’s an alternative available. He did make sure we were of his full name and at one point said, “I’m coming for you.”</p> <p>After my Judge heard the messages and I explained what he initially called and said – that caused me to terminate the call – he said for me to make a report.</p>
19 <sup>TH</sup> CIRCUIT FORT PIERCE CH	<p>My biggest concern is since I cannot get unlisted number, etc. that if someone was pissed they would be able to find out where I live, etc.</p> <p>The incident I am about to speak of did not happen while on JA time but years ago. As a legal secretary, I had a client contact me on a weekend because he wanted an answer to something that could have waited until that upcoming Monday. When asked how he got my number, he indicated that he got my last name from a document I notarized and looked me up. While that is not a threat, that just shows what people will go through to find you.</p>
9 <sup>TH</sup> CIRCUIT ORLANDO DR	<p>I have a permanent injunction from years ago, from a woman who had a divorce case with Judge XXX and she ended up coming to my house, following me in the mall and followed my kids – and it would have been really good to have had something like this then.</p> <p>I no longer live in that area, but it was quite scary and that is one of the reasons they need to think about this is the fact that we are the first point of contact for our Judge and division etc..... Our names are on the website, facebook, etc.</p>
2 <sup>ND</sup> CIRCUIT TALLAHASSEE SB	<p>Received many threatening emails and phone calls in reference to a facemask case. The emails are under criminal investigation, so no details can be provided. At one point, stopped answering the phone because of all of the crazy threatening phone calls.</p>
2 <sup>ND</sup> CIRCUIT TALLAHASSEE KP	<p>Received a threatening email that stated: “Why do you work for a racist judge? Don’t you know future employment will be compromised? What goes around comes around.”</p>
17 <sup>TH</sup> CIRCUIT FORT LAUDERDALE KO	<p>A couple years ago my home number and address were inadvertently used as the public number for the Broward County Courthouse on the internet...if you googled 17th Judicial Circuit my phone number and address came up as who to call and where to go. I discovered this when I started getting phone calls from a woman who was irate that she was being served for, coincidentally, a Domestic Violence case. I had thought she got my name from the circuit site and looked me up online. It took me calling my Court Administrator completely freaked out to get this changed. In the meantime, I was getting phone call after call regarding court matters... It was a little scary that my name and HOME address were listed. Had we fallen under the Records Exemption act they would never have been able to, even though accidently, get this confused.</p>
11 <sup>TH</sup> CIRCUIT MIAMI DG	<p>I had an incident couple of weeks ago (phone calls lasted for few days). Judge and I were threatened by pro-se litigant. He wanted to get to the judge through me. It was very scary. That gentleman is now in jail. Homeland security detectives had to get involved.</p>



<p>11TH CIRCUIT MIAMI BM</p>	<p>I was contacted through What'sUp by a litigant to discuss her case. It happened last year, when she was not happy with just emailing and calling the office.</p>
<p>8TH CIRCUIT SH</p>	<p>Received threatening emails stating the following:  "Come back SH, I almost have you trained. Now, I have to start over with this bitch."  Another email:  "N, do you understand your vertical infinity? I understand mine. I came up with vertical infinity at Buchholz high school."  Another email:  "Shit-for-brains N, has anyone told you that willful ignorance and or willful neglect is not a viable defense. They have now shit-for-brains."  Another email:  "SH, I going to have kill you so I can kill N since you allowing him to hide behind you. N, did you know that felons can have pellet guns? SH, move to one side or the so I can have a clear view of him."  Another email:  "To Cheating, Cowardly, thieving N, I am going to kill you for stealing my life. You can have traitor Ron Desantis, fruadulent groeb, dumb nigger, drunk, alcoholic Walter Green, liar Mark Moseley on your team. Nothing honorable about you, N.  P.S. Full disclosure N.  You owe me \$ 4,000.00 per month living expenses since December 1, 2014.  You owe me \$ 50,000.00 a year for taking away my right to work since December 1, 2014.  You owe me a new vehicle of my choice.  You owe me a new drivers license with cdl expiration date December 31, 2099.  You owe me your life in state prison for twenty years for kidnapping me.  You can add another 20 years on to your sentence for kidnapping Terry Looney.  Are you ready to talk, N?"</p>
<p>11TH CIRCUIT MIAMI MR</p>	<p>Received several threatening emails from a gentleman whose family got an injunction against him and he is very angry because five Judges have already recused themselves from the case.</p>
<p>12TH CIRCUIT KZ</p>	<p>There is an increasing amount of defendants that are representing themselves (some sovereign citizens) and filing threats against the Judge so it is only a matter of time before the threat is made against a JA.</p>
<p>8TH CIRCUIT GAINESVILLE TH</p>	<p>Another JA and I, (RD) were personally sued along with our judges by an inmate because his cases were dismissed for failure to serve defendants. The suit was dismissed by the Columbia County Court, Third Circuit, but this guy is supposed to be released by next year and I really do not want him to get my personal address.</p>
<p>7TH CIRCUIT DELAND MW</p>	<p>Email received from a defendant:  "I would refrain from ever sending another email if you know what's good for you and your loved ones. Enjoy the rest of your day."</p>

10TH CIRCUIT BARTOW REPORTED BY KA (Circuit Rep)	One of the threats was received by e-mail that came directly to the JA at her work e-mail address that stated that he knew her home address and he then listed her home address in the e-mail. He then stated that he would be subpoenaing her for a hearing. The JA is a single mother of 2 girls she instantly became scared for their safety. And it was reported to local law enforcement to investigate.
10TH CIRCUIT BARTOW REPORTED BY KA (Circuit Rep)	The other 3 calls received stated that they received a voice mail message and one stated that they know where she lives. Each JA that I spoke to was not sure why our safety would even be a debate or something that should be questioned to as to why should our personal information not already be private due to the fact we work hand in hand with the judges. One of the JAs stated that, "We deal with people that are having life altering events and sometimes the repercussions of that make them very angry and the anger is misplaced towards us."
10TH CIRCUIT BARTOW REPORTED BY KA (Circuit Rep)	The Judge and I have received two threats from the same person within the last year. He is a little off his rocker according to the detective that investigated, so we take it with a grain of salt. That being said, should our personal information be public? ABSOLUTLEY not. I still have children that I worry about when things like this happen.
10TH CIRCUIT BARTOW REPORTED BY KA (Circuit Rep)	In the last two years it has happened once. The case the person was upset over wasn't even assigned to us or ever heard by us, but the threats on social media and voicemail were directed at Judge F's office.
10TH CIRCUIT BARTOW REPORTED BY KA (Circuit Rep)	Another JA reported: Mostly upset parents (as we are involved with Dependency and children being removed from their parents) - a lot of them are not mentally stable; however, they have said "you're going to get yours.. or yours is coming next" or making comments to the Judge when she says things/makes findings not in their favor like, "just you wait.." (people in jail referring to when they are released) etc. Again, they are usually upset because of the situation, but do become very angry at me when they believe that I am against them or cannot help them the way they feel I should. I've also received the same threats working with Respondents in the Mental Health division that we deal with.
9TH CIRCUIT ORLANDO MM	Pro Se Defendant called Chambers today. She advised she was outside of Courtroom 18-B for a hearing. I explained this hearing is set as virtual, per the August 27, 2021, Notice of Hearing. She argued, she read emails, she claimed she didn't agree to this hearing, etc. & she claimed I was in favor of the other side. The call was almost 17 minutes long. At one point, she asked me what happened to Diane. I advised Diane retired at the end of May. She said, "Oh how convenient, I hope she gets cut." I said, excuse me? I sincerely wasn't sure I heard her correctly. She said, "She [Diane] knows what she did & I hope somebody cuts her."



The Florida Senate

## Committee Agenda Request

**To:** Senator Danny Burgess, Chair  
Committee on Judiciary

**Subject:** Committee Agenda Request

**Date:** October 25, 2021

---

I respectfully request that **Senate Bill 432**, relating to Public Records/Judicial Assistants, be placed on the:

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

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

---

Senator Tom A. Wright  
Florida Senate, District 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 156

INTRODUCER: Senator Broxson

SUBJECT: Loss Run Statements

DATE: November 29, 2021

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

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

---

## I. Summary:

SB 156 amends two statutes related to insurance loss run statements and repeals a conflicting statute. Specifically, the bill:

- Reduces from 5 years to 3 years the claims history that must be included within a loss run statement.
- Requires an admitted and nonadmitted group health insurer's loss run statement to include certain information.
- Requires an admitted and nonadmitted personal lines insurer to provide loss run statements within 15 days of an insured's request after first providing information on how to obtain a loss run statement from a consumer reporting agency.
- Excludes admitted and nonadmitted life insurers from the requirement to provide loss run statements.
- Specifies that only the group policyholder may request and receive a loss run statement for a group health insurance policy, and repeals a conflicting statute related to group health insurance claims data.

The bill takes effect upon becoming law.

## II. Present Situation:

### Loss Run Statements

Loss run statements are reports produced by an insurer or consumer reporting agency containing the claims history of a policyholder with an authorized or unauthorized insurer. The loss run statement must contain a claims history for the preceding 5 years or, if the claims history is less than 5 years, a complete claims history with the insurer.<sup>1</sup> Under Florida law, the reports must

---

<sup>1</sup> See ss. 626.9202 and 627.444, F.S.

contain the policy number, period of coverage, number of claims, the paid losses on all claims, and the date of each loss.<sup>2</sup> Reports are not required to include supporting claims file documentation such as copies of claim files, investigation reports, evaluation statements, insureds' statements, and documents protected by a common law or statutory privilege.<sup>3</sup> Upon receipt of the policyholder's written request, the insurer has 15 days to provide the loss run statement or, for personal lines of insurance, information on how to obtain the loss run statement at no cost through a consumer reporting agency. A personal lines policyholder may request a loss run statement from the insurer after receiving information from a consumer reporting agency. Upon receiving such request, the personal lines insurer must provide the loss run statement within 15 days.<sup>4</sup>

### ***Release of Claims Experience Under Group Health Insurance Policies***

In addition to the statutory provisions governing loss run statements described above, group health insurers must also provide the policyholder with claims experience information required for bid for the previous 3 years or for the entire period of coverage, whichever is shorter.<sup>5</sup> Required information includes, but is not limited to, claim experience, premiums paid, number of insureds on a monthly basis, and dependent status. The insurer is not required to disclose any information deemed confidential by law.<sup>6</sup> Upon receipt of the policyholder's written request, the insurer has 21 days to provide the claims experience.<sup>7</sup>

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

**Section 1** amends s. 626.9202, F.S., and **Section 2** amends s. 627.444, F.S., to revise several provisions governing loss run statement requirements for nonadmitted and admitted insurers. The bill:

- Reduces from the preceding 5 years to the preceding 3 years the claims history that must be included within a loss run statement.
- Requires that reports from group health insurers include premiums paid, the number of insureds on a monthly basis, and the dependent status.
- Requires that each insurer designate an individual or entity to receive written requests for loss run statements from insureds.
- Requires that the personal lines insurer provide the insured a loss run statement within 15 calendar days after receiving the insured's written request subsequent to the insured providing the insurer with information on obtaining a loss run statement from a consumer reporting agency.
- Exempts life insurers from the requirements for loss run statements.
- Provides that, under a group health insurance policy, only the group policyholder may request and be provided a loss run statement.

---

<sup>2</sup> Sections 626.9202(1)(a) and 627.444(1)(a), F.S.

<sup>3</sup> *Id.*

<sup>4</sup> Sections 626.9202(2) and 627.444(2), F.S.

<sup>5</sup> Section 627.6647(1), F.S.

<sup>6</sup> Section 627.6647(2), F.S.

<sup>7</sup> Section 627.6647(1), F.S.

**Section 3** repeals s. 627.6647, F.S., to remove conflicting statutory language related to group health insurance claims data.

**Section 4** provides that this act is effective upon becoming law.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 626.9202 and 627.444.

This bill repeals section 627.6647, 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.

---



LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
11/30/2021	.	
	.	
	.	
	.	

---

The Committee on Judiciary (Broxson) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 35 - 93  
and insert:

(2) Notwithstanding any other law, an insurer or surplus  
lines agent shall provide to an insured within 15 calendar days  
after an individual or entity designated by the insurer receives  
~~receipt of~~ the insured's written request, either:

- (a) A loss run statement; or
- (b) For personal lines of insurance, information on how to  
obtain a loss run statement at no charge through a consumer





774698

12 reporting agency. However, this section does not prohibit an  
13 insured from requesting a loss run statement after receiving  
14 information from a consumer reporting agency, in which case the  
15 insurer or surplus lines agent shall then provide the loss run  
16 statement within 15 calendar days after the individual or entity  
17 designated by the insurer receives the insured's subsequent  
18 written request.

19 (4) A loss run statement provided pursuant to this section  
20 must contain a claims history with the insurer for the preceding  
21 3 5 years or, if the claims history is less than 3 5 years, a  
22 complete claims history with the insurer.

23 (7) This section does not apply to life insurance as  
24 defined in s. 624.602.

25 (8) For group health insurance, only the group policyholder  
26 may request and be provided a loss run statement pursuant to  
27 this section.

28 Section 2. Subsections (1), (2), and (4) of section  
29 627.444, Florida Statutes, are amended, and subsections (7) and  
30 (8) are added to that section, to read:

31 627.444 Loss run statements for all lines of insurance.—

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

33 (a) "Loss run statement" means a report that contains the  
34 policy number, the period of coverage, the number of claims, the  
35 paid losses on all claims, and the date of each loss. The term  
36 does not include supporting claim file documentation, including,  
37 but not limited to, copies of claim files, investigation  
38 reports, evaluation statements, insureds' statements, and  
39 documents protected by a common law or statutory privilege. As  
40 applied to group health insurance, the term means a report that



774698

41 also contains the premiums paid, the number of insureds on a  
42 monthly basis, and the dependent status.

43 (b) "Provide" means to electronically send a document or to  
44 allow access through an electronic portal to view or generate a  
45 document.

46 (2) Notwithstanding any other law, an insurer shall provide  
47 to an insured within 15 calendar days after an individual or  
48 entity designated by the insurer receives ~~receipt of~~ the  
49 insured's written request, either:

50 (a) A loss run statement; or

51 (b) For personal lines of insurance, information on how to  
52 obtain a loss run statement at no charge through a consumer  
53 reporting agency. However, this section does not prohibit an  
54 insured from requesting a loss run statement after receiving  
55 information from a consumer reporting agency, in which case the  
56 insurer shall then provide the loss run statement within 15  
57 calendar days after the individual or entity designated by the  
58 insurer receives the insured's subsequent written request.

59 (4) A loss run statement provided pursuant to this section  
60 must contain a claims history with the insurer for the preceding  
61 3 5 years or, if the claims history is less than 3 5 years, a  
62 complete claims history with the insurer.

63 (7) This section does not apply to:

64 (a) Life insurance as defined in s. 624.602.

65 (b) A workers' compensation or employer's liability  
66 insurance policy subject to s. 627.291.

67  
68 ===== T I T L E A M E N D M E N T =====

69 And the title is amended as follows:



774698

70           Delete line 3  
71 and insert:  
72           626.9202, F.S.; revising the definition of the term  
73           "loss run statement"; revising the entities which must  
74           provide certain information to insureds after  
75           receiving requests for loss run statements; specifying  
76           the entities that must receive requests for loss run  
77           statements; specifying that insurers or surplus lines  
78           agents must provide loss run statements under certain  
79           circumstances; revising the required claims history in  
80           loss run statements; providing applicability; limiting  
81           loss run statement requests with respect to group  
82           health insurance policies to group policyholders;  
83           amending s. 627.444, F.S.; revising the definition of

By Senator Broxson

1-00235A-22

2022156\_\_

1 A bill to be entitled  
 2 An act relating to loss run statements; amending ss.  
 3 626.9202 and 627.444, F.S.; revising the definition of  
 4 the term "loss run statement"; specifying the entities  
 5 that must receive requests for loss run statements;  
 6 specifying that insurers must provide loss run  
 7 statements under certain circumstances; revising the  
 8 required claims history in loss run statements;  
 9 providing applicability; limiting loss run statement  
 10 requests with respect to group health insurance  
 11 policies to group policyholders; repealing s.  
 12 627.6647, F.S., relating to release of claims  
 13 experience; providing an effective date.  
 14  
 15 Be It Enacted by the Legislature of the State of Florida:  
 16  
 17 Section 1. Subsections (1), (2), and (4) of section  
 18 626.9202, Florida Statutes, are amended, and subsections (7) and  
 19 (8) are added to that section, to read:  
 20 626.9202 Loss run statements for all lines of insurance.—  
 21 (1) As used in this section, the term:  
 22 (a) "Loss run statement" means a report that contains the  
 23 policy number, the period of coverage, the number of claims, the  
 24 paid losses on all claims, and the date of each loss. The term  
 25 does not include supporting claim file documentation, including,  
 26 but not limited to, copies of claim files, investigation  
 27 reports, evaluation statements, insureds' statements, and  
 28 documents protected by a common law or statutory privilege. As  
 29 applied to group health insurance, the term means a report that

Page 1 of 4

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

1-00235A-22

2022156\_\_

30 also contains the premiums paid, the number of insureds on a  
 31 monthly basis, and the dependent status.  
 32 (b) "Provide" means to electronically send a document or to  
 33 allow access through an electronic portal to view or generate a  
 34 document.  
 35 (2) Notwithstanding any other law, an insurer shall provide  
 36 to an insured within 15 calendar days after an individual or  
 37 entity designated by the insurer receives ~~receipt of~~ the  
 38 insured's written request, either:  
 39 (a) A loss run statement; or  
 40 (b) For personal lines of insurance, information on how to  
 41 obtain a loss run statement at no charge through a consumer  
 42 reporting agency. However, this section does not prohibit an  
 43 insured from requesting a loss run statement after receiving  
 44 information from a consumer reporting agency, in which case the  
 45 insurer shall then provide the loss run statement within 15  
 46 calendar days after the individual or entity designated by the  
 47 insurer receives the insured's subsequent written request.  
 48 (4) A loss run statement provided pursuant to this section  
 49 must contain a claims history with the insurer for the preceding  
 50 3 5 years or, if the claims history is less than 3 5 years, a  
 51 complete claims history with the insurer.  
 52 (7) This section does not apply to a life insurer as  
 53 defined in s. 624.602.  
 54 (8) For group health insurance, only the group policyholder  
 55 may request and be provided a loss run statement pursuant to  
 56 this section.  
 57 Section 2. Subsections (1), (2), and (4) of section  
 58 627.444, Florida Statutes, are amended, and subsections (7) and

Page 2 of 4

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

1-00235A-22

2022156\_\_

59 (8) are added to that section, to read:

60 627.444 Loss run statements for all lines of insurance.--

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

62 (a) "Loss run statement" means a report that contains the  
63 policy number, the period of coverage, the number of claims, the  
64 paid losses on all claims, and the date of each loss. The term  
65 does not include supporting claim file documentation, including,  
66 but not limited to, copies of claim files, investigation  
67 reports, evaluation statements, insureds' statements, and  
68 documents protected by a common law or statutory privilege. As  
69 applied to group health insurance, the term means a report that  
70 also contains the premiums paid, the number of insureds on a  
71 monthly basis, and the dependent status.

72 (b) "Provide" means to electronically send a document or to  
73 allow access through an electronic portal to view or generate a  
74 document.

75 (2) Notwithstanding any other law, an insurer shall provide  
76 to an insured within 15 calendar days after an individual or  
77 entity designated by the insurer receives ~~receipt~~ of the  
78 insured's written request, either:

79 (a) A loss run statement; or

80 (b) For personal lines of insurance, information on how to  
81 obtain a loss run statement at no charge through a consumer  
82 reporting agency. However, this section does not prohibit an  
83 insured from requesting a loss run statement after receiving  
84 information from a consumer reporting agency, in which case the  
85 insurer shall then provide the loss run statement within 15  
86 calendar days after the individual or entity designated by the  
87 insurer receives the insured's subsequent written request.

Page 3 of 4

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

1-00235A-22

2022156\_\_

88 (4) A loss run statement provided pursuant to this section  
89 must contain a claims history with the insurer for the preceding  
90 3 5 years or, if the claims history is less than 3 5 years, a  
91 complete claims history with the insurer.

92 (7) This section does not apply to a life insurer as  
93 defined in s. 624.602.

94 (8) For group health insurance, only the group policyholder  
95 may request and be provided a loss run statement pursuant to  
96 this section.

97 Section 3. Section 627.6647, Florida Statutes, is repealed.

98 Section 4. This act shall take effect upon becoming a law.

Page 4 of 4

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

11/30/2021

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

156

Bill Number or Topic

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

Judiciary

Committee

Amendment Barcode (if applicable)

Name **Paul Runk**

Phone **850-527-9761**

Address **200 W. College Ave. Suite 104**

Email **paul@fahp.net**

Street

**Tallahassee**

**FL**

**32301**

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**Florida Association of Health Plans**

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

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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

The Florida Senate

**APPEARANCE RECORD**

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

11/30/21

Meeting Date

Judiciary

Committee

156

Bill Number or Topic

Amendment Barcode (if applicable)

Name **George Feijoo**

Phone **3057207099**

Address **108 S. Monroe Street**

Email **grfeijoo@flapartners.com**

Street

**Tallahassee**

**FL**

**32312**

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**Florida Insurance Council**

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

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

11/30/21

Meeting Date

156

Bill Number or Topic

Judiciary

Committee

Amendment Barcode (if applicable)

Name

BG Murphy

Phone

865-698-8820

Address

3159 Shamrock St. S

Email

bmurphy@faja.com

Street

Tallahassee

FL

32309

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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





The Florida Senate

## Committee Agenda Request

**To:** Senator Danny Burgess, Chair  
Committee on Judiciary

**Subject:** Committee Agenda Request

**Date:** November 19, 2021

---

I respectfully request that **Senate Bill #156**, relating to Loss Run, be placed on the:

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

A handwritten signature in cursive script, appearing to read "Doug Broxson".

---

Senator Doug Broxson  
Florida Senate, District 1

**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 552

INTRODUCER: Senator Boyd and others

SUBJECT: Clerks of the Circuit Court

DATE: November 29, 2021      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bond	Cibula	JU	<b>Favorable</b>
2.			ACJ	
3.			AP	

---

**I. Summary:**

SB 552 changes laws affecting the clerks of court. It increases revenues of the clerks of court by:

- Decreasing the share of certain foreclosure filing fees transferred to the General Revenue Fund, thereby directing the fees to the clerks of court.
- Changing distribution of a county court filing fee from the General Revenue Fund to the clerks of court.
- Directing the clerks of court to ask the Legislature for increased funding related to increases in trial court judicial positions.
- Allowing the clerks to review property records to verify an application for civil indigent status.
- Requiring that a judge or traffic infraction hearing officer finding an offender guilty, at a minimum, impose the financial penalty that would have been imposed had the offender not elected to contest the infraction.
- Allowing the clerks of court to ask for Legislative funding for filings related to mental health and substance abuse that the clerks must currently file at no charge.

The bill also:

- Modifies the standard terms of a payment plan for an individual who owes money to a clerk to establish a \$25 minimum monthly payment and to limit the down payment to the lesser of 10 percent of the amount owed or \$100.
- Requires the Department of Highway Safety and Motor Vehicles to coordinate with the clerks of court on a system for reinstatement of driver licenses upon payment of court-related obligations.

The fund shifts in foreclosure and county courts are estimated to have a recurring negative fiscal impact to the state in FY 2022-23 of \$17.4 million and a corresponding positive fiscal impact of

\$17.4 million to the clerks of court. The remainder of the bill appears to have an indeterminate positive fiscal impact on the clerks of court.

The bill takes effect July 1, 2022.

## II. Present Situation:

### Clerk of the Circuit Court

The clerk of the circuit court is a constitutional officer. Each of Florida's 67 counties are required to elect a clerk of the circuit court<sup>1</sup> to serve as both the clerk of court, completing judiciary functions, and as the "*ex officio*"<sup>2</sup> clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds."<sup>3</sup> In other words, the clerk of the circuit court wears approximately five hats. In wearing the auditor and custodian of county funds hats, the clerk may also be referred to as the comptroller.<sup>4</sup>

### Funding for the Clerks' Court-Related Functions

In its capacity as the clerk of the circuit and county courts, the clerk is required to perform various court-related, administrative and ministerial functions. Any court-related function authorized by law or court rule must be funded by the clerk's collection of filing fees, service charges, costs, and fines, including the following:

- Case maintenance.
- Records management.
- Court preparation and attendance.
- Processing the assignment, reopening, and reassignment of cases.
- Processing appeals.
- Collection and distribution of fines, fees, service charges, and court costs.
- Data collection and reporting.
- Determinations of indigent status.
- Paying reasonable administrative support costs to enable the clerks to carry out court-related functions.<sup>5</sup>

Court funding is governed by article V, section 14 of the Florida Constitution. For the clerks of the circuit courts, article V, section 14(b) provides that the clerks are self-sustaining and fund

---

<sup>1</sup> FLA. CONST. art. V, s. 16; FLA. CONST. art. VIII, s. 1.

<sup>2</sup> See BLACK'S LAW DICTIONARY (10th ed. 2014) ("*ex officio*" means "By virtue or because of an office; by virtue of the authority implied by office.").

<sup>3</sup> FLA. CONST. art. V, s. 16. This provision also provides that two officials may split the position, one serving as clerk of court and one serving in the *ex officio* position. Additionally, this provision permits the election of a county clerk of court when authorized by general or special law. *Id.*

<sup>4</sup> See generally Florida Court Clerks & Comptrollers, *About Us, Clerks Duties & Services*, available at <https://www.flclerks.com/page/ClerksDuties> (last visited Nov. 24, 2021). See also BLACK'S LAW DICTIONARY (10th ed. 2014) ("comptroller" means, "[a]n officer of a business or a private, state, or municipal corporation who is charged with duties usu. relating to fiscal affairs, including auditing and examining accounts and reporting the financial status periodically.").

<sup>5</sup> Section 28.35(3)(a), F.S. See also Florida Court Clerks & Comptrollers, *About Us, Clerks Duties & Services*, available at <https://www.flclerks.com/page/ClerksDuties> (last visited Nov. 24, 2021).

their court-related functions through the collection of filing fees, service charges, and other costs. Specifically, article V, section 14(b) states:

(b) All funding for the offices of the clerks of the circuit and county courts performing court-related functions, except as otherwise provided in this subsection and subsection (c), shall be provided by adequate and appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions as required by general law. Selected salaries, costs, and expenses of the state courts system may be funded from appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions, as provided by general law. Where the requirements of either the United States Constitution or the Constitution of the State of Florida preclude the imposition of filing fees for judicial proceedings and service charges and costs for performing court-related functions sufficient to fund the court-related functions of the offices of the clerks of the circuit and county courts, the state shall provide, as determined by the Legislature, adequate and appropriate supplemental funding from state revenues appropriated by general law.<sup>6</sup>

#### ***County Funding Referenced in Article V, Section 14(c)***

As referenced above, article V, section 14(c) of the Florida Constitution states that while funding for the state courts system, including the clerks of court, will *not* be required by a county or municipality, the counties are responsible to fund certain types of court infrastructure and maintenance, including “the cost of communications services, existing radio systems, existing multi-agency criminal justice information systems and the cost of construction or lease, maintenance, utilities, and security of facilities for . . . the offices of the clerks of the circuit and county courts performing court-related functions.”<sup>7</sup> Additionally, counties pay “reasonable and necessary salaries, costs, and expenses of the state courts system to meet local requirements as determined by general law.”<sup>8</sup>

#### ***No-Fee Court Functions***

Additionally, as referenced above, there are certain categories of cases and certain types of filings for which the clerks of court cannot charge a filing fee and possibly other service charges or other costs. These types of cases and filings include the following:

- Various services and filings for indigent parties to pending litigation.<sup>9</sup>
- Petitions for Habeas Corpus filed by persons detained as mental health patients.<sup>10</sup>
- Filing an ex parte order for involuntary examination (Baker Act).<sup>11</sup>

<sup>6</sup> FLA. CONST. art. V, s. 14(b) (emphasis added).

<sup>7</sup> FLA. CONST. art. V, s. 14(c).

<sup>8</sup> *Id.* Additionally, article V, section 14(a) provides that funding for state court systems as well as state attorney’s offices, public defender’s offices, and court-appointed counsel will generally be paid from “state revenues appropriated by general law”; and section 14(d) clarifies that the court system has no appropriations authority.

<sup>9</sup> Sections 57.081 and 57.082, F.S. This does not include prisoners as defined in s. 57.085, F.S.

<sup>10</sup> Section 394.459, F.S.

<sup>11</sup> Section 394.463, F.S. *See also Collins v. State*, 125 So. 3d 1046, 1047 (Fla. 4th DCA 2013) (noting s. 394.463, F.S., is also known as the Florida Statutes Florida Mental Health Act or the Baker Act).

- Petitions for involuntary inpatient placement for mental health.<sup>12</sup>
- Appellate filing fees for indigent persons determined to be and involuntarily committed as a sexually violent predator.<sup>13</sup>
- Petitions for involuntary assessment and stabilization for substance abuse impairment.<sup>14</sup>
- Petitions for a risk protection order (Marjory Stoneman Douglas High School Public Safety Act).<sup>15</sup>
- Petitions for protective injunctions against domestic violence,<sup>16</sup> repeat, dating, or sexual violence,<sup>17</sup> or stalking.<sup>18</sup>

## History of the Clerks of Court Funding Model

### *1998 Article V Revision (“Revision 7”) and Implementing Legislation*

Article V, section 14, was amended in 1998 to “substantially and significantly revise[] judicial system funding, greatly reducing funding from local governments and placing the responsibility primarily on the state.”<sup>19</sup> The statement of intent accompanying the revision of article V, section 14(b), also known as “Revision 7,” reflects that the proposers intended for the Legislature to adopt procedures: (1) to fund the clerks’ office in the event “filing fees, services charges and costs are insufficient to cover the court-related salaries, costs, and expenses of the offices of the clerks . . . in a given fiscal year”; and (2) for the disposition of excess revenues collected by the clerks’ offices in a given fiscal year.<sup>20</sup>

Further, the statement of intent clarifies that the purpose for Revision 7 is to require legislative oversight and an independent review of clerk funding and spending practices. The reason for independent oversight is set out as follows:

The drafters of subsection (b) recognize that there currently exists significant disparities among what the various clerks’ offices spend to perform the same functions. The determination by the [L]egislature as to the appropriate level of spending should not entail an acceptance of the current level of spending by the clerks’ offices throughout the state to perform court-related functions. Rather, it is the intent of this proposal that the clerks be held accountable and responsible to a cost standard which is independently established by the [L]egislature.<sup>21</sup>

<sup>12</sup> Section 394.467, F.S.

<sup>13</sup> Section 394.917, F.S.

<sup>14</sup> Section 397.6814, F.S.

<sup>15</sup> Section 790.401, F.S.; ch. 2018-3, s. 16, Laws of Fla.

<sup>16</sup> Section 741.30, F.S.

<sup>17</sup> Section 784.046, F.S.

<sup>18</sup> Section 784.0485, F.S.

<sup>19</sup> *City of Fort Lauderdale v. Crowder*, 983 So. 2d 37, 39 (Fla. 4th DCA 2008) (“In its Statement of Intent, the Constitution Revision Commission explained: ‘The state’s obligation includes, but is not limited to, funding for all core functions and requirements of the state courts system and all other court-related functions and requirements *which are statewide in nature.*’ [e.s.] 26 Fla. Stat. Ann. (Supp.) 67.”).

<sup>20</sup> William A. Buzzett and Deborah K. Kearney, *Commentary <1998 Amendment (1997-1998 Constitution Revision Commission Revision 7)>*, FLA. STAT. ANN., FLA. CONST. art. V, s. 14.

<sup>21</sup> *Id.*

Revision 7's 1998 amendment to article V had to be implemented by July 1, 2004.<sup>22</sup> In order to implement the 1998 amendment, the Legislature responded “in stages, beginning with passage of SB 1212 in 2000 (Chapter 200-237, Laws of Florida), followed by additional changes to that law in 2001, and, finally in 2002, through the funding of a study to assist in the final phase of implementation.”<sup>23</sup>

The final stage was implemented during the 2003 legislative session. To provide Revision 7's envisioned oversight, accountability, uniformity, and procedures in funding and budgeting for the clerks of court, the Legislature enacted **sections 28.35, 28.36, and 28.37, F.S.**<sup>24</sup>:

- **Section 28.35, F.S.**, created the Florida Clerks of Court Operations Corporation (Corporation)<sup>25</sup> which is responsible to provide accountability, procedural review, and oversight to the clerks of court budgeting process throughout the state.
- **Section 28.36, F.S.**, established budget review and approval procedures of individual clerk of court budgets by the Corporation.
- **Section 28.37, F.S.**, ensures that a portion of certain fines, fees, service charges, and costs collected by the clerks of court are remitted to the state to fund other court-related salaries, costs, and expenses.

#### ***Post-Article V Revision to Clerk Funding: 2004-2008***<sup>26</sup>

Between 2004 and 2008, the clerks collected and deposited into their local fine and forfeiture funds revenues from court filing fees, service charges, court costs, and fines assessed in civil and criminal proceedings.<sup>27</sup> A portion of the revenues in a clerk's fine and forfeiture fund was retained to finance the clerk's operations. However, another portion of these revenues were distributed to the General Revenue Fund or other state trust funds to meet other court-related costs. For example, the clerks were required to remit one-third of all fines, fees, service charges, and costs collected to the Department of Revenue for deposit into the Clerk of the Court Trust Fund,<sup>28</sup> a fund established to assist the clerks in meeting revenue deficits.

Regarding budget planning, the clerks had discretion to set their individual budgets based on anticipated revenues and expenditures. Each clerk's proposed budget had to be balanced with estimated revenues equaling or exceeding anticipated expenditures, although the budget could include a 10 percent contingency reserve.<sup>29</sup> If a clerk estimated that available funds plus projected revenues were insufficient to meet anticipated expenditures for court-related functions, that clerk could follow the statutory procedure for receiving funds from the Clerks of the Court Trust Fund to address the deficit.<sup>30</sup>

<sup>22</sup> *Office of State Attorney for Eleventh Judicial Circuit v. Polites*, 904 So. 2d 527, 530 (Fla. 3d DCA 2005).

<sup>23</sup> Florida House of Representatives, *House Bill 113A Staff Analysis*, (May 14, 2003).

<sup>24</sup> 2003 Fla. Sess. Law Serv. Ch. 2003-402 (H.B. 113-A). *See also City of Ft. Lauderdale v. Crowder*, 983 So. 2d 37, 39 (Fla. 4th DCA 2008). Note also that the bill seeks to amend each of these provisions.

<sup>25</sup> *See supra* note 5, and text. When it was first enacted, section 28.35 the “Clerk of court Operations Conference” which was changed in 2004 to the “Florida Clerks of Court Operations Corporation.” Chapter 2004-265, s. 23, Laws of Fla. All clerks are members of the Corporation.

<sup>26</sup> This section adapted or used in its entirety from the Appropriations Committee staff analysis in SB 2506 (2017).

<sup>27</sup> Section 142.01, F.S.

<sup>28</sup> Section 28.37(2), F.S. (2008).

<sup>29</sup> Section 28.36(3)(b), (c), F.S. (2008).

<sup>30</sup> Section 28.36(4), F.S. (2008).

Each clerk had to submit its proposed budget to the Corporation for review and certification that the individual budget was complete and complied with budget procedures.<sup>31</sup> Upon review and certification by the Corporation, revenue exceeding the amount needed to fund each budget was deposited in the General Revenue Fund.<sup>32</sup>

During this time, the Legislature's involvement in the clerks' budgets was limited. The Legislative Budget Commission (LBC) had authority to approve increases to the maximum annual budgets approved for individual clerks if the additional funding was necessary to:

- Pay the cost of performing new or additional functions required by changes in law or court rule; or
- Pay the cost of supporting increases in the number of judges or magistrates authorized by the Legislature.<sup>33</sup>

#### *Clerks in the General Appropriations Act: 2009-2012*<sup>34</sup>

In an effort to gain greater oversight and accountability for the operations and funding of the clerks of court, the Legislature passed Chapter 2009-204, Laws of Fla., which substantially amended the clerks' statutory budget process and procedures. The new law brought the clerks into the state budget and appropriated their funding in the annual General Appropriations Act.

More specifically, the 2009 law required that all revenues received by the clerks from court-related fees, fines, costs and service charges be remitted to the Department of Revenue for deposit into the Clerks of Court Trust Fund within the Justice Administrative Commission (JAC).<sup>35</sup> The law permitted the clerks, however, to deposit 10 percent of all court-related fines in the Public Records Modernization Trust Fund to be used in addition to state appropriations for operational needs.<sup>36</sup>

By 2009, revenues accruing to the Clerks of Court Trust Fund began to decline due to the downturn in the economy and the reduction in foreclosure filing fees. As a result, the Legislature reinforced the clerks' budgets with additional moneys from the General Revenue Fund. The 2011 Legislature appropriated \$44.2 million from the General Revenue Fund to address FY 2010-2011 revenue deficits and the 2012 Legislature appropriated \$57.6 million to address FY 2011-2012 deficits.

---

<sup>31</sup> Section 28.36(3), F.S. (2008).

<sup>32</sup> Section 28.37(4), F.S. (2008).

<sup>33</sup> Section 28.36(6), F.S. (2008).

<sup>34</sup> This section adapted or used in its entirety from the Appropriations Committee staff analysis in SB 2506 (2017).

<sup>35</sup> Chapter 2009-204, ss. 5-8, 12, 14, 19, Laws of Fla. The clerks' budgets were appropriated within the JAC budget from 2009-2012. *See also* s. 43.16, F.S. (establishes the Justice Administrative Commission, which administratively serves 49 judicial-related entities, as well as provides compliance and financial review of billings for services provided by private court-appointed attorneys representing indigent citizens and associated due process vendors).

<sup>36</sup> Section 28.37(5), F.S.

***Return to Pre-2009 Funding Model: 2013-2019***<sup>37</sup>

In 2013, the Legislature reversed many of the 2009 funding model changes, but expanded the oversight and accountability in the clerks' budget process. Significantly, the 2013 law<sup>38</sup> added the following:

- Monthly accounting: required each clerk to submit all collected revenues exceeding one-twelfth of the clerk's total budget for the prior month to the Department of Revenue for deposit into the Clerks of the Court Trust Fund.
- Annual accounting: required the transfer of revenue exceeding one-twelfth of the clerks' total budget out of the Clerks of Court Trust Fund into the General Revenue Fund each January *unless* the official estimate by the Revenue Estimating Conference projects a trust fund deficit (based on the current budget) in the current or upcoming fiscal year.
- Corporation audits: directed the Corporation to conduct annual base budget reviews, conduct cost-comparisons of similarly situated clerks, report pay and benefit issues, and provide an explanation of any clerk expenditure increases over 3 percent.<sup>39</sup>
- Corporation budget standard: required the Corporation to use the official Article V Revenue Estimating Conference revenue estimates for the clerks' budget process.<sup>40</sup>

The 2013 law also enhanced the role and responsibilities of the Legislative Budget Commission (LBC), and directed the LBC to review the budgets of the clerks and either: (1) approve, (2) disapprove, or (3) amend and approve the budgets by October 1 of each year.<sup>41</sup> In 2017, however, the Legislature removed these duties from the LBC to review the clerks' budgets.<sup>42</sup>

***Most Recent Changes -- 2019 to present***

The clerk's budget process was amended again in 2019.<sup>43</sup> In addition to the total estimated revenues from fees, service charges, costs, and fines for court-related functions available for court-related expenditures as determined by the most recent Revenue Estimating Conference, the combined budget for the clerks of court may also include:

- The unspent budgeted funds for court-related functions carried forward by the clerks of court from the previous county fiscal year; and
- The balance of funds remaining in the Clerks of the Court Trust Fund after the transfer of funds to the General Revenue Fund required pursuant to s. 28.37, F.S.

In 2019, the requirement that the cumulative excess of all fines, fees, service charges, and costs retained by the clerks of court exceeding the amount needed to fund their authorized budgets was transferred to the General Revenue Fund, was changed as follows:

- No later than February 1, 2020, the cumulative excess of all fines, fees, services charges, and costs exceeding \$10 million will be transferred to the General Revenue Fund.
- No later than February 1, 2021, and no later than February 1, 2022, not less than 50 percent of the cumulative excess of all fines, fees, services charges, and costs will be transferred to

<sup>37</sup> This section adapted or used in its entirety from the Appropriations Committee staff analysis in SB 2506 (2017).

<sup>38</sup> Chapter 2013-44, Laws of Fla.

<sup>39</sup> Section 28.35(2)(f), F.S.

<sup>40</sup> Section 28.35(2)(f)6., F.S.

<sup>41</sup> Section 11.90(6)(d), F.S.

<sup>42</sup> Chapter 2017-126, s. 1, Laws of Fla.

<sup>43</sup> Chapter 2019-58, Laws of Fla.



the General Revenue Fund; provided, however, that the balance remaining in the Clerks of Courts Trust Fund after the transfer may not exceed \$20 million.

- No later than February 1, 2023, and each February 1 thereafter, the cumulative excess of all fines, fees, services charges, and costs will be transferred to the General Revenue Fund.

In that same act, the 2019 Legislature was looking ahead to 2022 by including this:

Section 32. Before the 2022 Regular Session of the Legislature, the Legislature shall review and consider the results of the analysis submitted pursuant to Specific Appropriation 2754 of the 2019-2020 General Appropriations Act regarding the review of the Clerk of Court Processes for the purpose of considering the extension or reenactment of provisions in this act relating to clerk funding.<sup>44</sup>

Specific appropriation 2754 reads in relevant part:

From the funds in Specific Appropriation 2754, the Office of Program Policy Analysis and Government Accountability is directed to contract with an independent third party consulting firm to assist with a review of the Clerk of Court processes including collection and compilation of empirical evidence based on observation of a random sample of clerks' offices employees; comparison of clerks' office work patterns to propose efficiency and productivity standards; and assessment and comparison of organizational arrangements and deployment of personnel resources among all clerks' offices. Sample groups must include a broad number of large and small counties and include entities from all areas of the state. The analysis shall be submitted to the chair of the Senate Appropriations Committee and the chair of the House of Representatives Appropriations Committee by November 15, 2019.

The report contains 26 recommendations for operational efficiency and cost savings in five categories.<sup>45</sup> It is unknown how many recommendations have been implemented.

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

SB 552 primarily increases revenues of the clerks of court, and makes fiscal-related operational changes, to wit:

#### **Civil Case Filing Fees Retained by the Clerk**

Current law requires a clerk of court to transfer to the General Revenue Fund \$700 of the foreclosure case filing fee for a foreclosure where the value of the claim is more than \$50,000 but less than \$250,000, retaining \$195 for the clerk.<sup>46</sup> Current law also requires the clerk of court

---

<sup>44</sup> Chapter 2019-58, s. 32, Laws of Fla.

<sup>45</sup> Florida Clerks of Court Study, *Final Report* (November 15, 2019), available at <https://oppaga.fl.gov/Products/ReportDetail?rn=19-CLERKS>

<sup>46</sup> Section 28.241(1)(a)2.d.(II), F.S.

to transfer to the General Revenue Fund \$930 of the foreclosure filing fee where the value of the claim is more than \$250,000, retaining \$195 for the clerk.<sup>47</sup> The bill increases the clerk's share of filing fees in foreclosure actions, and decreases the share paid to General Revenue, by \$350 per case where the value of the claim is more than \$50,000 but less than \$250,000, and by \$465 per case where the value of the claim is more than \$250,000.

Current law imposes a \$295 filing fee to file a cross claim, counterclaim, counterpetition, or third party complaint in the county court where the relief sought exceeds \$2,500 but is less than \$15,000.<sup>48</sup> The clerk of court is required to transfer the \$295 to the General Revenue Fund. The bill changes distribution of the county court fee for filing a cross-claim, counterclaim, counterpetition, or third-party complaint from the General Revenue Fund to the fine and forfeiture fund of the respective county. This will have the effect of providing additional funding to the clerk of court.

### **Clerk of Courts Operations Corporation**

The bill adds to the list of duties required of the Clerk of Courts Operations Corporation the duty to:

- Recommend to the Legislature changes in the distribution of monies collected by a clerk.
- Recommend to the Legislature an increase in a clerk's budget representing the total increased costs associated with clerk support of a new trial court judicial position, based on a formula approved by the Corporation.
- Develop on an annual basis a budget request for the anticipated amount necessary for reimbursement of certain no-fee cases related to mental health and substance abuse (see below). The request is not subject to change by the Justice Administrative Commission, and it must be submitted to the Governor for transmittal to the Legislature.

### **Payment Plans**

Persons who pay money to the clerk of court for an outstanding fine, penalty, fee, service charge, or court cost are expected to pay in full. Many individuals, however, cannot afford to pay. Current law authorizes a clerk to accept partial payments and to enter into payment plans with individuals.<sup>49</sup> Monthly payments of no more than 2 percent of the individual's net pay is presumed to be within an individual's ability to pay.<sup>50</sup>

The bill changes the terms of payment plans offered by a clerk to a person unable to immediately pay monies owed to the clerk. The bill establishes a minimum monthly payment of \$25, and establishes a maximum initial payment of the lesser of 10 percent of the debt or \$100. The \$5 partial payment service charge<sup>51</sup> or the alternative one-time \$25 service charge for establishing a payment plan,<sup>52</sup> are payable in addition and thus not a part of the limits.

---

<sup>47</sup> Section 28.241(1)(a)2.d.(III), F.S.

<sup>48</sup> Section 34.041(1)(c), F.S.

<sup>49</sup> Section 28.246(4), F.S.,

<sup>50</sup> Using the 2021 Florida minimum wage at full-time employment and subtracting the standard federal payroll deductions, an unmarried individual at that wage would pay no more than \$26.80 a month on a clerk's payment plan.

<sup>51</sup> Section 28.24(27)(b), F.S.

<sup>52</sup> Section 28.24(27)(c), F.S.

### **Civil Indigent Application Investigation**

An individual seeking appointment of an attorney in a civil case who is eligible for court-appointed counsel, or seeking relief from prepayment of civil filing fees, must apply to the clerk for a determination of civil indigent status. There is a presumption that an individual is not indigent if the individual has a net equity of \$2,500 or more, excluding homestead and excluding equity in a vehicle of up to \$5,000.<sup>53</sup> The clerk must accept the application on its face and may not independently verify the information provided.<sup>54</sup>

The bill allows a clerk of court to make a limited investigation of an individual's application for status as civil indigent. The clerk may conduct a review of the property records for the county in which the applicant resides and the motor vehicle title records of this state to identify any property interests of the applicant. The clerk may evaluate and consider the results of the review in making a determination of civil indigent status. If a review is conducted, the results must be in the court file should the applicant appeal the denial of civil indigent status to the trial court.

### **Traffic Ticket Minimum Fines**

While a few noncriminal traffic infractions require a court appearance, in most cases the offender may elect to waive the court appearance, plead guilty to the offense, and pay a specified financial penalty.<sup>55</sup> A person may elect to contest the infraction and appear at a court hearing before a judge or hearing officer, but that election requires the person to waive the right to the specified penalty.<sup>56</sup> If the judge or hearing officer finds the offender guilty at the hearing, the judge or hearing officer may impose a fine of any amount up to \$500 in most infractions (a few have a \$1,000 maximum). Notably, this allows a judge or hearing officer in most cases to impose a penalty less than the penalty imposed on an individual who does not contest the infraction. There are two exceptions where the judge or hearing officer must impose the specified penalty as a minimum.<sup>57</sup> Traffic infraction penalties are split between numerous funds. The split and the funds affected vary based on the offense, but a portion of every penalty funds the operations of the clerks of court.

Where a person elects to contest a traffic infraction, the bill provides that the minimum civil penalty upon a finding of guilt is the amount that the person would have been required to pay if the person had not contested the traffic ticket.

### **Driver License Suspensions**

Numerous laws provide for driver license suspensions due to nonpayment of court obligations. Currently, there are separate processes for reinstatement of the driver license based on the reason for the suspension. Where the suspension is due to nonpayment of a traffic infraction, upon receipt of full payment the clerk immediately clears the suspension by notice to the Department

---

<sup>53</sup> Section 57.082(2)(a)2., F.S.

<sup>54</sup> Section 57.082(2)(d), F.S.

<sup>55</sup> Section 318.18, F.S.

<sup>56</sup> Section 318.14(5), F.S.

<sup>57</sup> The exceptions are passing a stopped school bus and failure to secure load.

of Highway Safety and Motor Vehicles (DHSMV).<sup>58</sup> Where the suspension is court-related but not traffic-related, notably suspensions for delinquency in payment of child support obligations or criminal court fees and fines<sup>59</sup>, the process is different and longer. There, the clerk of court collects the monies owed and furnishes the person with an affidavit that the financial obligation that led to the suspension has been paid. The person must then go to a county tax collector's office to reinstate the driver license with DHSMV. Until the process is complete, the person's license remains suspended.<sup>60</sup>

The bill requires the Department of Highway Safety and Motor Vehicles to coordinate with the clerks of court, through their association, to ensure the capability within the department's technology systems for clerks of court to reinstate suspended driver licenses that have been suspended for failure to pay court-related obligations.

### **Clerk Reimbursement for Certain No-Fee Cases**

Clerks of court are supposed to be primarily funded by filing fees and service charges.<sup>61</sup> However, some civil cases are processed by the clerks without payment, notably protective injunctions, mental health, substance abuse, and civil actions filed by indigents. During the 2019-20 county fiscal year, the clerks opened 183,991 civil files without payment of a filing fee to the clerk.<sup>62</sup>

Subject to appropriations, the bill allows a clerk of court to submit to the Justice Administrative Commission a certified request for \$40 per case reimbursement for services rendered in certain no-fee civil cases related to mental health and substance abuse. The request for reimbursement must be submitted in the form and manner prescribed by the Justice Administrative Commission. The categories of cases are:

- Habeas corpus filed by an individual detained under the Florida Mental Health Act<sup>63</sup>, pursuant to s. 394.459(8)(d), F.S.
- Determination whether an individual should be subject to an involuntary mental health examination under the Florida Mental Health Act, pursuant to s. 394.463(2)(a), F.S.
- Determination whether an individual should be subject to involuntary mental health placement in a mental health facility under the Florida Mental Health Act, pursuant to s. 394.467(3), F.S.
- Determination whether an individual is a sexually violent predator subject to commitment to a mental health facility for sexually violent predators, pursuant to s. 394.917(3), F.S. and Part V of ch. 394, F.S.
- Determination of whether an individual should be involuntarily assessed and stabilized due to substance abuse, pursuant to s. 397.6814, F.S.<sup>64</sup>

---

<sup>58</sup> Section 318.15, F.S.; Florida Court Clerks & Comptrollers, *Bill Analysis of SB 552* (November 24, 2021).

<sup>59</sup> Section 322.245, F.S.

<sup>60</sup> Florida Court Clerks & Comptrollers, *Bill Analysis of SB 552* (November 24, 2021).

<sup>61</sup> FLA. CONST. article V, s. 14(b).

<sup>62</sup> Florida Court Clerks & Comptrollers, *Bill Analysis of SB 552* (November 24, 2021). There were 135,672 statutory no-fee cases and 48,319 cases filed by indigents.

<sup>63</sup> The Florida Mental Health Act is also known as the Baker Act.

<sup>64</sup> Chapter 397, F.S., is also known as the Marchman Act.

**Effective Date**

The bill is effective July 1, 2022.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

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

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

None.

**C. Trust Funds Restrictions:**

None.

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

None.

**E. Other Constitutional Issues:**

None identified.

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

None.

**B. Private Sector Impact:**

This traffic infraction minimum fine (Section 6) will negatively impact individuals who may have otherwise convinced a judge or hearing officer to impose a penalty less than the statutory default.

**C. Government Sector Impact:**

The Revenue Estimating Conference estimates that the fee shifts in foreclosure (Section 1) and county courts (Section 4) will have a recurring negative fiscal impact in FY 2022-23 of \$17.4 million and a corresponding positive fiscal impact of \$17.4 million on clerks of court. The Revenue Estimating Conference estimates that the remainder of the bill has an indeterminate positive fiscal impact on the clerks of court.

In FY 2019-20, there were 59,502 mental health and substance abuse cases opened.<sup>65</sup> Assuming the same number of cases in future years, it would cost an estimated \$2.4 million should the Legislature elect to fully fund the clerks at \$40 a case.

In FY 2019-20, there were 1,180,927 civil traffic infraction hearings.<sup>66</sup> It is unknown how many were mandatory hearings vs. voluntary hearings to contest an infraction. It is unknown how many hearings resulted in a finding of guilt and the judge or hearing officer then imposed a fine less than what the offender would have paid had he or she not contested the infraction.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 28.241, 28.246, 28.35, 34.041, 57.082, 318.14, 322.29, 394.459, 394.463, 394.467, 394.917, and 397.6814, F.S.

**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.

---

<sup>65</sup> Florida Office of the State Courts Administrator, *Statistical Reference Guide to Florida's Trial Courts, FY 2019-20*, <https://www.flcourts.org/Publications-Statistics/Statistics/Trial-Court-Statistical-Reference-Guide>

<sup>66</sup> *Id.*

By Senator Boyd

21-00613A-22

2022552\_\_

1 A bill to be entitled  
 2 An act relating to clerks of the circuit court;  
 3 amending s. 28.241, F.S.; revising the distribution of  
 4 filing fees in specified trial and appellate  
 5 proceedings; amending s. 28.246, F.S.; revising the  
 6 calculations for certain payment plans with clerks of  
 7 court; providing requirements for down payments for  
 8 such payment plans; providing that the down payment  
 9 does not include specified service charges; amending  
 10 s. 28.35, F.S.; revising the duties of the Clerks of  
 11 Court Operations Corporation; requiring the  
 12 corporation to recommend to the Legislature the costs  
 13 associated with clerk support for newly created county  
 14 court and circuit court judgeships; amending s.  
 15 34.041, F.S.; revising the allocation to the fine and  
 16 forfeiture fund of filing fees of certain claims filed  
 17 in county courts; amending s. 57.082, F.S.;  
 18 authorizing clerks of court to review the property  
 19 records and motor vehicle title records of applicants  
 20 for indigent status; requiring clerks to maintain the  
 21 results of such reviews with the applications and  
 22 provide those results to the court if an applicant  
 23 seeks review of the clerk's determination; providing  
 24 construction; amending s. 318.14, F.S.; revising the  
 25 minimum civil penalty for noncriminal traffic  
 26 infractions; amending s. 322.29, F.S.; requiring the  
 27 Department of Highway Safety and Motor Vehicles to  
 28 coordinate with the clerks of court to ensure that  
 29 their technology systems have the capability to

Page 1 of 22

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

21-00613A-22

2022552\_\_

30 reinstate driver licenses suspended for failure to pay  
 31 court obligations; amending s. 394.459, F.S.;  
 32 authorizing clerks of court to seek reimbursement from  
 33 the Legislature for habeas corpus petitions under  
 34 specified conditions; providing the method to seek  
 35 such reimbursement; requiring the corporation to  
 36 annually develop and submit to the Governor a budget  
 37 request for such reimbursement, not subject to change  
 38 by the Justice Administrative Commission, to be  
 39 transmitted to the Legislature; amending s. 394.463,  
 40 F.S.; authorizing clerks of court to seek  
 41 reimbursement from the Legislature for the filing of  
 42 orders of involuntary examination under specified  
 43 conditions; providing the method to seek such  
 44 reimbursement; requiring the corporation to annually  
 45 develop and submit to the Governor a budget request  
 46 for such reimbursement, not subject to change by the  
 47 Justice Administrative Commission, to be transmitted  
 48 to the Legislature; amending s. 394.467, F.S.;  
 49 authorizing clerks of court to seek reimbursement from  
 50 the Legislature for the filing of petitions for  
 51 involuntary inpatient placement; providing the method  
 52 to seek such reimbursement; requiring the corporation  
 53 to annually develop and submit to the Governor a  
 54 budget request for such reimbursement, not subject to  
 55 change by the Justice Administrative Commission, to be  
 56 transmitted to the Legislature; amending s. 394.917,  
 57 F.S.; authorizing clerks of court to seek  
 58 reimbursement from the Legislature for costs and fees

Page 2 of 22

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

21-00613A-22

2022552\_\_

59 related to appeals for persons determined to be  
 60 sexually violent predators; providing the method to  
 61 seek such reimbursement; requiring the corporation to  
 62 annually develop and submit to the Governor a budget  
 63 request for such reimbursement, not subject to change  
 64 by the Justice Administrative Commission, to be  
 65 transmitted to the Legislature; amending s. 397.6814,  
 66 F.S.; authorizing clerks of court to seek  
 67 reimbursement from the Legislature for petitions for  
 68 involuntary assessment and stabilization; providing  
 69 the method to seek such reimbursement; requiring the  
 70 corporation to annually develop and submit to the  
 71 Governor a budget request for such reimbursement, not  
 72 subject to change by the Justice Administrative  
 73 Commission, to be transmitted to the Legislature;  
 74 providing an effective date.

75  
 76 Be It Enacted by the Legislature of the State of Florida:

77  
 78 Section 1. Paragraph (a) of subsection (1) of section  
 79 28.241, Florida Statutes, is amended to read:

80 28.241 Filing fees for trial and appellate proceedings.—

81 (1) Filing fees are due at the time a party files a  
 82 pleading to initiate a proceeding or files a pleading for  
 83 relief. Reopen fees are due at the time a party files a pleading  
 84 to reopen a proceeding if at least 90 days have elapsed since  
 85 the filing of a final order or final judgment with the clerk. If  
 86 a fee is not paid upon the filing of the pleading as required  
 87 under this section, the clerk must ~~shall~~ pursue collection of

Page 3 of 22

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

21-00613A-22

2022552\_\_

88 the fee pursuant to s. 28.246.

89 (a)1.a. Except as provided in sub-subparagraph b. and  
 90 subparagraph 2., the party instituting any civil action, suit,  
 91 or proceeding in the circuit court shall pay to the clerk of  
 92 that court a filing fee of up to \$395 in all cases in which  
 93 there are not more than five defendants and an additional filing  
 94 fee of up to \$2.50, from which the clerk shall remit \$0.50 to  
 95 the Department of Revenue for deposit into the General Revenue  
 96 Fund, for each defendant in excess of five. Of the first \$200 in  
 97 filing fees, \$195 must be remitted to the Department of Revenue  
 98 for deposit into the State Courts Revenue Trust Fund, \$4 must be  
 99 remitted to the Department of Revenue for deposit into the  
 100 Administrative Trust Fund within the Department of Financial  
 101 Services and used to fund the contract with the Florida Clerks  
 102 of Court Operations Corporation created in s. 28.35, and \$1 must  
 103 be remitted to the Department of Revenue for deposit into the  
 104 Administrative Trust Fund within the Department of Financial  
 105 Services to fund audits of individual clerks' court-related  
 106 expenditures conducted by the Department of Financial Services.  
 107 By the 10th of each month, the clerk shall submit that portion  
 108 of the filing fees collected in the previous month which is in  
 109 excess of one-twelfth of the clerk's total budget to the  
 110 Department of Revenue for deposit into the Clerks of the Court  
 111 Trust Fund.

112 b. The party instituting any civil action, suit, or  
 113 proceeding in the circuit court under chapter 39, chapter 61,  
 114 chapter 741, chapter 742, chapter 747, chapter 752, or chapter  
 115 753 shall pay to the clerk of that court a filing fee of up to  
 116 \$295 in all cases in which there are not more than five

Page 4 of 22

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



21-00613A-22

2022552\_\_

117 defendants and an additional filing fee of up to \$2.50 for each  
 118 defendant in excess of five. Of the first \$100 in filing fees,  
 119 \$95 must be remitted to the Department of Revenue for deposit  
 120 into the State Courts Revenue Trust Fund, \$4 must be remitted to  
 121 the Department of Revenue for deposit into the Administrative  
 122 Trust Fund within the Department of Financial Services and used  
 123 to fund the contract with the Florida Clerks of Court Operations  
 124 Corporation created in s. 28.35, and \$1 must be remitted to the  
 125 Department of Revenue for deposit into the Administrative Trust  
 126 Fund within the Department of Financial Services to fund audits  
 127 of individual clerks' court-related expenditures conducted by  
 128 the Department of Financial Services.

129 c. An additional filing fee of \$4 must ~~shall~~ be paid to the  
 130 clerk. The clerk shall remit \$3.50 to the Department of Revenue  
 131 for deposit into the Court Education Trust Fund and shall remit  
 132 50 cents to the Department of Revenue for deposit into the  
 133 Administrative Trust Fund within the Department of Financial  
 134 Services to fund clerk education provided by the Florida Clerks  
 135 of Court Operations Corporation. An additional filing fee of up  
 136 to \$18 must ~~shall~~ be paid by the party seeking each severance  
 137 that is granted, from which the clerk shall remit \$3 to the  
 138 Department of Revenue for deposit into the General Revenue Fund.  
 139 The clerk may impose an additional filing fee of up to \$85, from  
 140 which the clerk shall remit \$10 to the Department of Revenue for  
 141 deposit into the General Revenue Fund, for all proceedings of  
 142 garnishment, attachment, replevin, and distress. Postal charges  
 143 incurred by the clerk of the circuit court in making service by  
 144 certified or registered mail on defendants or other parties must  
 145 ~~shall~~ be paid by the party at whose instance service is made.

Page 5 of 22

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

21-00613A-22

2022552\_\_

146 Additional fees, charges, or costs may not be added to the  
 147 filing fees imposed under this section, except as authorized in  
 148 this section or by general law.

149 2.a. Notwithstanding the fees prescribed in subparagraph  
 150 1., a party instituting a civil action in circuit court relating  
 151 to real property or mortgage foreclosure shall pay a graduated  
 152 filing fee based on the value of the claim.

153 b. A party shall estimate in writing the amount in  
 154 controversy of the claim upon filing the action. For purposes of  
 155 this subparagraph, the value of a mortgage foreclosure action is  
 156 based upon the principal due on the note secured by the  
 157 mortgage, plus interest owed on the note and any moneys advanced  
 158 by the lender for property taxes, insurance, and other advances  
 159 secured by the mortgage, at the time of filing the foreclosure.  
 160 The value must ~~shall~~ also include the value of any tax  
 161 certificates related to the property. In stating the value of a  
 162 mortgage foreclosure claim, a party shall declare in writing the  
 163 total value of the claim, as well as the individual elements of  
 164 the value as prescribed in this sub-subparagraph.

165 c. In its order providing for the final disposition of the  
 166 matter, the court shall identify the actual value of the claim.  
 167 The clerk must ~~shall~~ adjust the filing fee if there is a  
 168 difference between the estimated amount in controversy and the  
 169 actual value of the claim and collect any additional filing fee  
 170 owed or provide a refund of excess filing fee paid.

171 d. The party shall pay a filing fee of:

172 (I) Three hundred and ninety-five dollars in all cases in  
 173 which the value of the claim is \$50,000 or less and in which  
 174 there are not more than five defendants. The party shall pay an

Page 6 of 22

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

21-00613A-22

2022552\_\_

175 additional filing fee of up to \$2.50 for each defendant in  
 176 excess of five. Of the first \$200 in filing fees, \$195 must be  
 177 remitted by the clerk to the Department of Revenue for deposit  
 178 into the General Revenue Fund, \$4 must be remitted to the  
 179 Department of Revenue for deposit into the Administrative Trust  
 180 Fund within the Department of Financial Services and used to  
 181 fund the contract with the Florida Clerks of Court Operations  
 182 Corporation created in s. 28.35, and \$1 must be remitted to the  
 183 Department of Revenue for deposit into the Administrative Trust  
 184 Fund within the Department of Financial Services to fund audits  
 185 of individual clerks' court-related expenditures conducted by  
 186 the Department of Financial Services;

187 (II) Nine hundred dollars in all cases in which the value  
 188 of the claim is more than \$50,000 but less than \$250,000 and in  
 189 which there are not more than five defendants. The party shall  
 190 pay an additional filing fee of up to \$2.50 for each defendant  
 191 in excess of five. Of the first \$355 ~~\$705~~ in filing fees, \$350  
 192 ~~\$700~~ must be remitted by the clerk to the Department of Revenue  
 193 for deposit into the General Revenue Fund, except that the first  
 194 \$1.5 million in such filing fees remitted to the Department of  
 195 Revenue and deposited into the General Revenue Fund in fiscal  
 196 year 2018-2019 shall be distributed to the Miami-Dade County  
 197 Clerk of Court; \$4 must be remitted to the Department of Revenue  
 198 for deposit into the Administrative Trust Fund within the  
 199 Department of Financial Services and used to fund the contract  
 200 with the Florida Clerks of Court Operations Corporation created  
 201 in s. 28.35; and \$1 must be remitted to the Department of  
 202 Revenue for deposit into the Administrative Trust Fund within  
 203 the Department of Financial Services to fund audits of

Page 7 of 22

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

21-00613A-22

2022552\_\_

204 individual clerks' court-related expenditures conducted by the  
 205 Department of Financial Services; or

206 (III) One thousand nine hundred dollars in all cases in  
 207 which the value of the claim is \$250,000 or more and in which  
 208 there are not more than five defendants. The party shall pay an  
 209 additional filing fee of up to \$2.50 for each defendant in  
 210 excess of five. Of the first \$1,240 ~~\$1,705~~ in filing fees, \$465  
 211 ~~\$930~~ must be remitted by the clerk to the Department of Revenue  
 212 for deposit into the General Revenue Fund, \$770 must be remitted  
 213 to the Department of Revenue for deposit into the State Courts  
 214 Revenue Trust Fund, \$4 must be remitted to the Department of  
 215 Revenue for deposit into the Administrative Trust Fund within  
 216 the Department of Financial Services to fund the contract with  
 217 the Florida Clerks of Court Operations Corporation created in s.  
 218 28.35, and \$1 must be remitted to the Department of Revenue for  
 219 deposit into the Administrative Trust Fund within the Department  
 220 of Financial Services to fund audits of individual clerks'  
 221 court-related expenditures conducted by the Department of  
 222 Financial Services.

223 e. An additional filing fee of \$4 shall be paid to the  
 224 clerk. The clerk shall remit \$3.50 to the Department of Revenue  
 225 for deposit into the Court Education Trust Fund and shall remit  
 226 50 cents to the Department of Revenue for deposit into the  
 227 Administrative Trust Fund within the Department of Financial  
 228 Services to fund clerk education provided by the Florida Clerks  
 229 of Court Operations Corporation. An additional filing fee of up  
 230 to \$18 must ~~shall~~ be paid by the party seeking each severance  
 231 that is granted. The clerk may impose an additional filing fee  
 232 of up to \$85 for all proceedings of garnishment, attachment,

Page 8 of 22

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

21-00613A-22

2022552\_\_

233 replevin, and distress. Postal charges incurred by the clerk of  
 234 the circuit court in making service by certified or registered  
 235 mail on defendants or other parties ~~must shall~~ be paid by the  
 236 party at whose instance service is made. Additional fees,  
 237 charges, or costs may not be added to the filing fees imposed  
 238 under this section, except as authorized in this section or by  
 239 general law.

240 Section 2. Subsection (4) of section 28.246, Florida  
 241 Statutes, is amended to read:

242 28.246 Payment of court-related fines or other monetary  
 243 penalties, fees, charges, and costs; partial payments;  
 244 distribution of funds.—

245 (4) (a) Each clerk of the circuit court shall accept partial  
 246 payments for each case type for court-related fees, service  
 247 charges, court costs, and fines in accordance with the terms of  
 248 an established payment plan developed by the clerk.

249 (b) An individual seeking to defer payment of fees, service  
 250 charges, court costs, or fines imposed by operation of law or  
 251 order of the court under any provision of general law shall  
 252 apply to the clerk for enrollment in a payment plan. The clerk  
 253 shall enter into a payment plan with an individual who the court  
 254 determines is indigent for costs. It is the responsibility of an  
 255 individual who is released from incarceration and has  
 256 outstanding court obligations to contact the clerk within 30  
 257 days after release to pay fees, service charges, court costs,  
 258 and fines in full, or to apply for enrollment in a payment plan.  
 259 A monthly payment amount, calculated based upon all fees and all  
 260 anticipated fees, service charges, court costs, and fines, is  
 261 presumed to correspond to the person's ability to pay if the

21-00613A-22

2022552\_\_

262 amount does not exceed 2 percent of the person's annual net  
 263 income, as defined in s. 27.52(1), divided by 12 or \$25,  
 264 whichever is greater. Any amount required by the clerk as down  
 265 payment to initially establish a payment plan may not be more  
 266 than 10 percent of the total amount owed or \$100, whichever is  
 267 less. Such amount does not include the imposition of a per month  
 268 service charge pursuant to s. 28.24(27)(b) or the imposition of  
 269 a one-time administrative processing service charge each time a  
 270 payment plan is established pursuant to s. 28.24(27)(c). The  
 271 clerk shall establish all terms of a payment plan, and the court  
 272 may review the reasonableness of the payment plan.

273 Section 3. Paragraph (c) of subsection (2) of section  
 274 28.35, Florida Statutes, is amended to read:

275 28.35 Florida Clerks of Court Operations Corporation.—

276 (2) The duties of the corporation shall include the  
 277 following:

278 (c) 1. Recommending to the Legislature changes in the  
 279 amounts and distribution of the various court-related fines,  
 280 fees, service charges, and costs established by law to ensure  
 281 reasonable and adequate funding of the clerks of the court in  
 282 the performance of their court-related functions.

283 2. Recommending to the Legislature the total cost  
 284 associated with clerk support of circuit and county judges  
 285 statewide, based on a formula approved by the corporation, for  
 286 consideration each year in which the Legislature authorizes the  
 287 establishment of new county court judgeships under s. 34.022 or  
 288 new circuit court judgeships under s. 26.031.

289 Section 4. Paragraph (c) of subsection (1) of section  
 290 34.041, Florida Statutes, is amended to read:

21-00613A-22

2022552\_\_

291 34.041 Filing fees.—

292 (1)

293 (c) A party in addition to a party described in paragraph  
 294 (a) who files a pleading in an original civil action in the  
 295 county court for affirmative relief by cross-claim,  
 296 counterclaim, counterpetition, or third-party complaint, or who  
 297 files a notice of cross-appeal or notice of joinder or motion to  
 298 intervene as an appellant, cross-appellant, or petitioner, shall  
 299 pay the clerk of court a fee of \$295 if the relief sought by the  
 300 party under this paragraph exceeds \$2,500 but is not more than  
 301 \$15,000 and \$395 if the relief sought by the party under this  
 302 paragraph exceeds \$15,000. The clerk shall deposit ~~remit~~ the  
 303 fee, if the relief sought by the party under this paragraph  
 304 exceeds \$2,500 but is not more than \$15,000, ~~to the Department~~  
 305 ~~of Revenue for deposit~~ into the fine and forfeiture fund  
 306 established pursuant to s. 142.01 General Revenue Fund. This fee  
 307 does not apply if the cross-claim, counterclaim,  
 308 counterpetition, or third-party complaint requires transfer of  
 309 the case from county to circuit court. However, the party shall  
 310 pay to the clerk the standard filing fee for the court to which  
 311 the case is to be transferred.

312 Section 5. Paragraphs (a) and (d) of subsection (2) of  
 313 section 57.082, Florida Statutes, are amended to read:

314 57.082 Determination of civil indigent status.—

315 (2) DETERMINATION BY THE CLERK.—The clerk of the court  
 316 shall determine whether an applicant seeking such designation is  
 317 indigent based upon the information provided in the application  
 318 and the criteria prescribed in this subsection.

319 (a)1. An applicant, including an applicant who is a minor

Page 11 of 22

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

21-00613A-22

2022552\_\_

320 or an adult tax-dependent person, is indigent if the applicant's  
 321 income is equal to or below 200 percent of the then-current  
 322 federal poverty guidelines prescribed for the size of the  
 323 household of the applicant by the United States Department of  
 324 Health and Human Services.

325 2. There is a presumption that the applicant is not  
 326 indigent if the applicant owns, or has equity in, any intangible  
 327 or tangible personal property or real property or the expectancy  
 328 of an interest in any such property having a net equity value of  
 329 \$2,500 or more, excluding the value of the person's homestead  
 330 and one vehicle having a net value not exceeding \$5,000.

331 3. Notwithstanding the information provided by the  
 332 applicant, the clerk may conduct a review of the property  
 333 records for the county in which the applicant resides and the  
 334 motor vehicle title records of this state to identify any  
 335 property interests of the applicant under this paragraph. The  
 336 clerk may evaluate and consider the results of the review in  
 337 making a determination under this subsection. If a review is  
 338 conducted, the clerk must maintain the results of the review in  
 339 a file with the application and provide the file to the court if  
 340 an applicant seeks review under subsection (4) of the clerk's  
 341 determination of indigent status.

342 (d) The duty of the clerk in determining whether an  
 343 applicant is indigent is limited to receiving the application  
 344 and comparing the information provided in the application to the  
 345 criteria prescribed in this subsection. The determination of  
 346 indigent status is a ministerial act of the clerk and not a  
 347 decision may not be based on further investigation, other than  
 348 the review authorized under this subsection, or the exercise of

Page 12 of 22

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

21-00613A-22

2022552\_\_

349 independent judgment by the clerk. The clerk may contract with  
350 third parties to perform functions assigned to the clerk under  
351 this section.

352 Section 6. Subsection (5) of section 318.14, Florida  
353 Statutes, is amended to read:

354 318.14 Noncriminal traffic infractions; exception;  
355 procedures.—

356 (5) Any person electing to appear before the designated  
357 official or who is required so to appear ~~is shall be~~ deemed to  
358 have waived his or her right to the civil penalty provisions of  
359 s. 318.18. The official, after a hearing, shall make a  
360 determination as to whether an infraction has been committed. If  
361 the commission of an infraction has been proven, the official  
362 may impose a civil penalty not to exceed \$500, but no less than  
363 the amount of the civil penalty provisions of s. 318.18, except  
364 that in cases involving unlawful speed in a school zone or  
365 involving unlawful speed in a construction zone, the civil  
366 penalty may not exceed \$1,000; or require attendance at a driver  
367 improvement school, or both. If the person is required to appear  
368 before the designated official pursuant to s. 318.19(1) and is  
369 found to have committed the infraction, the designated official  
370 must shall impose a civil penalty of \$1,000 in addition to any  
371 other penalties and the person's driver license shall be  
372 suspended for 6 months. If the person is required to appear  
373 before the designated official pursuant to s. 318.19(2) and is  
374 found to have committed the infraction, the designated official  
375 must shall impose a civil penalty of \$500 in addition to any  
376 other penalties and the person's driver license shall be  
377 suspended for 3 months. If the official determines that no

Page 13 of 22

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

21-00613A-22

2022552\_\_

378 infraction has been committed, no costs or penalties shall be  
379 imposed and any costs or penalties that have been paid shall be  
380 returned. Moneys received from the mandatory civil penalties  
381 imposed pursuant to this subsection upon persons required to  
382 appear before a designated official pursuant to s. 318.19(1) or  
383 (2) ~~must shall~~ be remitted to the Department of Revenue and  
384 deposited into the Department of Health Emergency Medical  
385 Services Trust Fund to provide financial support to certified  
386 trauma centers to assure the availability and accessibility of  
387 trauma services throughout this ~~the~~ state. Funds deposited into  
388 the Emergency Medical Services Trust Fund under this section  
389 shall be allocated as follows:

390 (a) Fifty percent shall be allocated equally among all  
391 Level I, Level II, and pediatric trauma centers in recognition  
392 of readiness costs for maintaining trauma services.

393 (b) Fifty percent shall be allocated among Level I, Level  
394 II, and pediatric trauma centers based on each center's relative  
395 volume of trauma cases as calculated using the hospital  
396 discharge data collected pursuant to s. 408.061.

397 Section 7. Subsection (2) of section 322.29, Florida  
398 Statutes, is amended, and subsection (3) is added to that  
399 section, to read:

400 322.29 Surrender and return of license.—

401 (2) Notwithstanding subsection (1), an examination is not  
402 required for the return of a license suspended under s. 318.15  
403 or s. 322.245 unless an examination is otherwise required by  
404 this chapter. A person applying for the return of a license  
405 suspended under s. 318.15 or s. 322.245 shall must present to  
406 the department certification from the court that he or she has

Page 14 of 22

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

21-00613A-22

2022552\_\_

407 complied with all obligations and penalties imposed pursuant to  
 408 s. 318.15 or, in the case of a suspension pursuant to s.  
 409 322.245, that he or she has complied with all directives of the  
 410 court and the requirements of s. 322.245 and shall pay to the  
 411 department a nonrefundable service fee of \$60, of which \$37.50  
 412 ~~must shall~~ be deposited into the General Revenue Fund and \$22.50  
 413 ~~must shall~~ be deposited into the Highway Safety Operating Trust  
 414 Fund. If reinstated by the clerk of the court or tax collector,  
 415 \$37.50 ~~must shall~~ be retained and \$22.50 ~~must shall~~ be remitted  
 416 to the Department of Revenue for deposit into the Highway Safety  
 417 Operating Trust Fund. However, the service fee is not required  
 418 if the person is required to pay a \$45 fee or \$75 fee under s.  
 419 322.21(8).

420 (3) The department shall coordinate with the clerks of  
 421 court, through their association, to ensure the capability  
 422 within their technology systems for clerks of court to reinstate  
 423 suspended driver licenses for failure to pay court obligations.

424 Section 8. Paragraph (d) of subsection (8) of section  
 425 394.459, Florida Statutes, is amended to read:

426 394.459 Rights of patients.—

427 (8) HABEAS CORPUS.—

428 (d) ~~A No fee may not shall~~ be charged for the filing of a  
 429 petition under this subsection. However, subject to legislative  
 430 appropriation, the clerk of the circuit court may, on a  
 431 quarterly basis, submit to the Justice Administrative Commission  
 432 a certified request for reimbursement for petitions under this  
 433 subsection, at the rate of \$40 per petition. The request for  
 434 reimbursement must be submitted in the form and manner  
 435 prescribed by the Justice Administrative Commission.

Page 15 of 22

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

21-00613A-22

2022552\_\_

436 Additionally, the Clerks of the Court Operations Corporation  
 437 shall develop on an annual basis a budget request for the  
 438 anticipated amount necessary for reimbursement. The request is  
 439 not subject to change by the Justice Administrative Commission,  
 440 and it shall be submitted to the Governor for transmittal to the  
 441 Legislature.

442 Section 9. Paragraph (a) of subsection (2) of section  
 443 394.463, Florida Statutes, is amended to read:

444 394.463 Involuntary examination.—

445 (2) INVOLUNTARY EXAMINATION.—

446 (a) An involuntary examination may be initiated by any one  
 447 of the following means:

448 1. A circuit or county court may enter an ex parte order  
 449 stating that a person appears to meet the criteria for  
 450 involuntary examination and specifying the findings on which  
 451 that conclusion is based. The ex parte order for involuntary  
 452 examination must be based on written or oral sworn testimony  
 453 that includes specific facts that support the findings. If other  
 454 less restrictive means are not available, such as voluntary  
 455 appearance for outpatient evaluation, a law enforcement officer,  
 456 or other designated agent of the court, shall take the person  
 457 into custody and deliver him or her to an appropriate, or the  
 458 nearest, facility within the designated receiving system  
 459 pursuant to s. 394.462 for involuntary examination. The order of  
 460 the court shall be made a part of the patient's clinical record.  
 461 A fee may not be charged for the filing of an order under this  
 462 subsection. However, subject to legislative appropriation, the  
 463 clerk of the circuit court may, on a quarterly basis, submit to  
 464 the Justice Administrative Commission a certified request for

Page 16 of 22

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

21-00613A-22

2022552\_\_

465 reimbursement for orders under this subsection, at the rate of  
 466 \$40 per order. The request for reimbursement must be submitted  
 467 in the form and manner prescribed by the Justice Administrative  
 468 Commission. Additionally, the Clerks of the Court Operations  
 469 Corporation shall develop on an annual basis a budget request  
 470 for the anticipated amount necessary for reimbursement. The  
 471 request is not subject to change by the Justice Administrative  
 472 Commission, and it shall be submitted to the Governor for  
 473 transmittal to the Legislature. A facility accepting the patient  
 474 based on this order must send a copy of the order to the  
 475 department within 5 working days. The order may be submitted  
 476 electronically through existing data systems, if available. The  
 477 order shall be valid only until the person is delivered to the  
 478 facility or for the period specified in the order itself,  
 479 whichever comes first. If a time limit is not specified in the  
 480 order, the order is valid for 7 days after the date that the  
 481 order was signed.

482 2. A law enforcement officer shall take a person who  
 483 appears to meet the criteria for involuntary examination into  
 484 custody and deliver the person or have him or her delivered to  
 485 an appropriate, or the nearest, facility within the designated  
 486 receiving system pursuant to s. 394.462 for examination. The  
 487 officer shall execute a written report detailing the  
 488 circumstances under which the person was taken into custody,  
 489 which must be made a part of the patient's clinical record. Any  
 490 facility accepting the patient based on this report must send a  
 491 copy of the report to the department within 5 working days.

492 3. A physician, a physician assistant, a clinical  
 493 psychologist, a psychiatric nurse, an advanced practice

Page 17 of 22

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

21-00613A-22

2022552\_\_

494 registered nurse registered under s. 464.0123, a mental health  
 495 counselor, a marriage and family therapist, or a clinical social  
 496 worker may execute a certificate stating that he or she has  
 497 examined a person within the preceding 48 hours and finds that  
 498 the person appears to meet the criteria for involuntary  
 499 examination and stating the observations upon which that  
 500 conclusion is based. If other less restrictive means, such as  
 501 voluntary appearance for outpatient evaluation, are not  
 502 available, a law enforcement officer shall take into custody the  
 503 person named in the certificate and deliver him or her to the  
 504 appropriate, or nearest, facility within the designated  
 505 receiving system pursuant to s. 394.462 for involuntary  
 506 examination. The law enforcement officer shall execute a written  
 507 report detailing the circumstances under which the person was  
 508 taken into custody. The report and certificate shall be made a  
 509 part of the patient's clinical record. Any facility accepting  
 510 the patient based on this certificate must send a copy of the  
 511 certificate to the department within 5 working days. The  
 512 document may be submitted electronically through existing data  
 513 systems, if applicable.

514 When sending the order, report, or certificate to the  
 515 department, a facility shall, at a minimum, provide information  
 516 about which action was taken regarding the patient under  
 517 paragraph (g), which information shall also be made a part of  
 518 the patient's clinical record.

520 Section 10. Subsection (3) of section 394.467, Florida  
 521 Statutes, is amended to read:

522 394.467 Involuntary inpatient placement.-

Page 18 of 22

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

21-00613A-22

2022552\_\_

523 (3) PETITION FOR INVOLUNTARY INPATIENT PLACEMENT.—The  
 524 administrator of the facility shall file a petition for  
 525 involuntary inpatient placement in the court in the county where  
 526 the patient is located. Upon filing, the clerk of the court  
 527 shall provide copies to the department, the patient, the  
 528 patient’s guardian or representative, and the state attorney and  
 529 public defender of the judicial circuit in which the patient is  
 530 located. A fee may not be charged for the filing of a petition  
 531 under this subsection. However, subject to legislative  
 532 appropriation, the clerk of the circuit court may, on a  
 533 quarterly basis, submit to the Justice Administrative Commission  
 534 a certified request for reimbursement for petitions under this  
 535 subsection, at the rate of \$40 per petition. The request for  
 536 reimbursement must be submitted in the form and manner  
 537 prescribed by the Justice Administrative Commission.  
 538 Additionally, the Clerks of the Court Operations Corporation  
 539 shall develop on an annual basis a budget request for the  
 540 anticipated amount necessary for reimbursement. The request is  
 541 not subject to change by the Justice Administrative Commission,  
 542 and it shall be submitted to the Governor for transmittal to the  
 543 Legislature.

544 Section 11. Subsection (3) of section 394.917, Florida  
 545 Statutes, is amended to read:

546 394.917 Determination; commitment procedure; mistrials;  
 547 housing; counsel and costs in indigent appellate cases.—

548 (3) The public defender of the circuit in which a person  
 549 was determined to be a sexually violent predator shall be  
 550 appointed to represent the person on appeal. That public  
 551 defender may request the public defender who handles criminal

Page 19 of 22

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

21-00613A-22

2022552\_\_

552 appeals for the circuit to represent the person on appeal in the  
 553 manner provided in s. 27.51(4). If the public defender is unable  
 554 to represent the person on appeal due to a conflict, the court  
 555 shall appoint other counsel, who shall be compensated at a rate  
 556 not less than that provided for appointed counsel in criminal  
 557 cases. Filing fees for indigent appeals under this act are  
 558 waived. Costs and fees related to such appeals, including the  
 559 amounts paid for records, transcripts, and compensation of  
 560 appointed counsel, shall be authorized by the trial court and  
 561 paid from state funds ~~that are~~ appropriated for such purposes.  
 562 However, subject to legislative appropriation, the clerk of the  
 563 circuit court may, on a quarterly basis, submit to the Justice  
 564 Administrative Commission a certified request for reimbursement  
 565 for petitions under this subsection, at the rate of \$40 per  
 566 petition. The request for reimbursement must be submitted in the  
 567 form and manner prescribed by the Justice Administrative  
 568 Commission. Additionally, the Clerks of the Court Operations  
 569 Corporation shall develop on an annual basis a budget request  
 570 for the anticipated amount necessary for reimbursement. The  
 571 request is not subject to change by the Justice Administrative  
 572 Commission, and it shall be submitted to the Governor for  
 573 transmittal to the Legislature.

574 Section 12. Section 397.6814, Florida Statutes, is amended  
 575 to read:

576 397.6814 Involuntary assessment and stabilization; contents  
 577 of petition.—A petition for involuntary assessment and  
 578 stabilization must contain the name of the respondent, the name  
 579 of the applicant or applicants, the relationship between the  
 580 respondent and the applicant, and the name of the respondent’s

Page 20 of 22

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



21-00613A-22

2022552\_\_

581 attorney, if known, and must state facts to support the need for  
582 involuntary assessment and stabilization, including:

583 (1) The reason for the petitioner's belief that the  
584 respondent is substance abuse impaired;

585 (2) The reason for the petitioner's belief that because of  
586 such impairment the respondent has lost the power of self-  
587 control with respect to substance abuse; and

588 (3) (a) The reason the petitioner believes that the  
589 respondent has inflicted or is likely to inflict physical harm  
590 on himself or herself or others unless admitted; or

591 (b) The reason the petitioner believes that the  
592 respondent's refusal to voluntarily receive care is based on  
593 judgment so impaired by reason of substance abuse that the  
594 respondent is incapable of appreciating his or her need for care  
595 and of making a rational decision regarding that need for care.  
596 If the respondent has refused to submit to an assessment, such  
597 refusal must be alleged in the petition.

598

599 A fee may not be charged for the filing of a petition pursuant  
600 to this section. However, subject to legislative appropriation,  
601 the clerk of the circuit court may, on a quarterly basis, submit  
602 to the Justice Administrative Commission a certified request for  
603 reimbursement for petitions under this section, at the rate of  
604 \$40 per petition. The request for reimbursement must be  
605 submitted in the form and manner prescribed by the Justice  
606 Administrative Commission. Additionally, the Clerks of the Court  
607 Operations Corporation shall develop on an annual basis a budget  
608 request for the anticipated amount necessary for reimbursement.  
609 The request is not subject to change by the Justice

Page 21 of 22

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

21-00613A-22

2022552\_\_

610 Administrative Commission, and it shall be submitted to the  
611 Governor for transmittal to the Legislature.

612 Section 13. This act shall take effect July 1, 2022.

Page 22 of 22

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

The Florida Senate

**APPEARANCE RECORD**

**SB 552 - Clerks of the**

11/30/21

Meeting Date

Senate Judiciary

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name Tom Bexley

Phone 850-345-6835

Address 1769 Moody Blvd

Street

Email tbexley@FlaglerClerk.com

Brunell

City

FL

State

32110

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)*

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

The Florida Senate

11/30/21

Meeting Date

APPEARANCE RECORD

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

SB 552 - Clerks of the

Bill Number or Topic

Senate Judiciary

Committee

Amendment Barcode (if applicable)

Name Jason Harrell

Phone 850-345-6835

Address 215 S. Monroe

Email JasonHarrell@FIClerks.com

Street

Tallahassee

FL

32312

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

Florida Court Clerks & Comptrollers

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

**SB 552 - Clerks of the**

11/30/21

Meeting Date

Senate Judiciary

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name Nikki Alvarez Sowles

Phone 352-521-4542

Address 38053 Live Oak Ave

Email nalvarez@PascoClerk.com

Street

Dade

City

FL

State

33523

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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

S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

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

11-30-21

Meeting Date

552

Bill Number or Topic

Judiciary

Committee

Amendment Barcode (if applicable)

Name

Jenna Hodgens

Phone

813-415-5708

Address

601 E. Kennedy Blvd.

Email

jenna.hodgens@hillsclerk.com

Street

Tpa

33601

City

State

Zip

Speaking:

For

Against

Information

**OR**

Waive Speaking:

In Support

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

H.C. Clerk of Court

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR JIM BOYD**  
21st District

**COMMITTEES:**

Banking and Insurance, *Chair*  
Agriculture  
Appropriations Subcommittee on Agriculture,  
Environment, and General Government  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Judiciary  
Rules

**JOINT COMMITTEE:**

Joint Legislative Auditing Committee

November 4, 2021

Senator Danny Burgess  
404 South Monroe Street  
515 Knott Building  
Tallahassee, FL 32399

Dear Chairman Burgess:

I respectfully request Senate Bill 552: Clerks of the Circuit Court, be scheduled for a hearing in the Committee on Judiciary at your earliest convenience.

If I may be of assistance to you on this or any other matter, please do not hesitate to contact me.

Thank you for your consideration of this matter.

Best regards,

A handwritten signature in cursive script, appearing to read "Jim Boyd".

Jim Boyd

cc: Tom Cibula  
Celia Georgiades

REPLY TO:

- 717 Manatee Avenue West, Bradenton, Florida 34205 (941) 742-6445
- 312 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5021

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

**WILTON SIMPSON**  
President of the Senate

**AARON BEAN**  
President Pro Tempore

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

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

---

Prepared By: The Professional Staff of the Committee on Judiciary

---

BILL: SB 634

INTRODUCER: Senator Bradley

SUBJECT: Judicial Notice

DATE: November 29, 2021

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ravelo	Cibula	JU	<b>Pre-meeting</b>
2.	_____	_____	CM	_____
3.	_____	_____	RC	_____

---

**I. Summary:**

SB 634 creates a process for a court to take “judicial notice” of certain information taken from mapping services, such as Google Maps. Under Florida law, judicial notice may generally be declared for certain facts “not subject to dispute because they are capable of accurate and ready determination by resort to sources whose accuracy cannot be questioned” or “because they are generally known within the territorial jurisdiction of the court.”<sup>1</sup>

The bill provides a process separate from the above standards for judicial notice of any image, map, location, distance, calculation, or other information taken from any web mapping service, global satellite imaging site, or Internet mapping tool so long as the information in question indicates the date that it was created. Under the process, a party must file a notice of intent to offer the information, and the information will be admitted into evidence unless another party objects. If there is an objection, the court must overrule the objection, unless the court finds by a preponderance of the evidence that the material sought to be admitted does not fairly and accurately portray what it is being offered to prove or that it otherwise should not be admitted into evidence under the Florida Evidence Code. If the court overrules the objection, it must take judicial notice of the information and admit it into evidence.

The bill provides an effective date of July 1, 2022.

**II. Present Situation:**

**The Florida Evidence Code**

Florida statutes, such as the Florida Evidence Code (Code) as enacted by the Legislature, contain both procedural and substantive law for the courts to apply. Depending on the type of

---

<sup>1</sup> Section 90.202(11) and (12), F.S.

proceeding, the Code is generally applicable to all proceedings in Florida courts,<sup>2</sup> including actions based on federal claims.<sup>3</sup> However, statutes that are procedural in nature, even those passed by the Legislature, must be approved by Supreme Court. Occasionally, the Court rejects the legislative changes.

In 2000, for example, the Court refused to adopt a recently enacted hearsay exception, noting that applying the statute would go against long standing rules of evidence and violate a defendant's right of confrontation.<sup>4</sup> A concurring opinion by Justice Lewis also found that the statute was an unacceptable rule of procedure, and therefore infringed on the Court's ability to adopt rules under article v, section 2(a), of the Florida Constitution. In 2014, the Court refused to adopt a statute that was not part of the evidence code requiring certain qualifications for expert witnesses in medical negligence cases on the grounds that the statute was procedural.<sup>5</sup>

### ***Judicial Notice***

Judicial notice allows a court to make a finding that a certain piece of evidence is true without any formal introduction for that basis.<sup>6</sup> Generally, this may involve undisputed facts or facts that are so well known they speak for themselves. Often, judicial notice may be used to save time and resources, as presenting evidence for certain situations may prove too much of an unnecessary burden.<sup>7</sup> Courts warn though, that judicial notice "should be exercised with great caution" and "must be of common and general knowledge [and] authoritatively settled and not doubtful."<sup>8</sup> A famous example occurred in Ohio where a trial court took judicial notice that "Bud Lite is beer" in a case involving the sale of beer to an underage person.<sup>9</sup> The conviction was eventually vacated by the Ohio Supreme Court, consistent with an appellate court finding that despite Bud Lite meeting the "common, everyday understanding" of the term "beer," this did not align with the statutory language as enacted by Ohio Legislature, which included that the beverage contain "between one-half of one percent and twelve percent alcohol by volume."<sup>10</sup> The conviction was thus vacated because the government failed to prove that the Bud Lite in question contained required percentage of alcohol.

There are practical considerations when asking a court to take judicial notice of something. In the above referenced case, for example, judicial notice likely allowed the prosecutor to avoid testing a sample of Bud Lite to determine the alcoholic content. The Bud Lite in question did not contain

---

<sup>2</sup> Section 90.103, F.S.

<sup>3</sup> *Byrd v. BT Foods, Inc.*, 26 So. 3d 600, 605 (Fla. 4th DCA 2009) ("[S]tate evidence codes control evidentiary questions presented in state court. This is so even where federal claims are litigated, unless the state rules would affect substantive federal rights.").

<sup>4</sup> *In re Amendments to the Fla. Evidence Code*, 782 So. 2d 339, 341 (Fla. 2000). The statute in question stripped the former testimony of witnesses hearsay exception of the requirement that the witness be unavailable.

<sup>5</sup> *In re: Amendments to the Fla. Evidence Code*, 144 So. 3d 536, 537 (Fla. 2014).

<sup>6</sup> Legal Information Institute, *Cornel Law School*, [https://www.law.cornell.edu/wex/judicial\\_notice](https://www.law.cornell.edu/wex/judicial_notice)

<sup>7</sup> For example, soliciting testimony from members of the Governor, the Secretary of State, and members of the Legislature to verify that an act of the Legislature was enacted into Florida law would put a large burden on those officials in addition to any parties seeking evidence of any Legislative act.

<sup>8</sup> *State v. Coleman*, 5 So. 2d 60, 62 (Fla. 1941).

<sup>9</sup> *State v. Kareski*, 2012 WL 1717976, \*2 (Ohio 9th Dist. Ct. App. 2012), *vacated*, 998 N.E.2d 410, (Ohio 2013).

<sup>10</sup> Ohio Rev. Code Ann. § 4301.01(6)(b).



an official marker identifying the amount of alcohol.<sup>11</sup> The Code differentiates between when a court *may* or *shall* take judicial notice upon request of a party.

Under s. 90.201, F.S., a court *shall* take judicial notice of:

- Decisional, constitutional, and public statutory law and resolutions of the Florida Legislature and the Congress of the United States,
- Florida rules of court that have statewide application, its own rules, and the rules of United States courts adopted by the United States Supreme Court, and
- Rules of court of the United States Supreme Court and of the United States Courts of Appeal.<sup>12</sup>

Under s. 90.202, F.S., a court *may* take judicial notice of:

- Special, local, and private acts and resolutions of the Congress of the United States and of the Florida Legislature,
- Decisional, constitutional, and public statutory law of every other state, territory, and jurisdiction of the United States,
- Contents of the Federal Register,
- Laws of foreign nations and of an organization of nations,
- Official actions of the legislative, executive, and judicial departments of the United States and of any state, territory, or jurisdiction of the United States,
- Records of any court of this state or of any court of record of the United States or of any state, territory, or jurisdiction of the United States,
- Rules of court of any court of this state or of any court of record of the United States or of any other state, territory, or jurisdiction of the United States,
- Provisions of all municipal and county charters and charter amendments of this state, provided they are available in printed copies or as certified copies,
- Rules promulgated by governmental agencies of this state which are published in the Florida Administrative Code or in bound written copies,
- Duly enacted ordinances and resolutions of municipalities and counties located in Florida, provided such ordinances and resolutions are available in printed copies or as certified copies,
- Facts that are not subject to dispute because they are generally known within the territorial jurisdiction of the court,
- Facts that are not subject to dispute because they are capable of accurate and ready determination by resort to sources whose accuracy cannot be questioned, and
- Official seals of governmental agencies and departments of the United States and of any state, territory, or jurisdiction of the United States.<sup>13</sup>

When presented with a request under s. 90.202, F.S., a court is required to take judicial notice after the court:

- Gives each adverse party timely written notice of the request, proof of which is filed with the court, to enable the adverse party to prepare to meet the request, and

---

<sup>11</sup> *Kareski*, 998 N.E.2d at 411.

<sup>12</sup> Section 90.201, F.S.

<sup>13</sup> Section 90.202, F.S.

- Is furnished with sufficient information to enable it to take judicial notice of the matter.<sup>14</sup>

### III. Effect of Proposed Changes:

The bill creates a process to allow a court to take judicial notice of certain information from web mapping services, such as street information from Google Maps. Specifically, the bill will allow a court to take judicial notice of any image, map, location, distance, calculation, or other information taken from any web mapping service, global satellite imaging site, or internet mapping tool so long as the information in question indicates the date that it was created.

In order for a court to take judicial notice of this type of information, the bill requires a party to file notice within a reasonable time, or as required by a court order. This notice must include a copy of the information and specify the Internet address where it may be inspected.

The bill provides a process for a party to object to a request for judicial notice of such information. The court is required to make a judicial notice, overruling the objection, unless the court finds by a preponderance of the evidence<sup>15</sup> that the material sought to be admitted does not fairly and accurately portray what it is being offered to prove or that it otherwise should not be admitted into evidence under the Florida Evidence Code.

The bill provides that this section “does not affect, expand, or limit standards for any matters that may otherwise be judicially noticed.”

The bill provides an effective date of July 1, 2022.

### IV. Constitutional Issues:

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

None.

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

None.

#### C. Trust Funds Restrictions:

None.

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

None.

---

<sup>14</sup> Section 90.203, F.S.

<sup>15</sup> “Under the preponderance standard, the burden of proof is met when the party with the burden convinces the fact finder that there is a greater than 50% chance that the claim is true.” Legal Information Institute, *Cornell Law School*, [https://www.law.cornell.edu/wex/preponderance\\_of\\_the\\_evidence](https://www.law.cornell.edu/wex/preponderance_of_the_evidence)

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 634 may enable parties in litigation to avoid costs that they would otherwise incur to produce, verify, and authenticate information from web mapping service, a global satellite imaging site, or an Internet mapping tool.

C. Government Sector Impact:

The bill may enable government parties to litigation avoid costs that they would otherwise incur to produce, verify, and authenticate information from web mapping service, a global satellite imaging site, or an Internet mapping tool. The bill may also reduce costs to the judiciary by reducing the judicial time and resources that would otherwise be required in litigation over the admissibility of such information.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates s. 90.2035, 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 Bradley

5-00450-22

2022634\_\_

1 A bill to be entitled  
 2 An act relating to judicial notice; creating s.  
 3 90.2035, F.S.; authorizing courts to take judicial  
 4 notice of certain information taken from web mapping  
 5 services, global satellite imaging sites, or Internet  
 6 mapping tools upon request of a party; requiring  
 7 parties who intend to offer such information into  
 8 evidence to file a notice of intent containing  
 9 specified information; authorizing parties to object  
 10 to the admissibility of such information; requiring  
 11 courts to overrule such objection unless certain  
 12 findings are made; providing construction; providing  
 13 an effective date.

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

16  
 17 Section 1. Section 90.2035, Florida Statutes, is created to  
 18 read:

19 90.2035 Judicial notice of information taken from web  
 20 mapping services, global satellite imaging sites, or Internet  
 21 mapping tools.-

22 (1) (a) Upon request of a party, a court may take judicial  
 23 notice of an image, map, location, distance, calculation, or  
 24 other information taken from a web mapping service, a global  
 25 satellite imaging site, or an Internet mapping tool, if such  
 26 image, map, location, distance, calculation, or other  
 27 information indicates the date on which the information was  
 28 created.

29 (b) A party intending to offer such information in evidence

Page 1 of 2

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

5-00450-22

2022634\_\_

30 at trial or hearing must file notice of such intent within a  
 31 reasonable time, or as defined by court order, which notice must  
 32 include a copy of the information and specify the Internet  
 33 address where such information may be inspected.

34 (2) (a) A party may object to the admissibility of the  
 35 image, map, location, distance, calculation, or other  
 36 information taken from a web mapping service, a global satellite  
 37 imaging site, or an Internet mapping tool within a reasonable  
 38 time or as defined by court order.

39 (b) The court shall overrule the objection unless the court  
 40 finds by a preponderance of evidence that the material sought to  
 41 be admitted does not fairly and accurately portray what it is  
 42 being offered to prove or that it otherwise should not be  
 43 admitted into evidence under the Florida Evidence Code.

44 (c) If the court overrules the objection, the court must  
 45 take judicial notice of the information and admit the  
 46 information into evidence.

47 (3) This section does not affect, expand, or limit  
 48 standards for any matters that may otherwise be judicially  
 49 noticed.

50 Section 2. This act shall take effect July 1, 2022.

Page 2 of 2

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



## The Florida Bar

651 East Jefferson Street  
Tallahassee, FL 32399-2300

Joshua E. Doyle  
Executive Director

850/561-5600  
www.FLORIDABAR.org

March 15, 2021

Joshua Doyle, Executive Director  
James Wiley Hicks, Chair of the Trial Lawyers Section  
The Florida Bar  
651 East Jefferson Street  
Tallahassee, FL 32399

RE: Proposed legislation – Judicial Notice of internet mapping and imaging

Dear Mr. Doyle and Mr. Hicks

I write in my capacity as Chair of the Code and Rules of Evidence Committee (“CREC”). CREC is composed of experienced judges and lawyers whose mission under Florida Rule of General Practice and Judicial Administration 2.140 is to consider proposals to the Florida Code and Rules of Evidence. The law of evidence in Florida contains both substantive and procedural components. The Florida legislative branch enacted the first codified rules of evidence in 1976. *See* Ch. 76-237. In 1979, the Florida Supreme Court adopted the Florida Evidence Code, to the extent the code was procedural. CREC has historically made recommendations to the Court on whether the Court should adopt changes by the legislature to Chapter 90, Florida Statutes, to the extent the amendment is procedural. However, recently the Committee has studied an issue regarding a court’s ability to take judicial notice of internet mapping and imaging. By a vote of 22-0-1, CREC recommends a new statute be adopted to address this matter, and requested that this be forwarded to the appropriate bodies for adoption as a Florida Statute and rule of evidence. A copy of the approved proposed statute is attached.

The ad hoc subcommittee on this issue of judicial notice included Chair Dan Cytryn, Megan Albrecht, Hon. Linda A. Alley, Nicholas Basco, Christopher Drury, Hon. David Haimes, Jeffrey M. Harris, Katelyn Johnston, Hon. Jeffrey R. Levenson, Ilana Marcus, Richardo Martinez-Cid, Mara Marzano, Curry Pajcic, and Christopher Smart.

Pursuant to 5.10 of the Standing Board Policies of the Florida Bar, standing Committees are not given expressed authority to lobby for statute changes. CREC believes that this proposed statute would be of great benefit to the legal community. To that end, CREC requests that to the extent you are able, please have this proposed statute be presented to the legislature for consideration and adoption. CREC requests periodic updates regarding the status of any efforts and members of this ad hoc subcommittee are willing to serve as recipients of those updates. May we share in advance our appreciation for any effort you can offer in advancing this progress within the practice.

Sincerely,

Melisa L. Bodnar, Chair  
Code and Rules of Evidence Committee

# THE FLORIDA BAR

## Enclosures

cc: Alan Lawson, Florida Supreme Court Justice  
Megan Albrecht, Hon. Linda A. Alley, Nicholas Basco, Christopher Drury, Hon. David Haines, Jeffrey M. Harris, Katelyn Johnston, Hon. Jeffrey R. Levenson, Ilana Marcus, Richardo Martinez-Cid, Mara Marzano, Curry Pajcic, Dan Cytryn and Christopher Smart

## Evidence Code – Judicial Notice Statutes

The Florida Evidence Code, sections 90.201 – 90.207 establishes judicial notice. There are three “categories” of judicial notice in Florida:

- 1) matters which must be judicially noticed (90.201). This would include statutes, resolutions of the Florida legislature, rules of court etc.
- 2) matters which may be judicially noticed (90.202). This would include statutes and rules of court from other states, laws of foreign nations, court records, facts that are not subject to dispute because they are generally known within the jurisdiction.
- 3) compulsory judicial notice upon request (90.203). This requires judicial notice of a matter listed in 90.202 when notice is provided to the other side and sufficient information is provided to the court to enable it to take judicial notice of the matter.

The proposed legislation would create 90.2035, Judicial notice upon request of web mapping services, global satellite imaging site, or an internet mapping tool. This would allow for the court to take judicial notice of an image, map, location, calculation. The provision would require that the information seeking notice of, contains the date the material was created.

*“(1) Upon request of a party, a court may take judicial notice of an image, map, location, distance, calculation, or other information taken from a web mapping service, a global satellite imaging site, or an internet mapping tool, if such image, map, location, distance, calculation, or other information indicates the date such material was created.”*

## Evidence Code – Judicial Notice Statutes

### § 90.201. Matters which must be judicially noticed.

---

A court **shall** take judicial notice of:

- (1) Decisional, constitutional, and public statutory law and resolutions of the Florida Legislature and the Congress of the United States.
- (2) Florida rules of court that have statewide application, its own rules, and the rules of United States courts adopted by the United States Supreme Court.
- (3) Rules of court of the United States Supreme Court and of the United States Courts of Appeal.

### § 90.202. Matters which may be judicially noticed.

---

A court **may** take judicial notice of the following matters, to the extent that they are not embraced within s. 90.201:

- (1) Special, local, and private acts and resolutions of the Congress of the United States and of the Florida Legislature.
- (2) Decisional, constitutional, and public statutory law of every other state, territory, and jurisdiction of the United States.
- (3) Contents of the Federal Register.
- (4) Laws of foreign nations and of an organization of nations.
- (5) Official actions of the legislative, executive, and judicial departments of the United States and of any state, territory, or jurisdiction of the United States.
- (6) Records of any court of this state or of any court of record of the United States or of any state, territory, or jurisdiction of the United States.

- (7) Rules of court of any court of this state or of any court of record of the United States or of any other state, territory, or jurisdiction of the United States.
- (8) Provisions of all municipal and county charters and charter amendments of this state, provided they are available in printed copies or as certified copies.
- (9) Rules promulgated by governmental agencies of this state which are published in the Florida Administrative Code or in bound written copies.
- (10) Duly enacted ordinances and resolutions of municipalities and counties located in Florida, provided such ordinances and resolutions are available in printed copies or as certified copies.
- (11) Facts that are not subject to dispute because they are generally known within the territorial jurisdiction of the court.
- (12) Facts that are not subject to dispute because they are capable of accurate and ready determination by resort to sources whose accuracy cannot be questioned.
- (13) Official seals of governmental agencies and departments of the United States and of any state, territory, or jurisdiction of the United States.

### § 90.203. Compulsory judicial notice upon request.

---

A court shall take judicial notice of any matter in s. 90.202 when a party requests it and:

- (1) Gives each adverse party timely written notice of the request, proof of which is filed with the court, to enable the adverse party to prepare to meet the request.
- (2) Furnishes the court with sufficient information to enable it to take judicial notice of the matter.

### § 90.204. Determination of propriety of judicial notice and nature of matter noticed.

---

- (1) When a court determines upon its own motion that judicial notice of a matter should be taken or when a party requests such notice and shows good cause for not complying with s. 90.203(1), the court shall afford each party reasonable opportunity to present information relevant to the propriety of taking judicial notice and to the nature of the matter noticed.
- (2) In determining the propriety of taking judicial notice of a matter or the nature thereof, a court may use any source of pertinent and reliable information, whether or not furnished by a party, without regard to any exclusionary rule except a valid claim of privilege and except for the exclusions provided in s. 90.403.
- (3) If a court resorts to any documentary source of information not received in open court, the court shall make the information and its source a part of the record in the action and shall afford each party reasonable opportunity to challenge such information, and to offer additional information, before judicial notice of the matter is taken.
- (4) In family cases, the court may take judicial notice of any matter described in s. 90.202(6) when imminent danger to persons or property has been alleged and it is impractical to give prior notice to the parties of the intent to take judicial notice. Opportunity to present evidence relevant to the propriety of taking judicial notice under subsection (1) may be deferred until after judicial action has been taken. If judicial notice is taken under this subsection, the court shall, within 2 business days, file a notice in the pending case of the matters judicially noticed. For purposes of this subsection, the term "family cases" has the same meaning as provided in the Rules of Judicial Administration.

### § 90.205. Denial of a request for judicial notice.

---

Upon request of counsel, when a court denies a request to take judicial notice of any matter, the court shall inform the parties at the earliest practicable time and shall indicate for the record that it has denied the request.

### § 90.206. Instructing jury on judicial notice.

---

The court may instruct the jury during the trial to accept as a fact a matter judicially noticed.

### § 90.207. Judicial notice by trial court in subsequent proceedings.

---

The failure or refusal of a court to take judicial notice of a matter does not preclude a court from taking judicial notice of the matter in subsequent proceedings, in accordance with the procedure specified in ss. 90.201-90.206.



## Narrative Explanation – Judicial Notice of Satellite Mapping and Imagery

The Code and Rules of Evidence Committee (CREC) of the Florida Bar is made up of plaintiff and defense personal injury lawyers, probate lawyers, real estate litigation lawyers, judges, etc.,. The committee voted unanimously with one abstention 22-0 to recommend adoption of this new statute on judicial notice. The vote was 22-0-1. The sub-committee that drafted the proposal consisted of 14 lawyers and judges.

The proposed legislation sets forth a specific procedure that allows any party seeking admission “of an image, map, location, distance, calculation, or other information taken from a web mapping service, a global satellite imaging site, or an internet mapping tool” into evidence. It sets forth a statutory scheme to guide the judge regarding whether or not to admit it into evidence.

The committee members saw this as a problem that needs a resolution. To attempt to subpoena one of these mapping or similar services who would then have to have a ‘qualified’ employee of the entity testify as to a business record hearsay exception would be an unnecessary, almost Herculean task.

All voting members of the CREC felt that it’s ludicrous to go through this type of Herculean task, and that times have changed. The committee also recognized that at the time that most judicial notice statutes and sub-sections were adopted, there was no such thing as a “web mapping service, global satellite imaging site, or an internet mapping tool”, as we now know it today.

The proposed legislation requires the party intending to offer such image or information into evidence to file a notice within a reasonable time or as set forth by court order, as follows:

1. The notice must contain a copy of the document sought to be admitted.
2. The document attached to the notice which the proponent seeks to have admitted must indicate the date “such material was created.”
3. The party intending to introduce the item into evidence shall specify the internet address where the image or information can be found, when filing the notice.

The proposed legislation allows any party to object to the admissibility. It requires the court to rule on any objection and it requires the court to take judicial notice if the objection(s) is overruled. The proposed legislation states that the court shall overrule the objection unless the court finds that it “does not fairly and accurately portray that which it is being offered to prove or that it should otherwise not be admitted into evidence.”

The committee was concerned that based upon existing statutes or the lack thereof, a trial judge could come down on either side of the ‘fence’ and allow it, or not. So, this section creates a rebuttable presumption that if it “fairly and accurately portrays that which it is being offered to prove”, it should be admitted into evidence, and that the court then does not have the discretion to preclude admission of the evidence.

The committee felt that, in general, judges are used to having documents admitted into evidence “authenticated” by records custodians.

The committee felt that this rule needs to be passed now to simplify what should be a simple process. For example, with a Google vehicle driving down the street taking a picture of an area with the date on the picture, the picture should simply be admitted into evidence unless there is some extraordinary reason why it shouldn’t; or the condition of a parking lot on a certain date; or to replicate exactly how the roadway looked at a particular time or to avoid the expense of having to send an airplane up to take an aerial view when Google or Bing or other search engines have virtually most of the earth available with the tap of a few keystrokes.

The statute section is intended to guide the judiciary and to simplify the process and avoid conflicting decisions on something that should be very basic regarding introduction of something that is essentially incontrovertible.

The committee also discussed the expense and difficulty of going through the process of seeking to obtain the admission of documents through a “web mapping service, global satellite imaging site, or internet mapping tool entity”, and determined that it was essential for the administration of justice to simplify the process and adopt this statute specifically authorizing the court to take judicial notice.

The committee felt that to have to rely upon a very general rule concerning judicial notice, 90.202 (12), perhaps which you may call a “catch all” subsection, to accomplish the task, would potentially result in different trial judges taking different views of whether to admit this type of material, resulting in the ultimate review by appellate courts, and not resolving the issue until such time that a case ultimately went up to the Florida Supreme Court, which could take many years to get up there, if ever.

Although technically the court could consider Section 90.202 (12) in whether to allow it because it could be argued that what we are trying to admit are “facts that are not subject to dispute because they are capable of accurate and ready determination by resort to sources whose accuracy cannot be questioned”, the quoted portion is simply subject to judicial discretion and can potentially be argued from both sides equally without it being an abuse of discretion on the part of the trial judge whichever way the trial judge decided. This is what we are trying to avoid. This legislation simplifies the process of admission when there is no reasonable reason for not admitting the information. It does so without the cost, expense, and time that would otherwise be necessary to ‘jump through hoops’ for something which is essentially basic, and in most cases, inarguable.

Just as Rule 1.010 of the Florida Rules of Civil Procedure states in relevant part: “these rules shall be construed to secure the just, speedy, and inexpensive determination of every action”, the legislature should consider that legislation that improves our system of justice by decreasing the expense of litigation and needless consumption of time without sacrificing any protections is always the preferential route. It should be our goal to try to ensure that our system of justice is not unnecessarily or inordinately expensive, and that is our goal and public policy: to simplify *what should be* a basic process, when justice requires, which it does here.

Proposed Florida Statute 90.2035 – Judicial notice upon request of web mapping services, global satellite imaging site, or an internet mapping tool

- (1) Upon request of a party, a court may take judicial notice of an image, map, location, distance, calculation, or other information taken from a web mapping service, a global satellite imaging site, or an internet mapping tool, if such image, map, location, distance, calculation, or other information indicates the date such material was created.
- (2) A party intending to offer such image or information in evidence at a trial or hearing shall file a notice of such intent within a reasonable time, or as defined by court order, providing a copy and specifying the internet address at which such image or information may be inspected.
- (3) A party may object to the admissibility of the image, map, location, distance, calculation, or other information taken from a web mapping service, a global satellite imaging site, or an internet mapping tool within a reasonable time or as defined by court order.
- (4) The objection shall be overruled unless the court finds by a preponderance of evidence that the material sought to be admitted does not fairly and accurately portray that which it is being offered to prove or that it should otherwise not be admitted into evidence.
- (5) If the objection is overruled, the court shall take judicial notice and admit into evidence such image, map, location, distance, calculation or other information.
- (6) This section is not intended to supplant, limit, or establish standards for any matters that may otherwise be judicially noticed.

11/30/2021

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

SB 634

Bill Number or Topic

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

Judiciary

Committee

Amendment Barcode (if applicable)

Name Katelyn Johnston

Phone \_\_\_\_\_

Address 311 W Monroe Street  
*Street*

Email kjohnston@coj.net

Jacksonville

FL

32202

*City*

*State*

*Zip*

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)*

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

S-001 (08/10/2021)

11/30/2021

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

SB 634

Bill Number or Topic

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

Judiciary

Committee

Amendment Barcode (if applicable)

Name Michelle DeLong

Phone 561-625-6260

Address 2401 PGA Blvd., Suite 14

Email mnd@dcwlaw.com

Street

Palm Beach Gardens

FL

33410

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without  
compensation or sponsorship.

I am a registered lobbyist,  
representing:

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

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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

S-001 (08/10/2021)

**The Florida Senate**  
**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: SPB 7014

INTRODUCER: Judiciary Committee

SUBJECT: Extension of COVID-19 Liability Protections for Health Care Providers

DATE: November 30, 2021

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Cibula</u>	_____	<b>JU Submitted as Comm. Bill/Fav</b>
2.	_____	_____	_____	_____

---

**I. Summary:**

SPB 7014 extends the length of time that health care providers receive certain liability protections from COVID-19-related claims. According to legislation passed during the 2021 Legislative Session, liability protections from COVID-19-related claims apply to claims accruing within 1 year after the effective date of the act, which was March 29, 2022.

The bill extends the application period of the liability protections, making them applicable to claims accruing before June 1, 2023. The net result of the bill is to extend the liability protections for about 14 months, from March 29, 2022, to June 1, 2023.

**II. Present Situation:**

The COVID-19 pandemic gripped the state and nation in 2020 and 2021 in ways that were previously unimaginable. The toll on individuals, businesses, and the economy were catastrophic. The Legislature determined that special civil liability protections against COVID-19-related claims were essential for the survival of individuals, businesses, health care providers, and other organizations. In an effort to protect those entities that contributed to the overall well-being of the state, the Legislature passed CS/SB 72<sup>1</sup> which established liability protections from COVID-19 related claims for healthcare providers in s. 768.381, F.S.

The liability protections in s. 768.381, F.S., require a plaintiff to:

- Satisfy heightened pleading requirements of alleging facts in sufficient detail to support each element of his or her claim;
- Prove by the greater weight of the evidence that the health care provider was grossly negligent or engaged in intentional misconduct; and
- Overcome any affirmative defense recognized in the statute that is properly raised by the health care provider defendant.

---

<sup>1</sup> Chapter 2021-1, Laws of Fla.

Under the “application period”<sup>2</sup> established for the liability protections, the liability protections apply to a “COVID-19-related claims that have “accrued before the effective date of the act” which was March 29, 2021, and “within 1 year after the effective date of this act.”

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

This bill extends the length of time, or application period, that a health care provider receives certain liability protections for COVID-19-related claims. Pursuant to legislation passed in 2021, the application period applies to claims accruing before March 29, 2022. This bill extends the application period of the liability protections from March 29, 2022 to June 1, 2023.

The act takes effect upon becoming law.

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

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

None.

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

None.

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

None.

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

None.

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

None identified.

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

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

None.

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

The private sector fiscal impacts of SPB 7014 are indeterminate. If the effect of the bill is to codify what the courts would have found to be the common law of the state, then the bill will have a significant positive impact on the private sector in general through the

---

<sup>2</sup> Section 768.381(6), F.S.

avoidance of litigation and its attendant costs. If the effect of the bill is to limit lawsuits that otherwise would have yielded recoveries for injured parties, the bill will have a positive fiscal impact on the health care industry and a corresponding negative fiscal impact on injured individuals.

C. **Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 768.381, 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.



FOR CONSIDERATION By the Committee on Judiciary

590-01059A-22

20227014pb

1                           A bill to be entitled  
2           An act relating to COVID-19-related claims against  
3           health care providers; amending s. 768.381, F.S.;  
4           extending the duration of liability protections from  
5           COVID-19-related claims against health care providers;  
6           providing an effective date.

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

9  
10           Section 1. Subsection (6) of section 768.381, Florida  
11           Statutes, is amended to read:

12           768.381 COVID-19-related claims against health care  
13           providers.-

14           (6) APPLICATION PERIOD.-This section applies to claims that  
15           have accrued before the effective date of this act and before  
16           June 1, 2023 ~~within 1 year after the effective date of this act.~~

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

11/30/2021

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

7014

Bill Number or Topic

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

Judiciary

Committee

Amendment Barcode (if applicable)

Name Jason Hand, Vice President of Public Policy

Phone 850-443-0024

Address 2292 Wednesday Street

Email jhand@floridaseniorliving.org

Street

Tallahassee

FL

32308

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**Florida Senior Living Association**

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

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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

11/30/2021

Meeting Date

Judiciary

Committee

Name Steve Cain

Address One Southeast Third Ave., Suite 3000

Street

Miami

FL

3313

City

State

Zip

The Florida Senate

APPEARANCE RECORD

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

SB 7014

Bill Number or Topic

Amendment Barcode (if applicable)

Phone 305-358-6644

Email scain@stfblaw.com

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

The Florida Senate

**APPEARANCE RECORD**

SPB 7014

11.30.21

Meeting Date

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

Bill Number or Topic

Judiciary

Committee

Amendment Barcode (if applicable)

Name Robin Khanal

Phone 407-872-6011

Address 255 South Orange Avenue

Email RKhanal@qpwbllaw.com

Street

Orlando

FL

32801

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

The Florida Senate

APPEARANCE RECORD

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

11/30/21 Meeting Date

Judiciary Committee

7014 Bill Number or Topic

Amendment Barcode (if applicable)

Name Michael Cosick

Phone 850-222-5620

Address 200 West College Ave Street

Email Mike@MichaelCosick.com

Tallahassee FL 32301 City State Zip

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [x] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

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

Florida Association of Children's Hospitals

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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

The Florida Senate

# APPEARANCE RECORD

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

11/30/21

Meeting Date

SLB 7014

Bill Number or Topic

JURIMACY

Committee

Amendment Barcode (if applicable)

Name STEVE BAHMER

Phone 850 671 3700

Address 1812 RIGGINS ROAD

Email sbahmer@leadingageflorida.org

Street

TALLAHASSEE

City

FL

State

32308

Zip

Speaking:  For  Against  Information

**OR**

Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

LEADING AGE FLORIDA

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

11/30/21

Meeting Date

Judiciary

Committee

The Florida Senate

# APPEARANCE RECORD

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

SB7014

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Chris Lyon**

Phone **850-222-5702**

Address **315 S. Calhoun St. , Ste 830**

Email **clyon@llw-law.com**

Street

**Tallahassee**

**FL**

**32301**

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**Florida Osteopathic Medical Association**

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

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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

S-001 (08/10/2021)

11/30/2021

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

SB 7014

Bill Number or Topic

Judiciary

Committee

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

Amendment Barcode (if applicable)

Name David Mica, Jr.

Phone (352) 222-8700

Address 306 E College Ave

Email DavidM@fha.org

Street

Tallahassee

FL

32312

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without  
compensation or sponsorship.

I am a registered lobbyist,  
representing:

**Florida Hospital Association**

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

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*



The Florida Senate

**APPEARANCE RECORD**

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

11.30.21

Meeting Date

Judiciary

Committee

SPB 7014

Bill Number or Topic

Amendment Barcode (if applicable)

Name William Large

Phone 850-222-0170

Address 210 South Monroe Street

Email William@fljustice.org

Street

Tallahassee

FL

32301

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without  
compensation or sponsorship.

I am a registered lobbyist,  
representing:

Florida Justice Reform Institute

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

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)*

The Florida Senate  
**APPEARANCE RECORD**

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

11/30/21  
Meeting Date

Judiciary  
Committee

7014  
Bill Number or Topic

Amendment Barcode (if applicable)

Name Mary Thomas

Phone 850 224 6496

Address 1430 Piedmont Dr E  
Street

Email MThomas@flmedical.org

TLH FL 32308  
City State Zip

Speaking:  For  Against  Information

**OR**

Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without  
compensation or sponsorship.

I am a registered lobbyist,  
representing:

Florida Medical Association

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

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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

S-001 (08/10/2021)

11/30/21

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

SB 7014

Bill Number or Topic

Judiciary

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

Committee

Amendment Barcode (if applicable)

Name Carolyn Johnson

Phone 850-521-1200

Address 136 S Bronough St

Email cjohnson@flchamber.com

Street

Tallahassee

FL

32301

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without  
compensation or sponsorship.

I am a registered lobbyist,  
representing:

**FL Chamber of Commerce**

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

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)*

11/30/2021

Meeting Date

Judiciary

Committee

Name Grace Lovett

Address 227 S. Adams Street

Street

Tallahassee

City

FL

State

32301

Zip

The Florida Senate  
**APPEARANCE RECORD**

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

7014

Bill Number or Topic

Amendment Barcode (if applicable)

Phone 850.222.4082

Email grace@frf.org

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without  
compensation or sponsorship.

I am a registered lobbyist,  
representing:

*FLORIDA Retail  
Federation*

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

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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

S-001 (08/10/2021)

11/30/21

Meeting Date

# The Florida Senate APPEARANCE RECORD

7014

Bill Number or Topic

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

Judiciary

Committee

Amendment Barcode (if applicable)

Name **James McFaddin**

Phone **850-671-4401**

Address **123 S. Adams St.**

Email **mcfaddin@thesoutherngroup.com**

Street

**Tallahassee**

**FL**

**32301**

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**Tenet Healthcare**

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

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

11/30/21 Meeting Date

7014 Bill Number or Topic

Judiciary Committee

Amendment Barcode (if applicable)

Name Brewster Bevis

Phone 571-7173

Address 516 W Adams Street

Email bbevis@air.com

TLC City RC State 32301 Zip

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [x] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

Associated Industries of Florida

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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

The Florida Senate  
**APPEARANCE RECORD**

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

11/30/21  
Meeting Date

Judiciary  
Committee

7014  
Bill Number or Topic

Amendment Barcode (if applicable)

Name George Feijoo Phone 3057207099

Address 108 S. Monroe Street Email grfeijoo@flapartners.com  
*Street*

Tallahassee FL 32312  
*City State Zip*

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without  
compensation or sponsorship.

I am a registered lobbyist,  
representing:

Florida Insurance Council

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

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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

S-001 (08/10/2021)

The Florida Senate

# APPEARANCE RECORD

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

11-30-21

Meeting Date

Judiciary

Committee

7014

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Tim Parson

Phone

850-910-2678

Address

Street

Email

Tim.Parson@flsenate.gov

City

State

Zip

Speaking:  For  Against  Information

**OR**

Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Assisted Living Association

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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



11/30/21

Meeting Date

The Florida Senate

APPEARANCE RECORD

SPB 7014

Bill Number or Topic

Judiciary

Committee

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

Amendment Barcode (if applicable)

Name Mary Lou Woods

Phone 631-525-6875

Address 717 Toria Lane Street

Email Marylouwoods1@gmail.com

St. Augustine, FL 32095 City State Zip

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [ ] In Support [X] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[X] I am appearing without compensation or sponsorship.

[ ] I am a registered lobbyist, representing:

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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

The Florida Senate

**APPEARANCE RECORD**

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

4/30/21

Meeting Date

SB 7014

Bill Number or Topic

Senate Judiciary

Committee

Amendment Barcode (if applicable)

Name Toby Philpot

Phone 850-224-3907

Address 307 W. Park Avenue

Email tphilpot@fhea.org

Street

Tallahassee

City

FL

State

32301

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Health Care Association

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

**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 620

INTRODUCER: Senator Hutson

SUBJECT: Local Government

DATE: November 29, 2021

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bond	Cibula	JU	<b>Favorable</b>
2.	_____	_____	RC	_____
3.	_____	_____	AP	_____

---

**I. Summary:**

SB 620 creates a cause of action for an established business to recover loss of business damages from a county or municipality whose regulatory action has caused a significant impact on the business.

Currently, landowners have a cause of action under the Bert J. Harris Act to compensate them for the lost value of their land caused by certain local government actions; landowners have a cause of action for onerous local regulation in the form of exactions; and business landowners have a cause of action under eminent domain law for business damages related to a taking of real property. Similarly, this bill creates a cause of action for a business to sue a local government when the enactment or amendment of an ordinance or charter provision causes at least a 15 percent loss of income or profits to the business. The business must have been in operation for at least 3 years to qualify. Business damages recoverable are the probable damages to such business which the application of the enactment or amendment of the ordinance or charter provision may reasonably cause. Compliance with a 180-day presuit notice and settlement period is required. A prevailing business may also be awarded costs and attorney fees payable by the county or municipality. If the parties settle the matter pre-trial, attorney fees are limited to a reasonable rate. If the business prevails after the presuit process, attorney fees are a percentage of the difference between the county or municipality's counteroffer and the final award.

The bill may have an indeterminate negative fiscal impact on local governments. The bill does not appear to have a fiscal impact on state government.

The bill is effective July 1, 2022, and applies to enactment or amendment of an ordinance or charter provision on or after July 1, 2022.

## II. Present Situation:

### Home Rule Powers

#### *The Florida Constitution*

The Florida Constitution establishes and describes the duties, powers, structure, function, and limitations of government in Florida. Article VIII, sections 1 and 2 of the Florida Constitution, endows counties and municipalities the power of self-government or home rule power. Under the home rule power, local governments have broad authority to exercise the state's sovereign police powers and legislate on any matter that is not inconsistent with federal law and the State Constitution and state laws.

#### *Counties*

A county without a charter has such power of self-government as provided by general or special law and may enact county ordinances not inconsistent with general law.<sup>1</sup> Counties operating under county charters have all the powers of local self-government not inconsistent with general law or with special law approved by a vote of the electors.<sup>2</sup> General law authorizes counties “the power to carry on county government”<sup>3</sup> and to “perform any other acts not inconsistent with law, which acts are in the common interest of the people of the county, and exercise all powers and privileges not specifically prohibited by law.”<sup>4</sup>

#### *Municipalities*

Municipalities may be established or abolished, and their charters amended by general or special law. Municipalities have governmental, corporate, and proprietary powers to conduct municipal government, perform municipal functions, and render municipal services. They may exercise any of these powers for municipal purposes except as otherwise provided by law.<sup>5</sup> Chapter 166, F.S., also known as the Municipal Home Rule Powers Act,<sup>6</sup> acknowledges these constitutional grants of police power and better defines municipal powers of self-government.<sup>7</sup> Chapter 166, F.S., provides municipalities with broad home rule powers to act in a manner not inconsistent with the Florida Constitution, general and special law, and a charter for the county in which the municipality is located.<sup>8</sup>

---

<sup>1</sup> FLA. CONST. art. VIII, s. 1(f).

<sup>2</sup> FLA. CONST. art. VIII, s. (1)(g).

<sup>3</sup> Section 125.01(1), F.S.

<sup>4</sup> Section 125.01(1)(w), F.S.

<sup>5</sup> FLA. CONST. art. VIII, s. 2.

<sup>6</sup> Section 166.011, F.S.

<sup>7</sup> Florida House of Representatives, Publications, *The Local Government Formation Manual 2017-2018*, p. 16, available at: <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2911&Session=2017&DocumentType=General Publications&FileName=2017-2018 Local Government Formation Manual Final Pub.pdf> (last visited Nov. 23, 2021).

<sup>8</sup> Section 166.021(4), F.S.

**Current Laws Providing Compensation for County and Municipality Governmental Actions**

***Eminent Domain***

Both the Federal Constitution and State Constitution guarantee that a person’s private property may not be taken for public use without reimbursement. The Fifth Amendment to the United States Constitution states that no private property shall “be taken for public use without just compensation.” Similarly, the Florida Constitution provides that no private property shall be taken except for a public purpose and that each owner must be fully compensated.<sup>9</sup> Florida eminent domain law compensates a landowner for the value of real property taken for a public purpose. If the taking impacts an ongoing business, the law also provides for payment of business damages related to the eminent domain taking. The term business damages refers to “the probable damages to such business which the denial of the use of the property so taken may reasonably cause.”<sup>10</sup>

State eminent domain law also provides an affected landowner the right to attorney fees.<sup>11</sup> Where the parties settle, the state or local government must pay a reasonable attorney fee, but where the issue is litigated the fee is based on benefit to the landowner. Examples of how this works in the context of business damages payable to a landowner in an eminent domain case:

<b>Business Damages in Eminent Domain Attorney Fee Examples</b>	
<b>Description</b>	<b>Attorney Fee Calculation</b>
Business owner’s offer is \$500,000. The government accepts the offer.	Attorney’s fees would be based on a reasonable amount of time at a reasonable rate.
Business owner’s offer is \$500,000. The government’s counteroffer is \$400,000, which is accepted by the business owner.	Attorney’s fees would be based on a reasonable amount of time at a reasonable rate.
Business owner’s offer is \$500,000. The government’s counteroffer is \$100,000. Business owner rejects the counteroffer. At trial, the jury awards \$200,000. The “benefit” is \$100,000	Attorney’s fees, based on that benefit, would be \$100,000 x 33% = \$33,000.
Business owner’s offer is \$50,000. The government’s counteroffer is \$10,000. The claim does not go to trial and is settled for \$20,000.	Attorney’s fees based on the \$10,000 benefit would be \$10,000 x 33% = \$3,300.

<sup>9</sup> FLA. CONST. art. X, s. 6.

<sup>10</sup> Section 73.071(2)(b), F.S.

<sup>11</sup> Section 73.092, F.S.

***The Bert J. Harris, Jr., Private Property Rights Protection Act***

The Legislature enacted the “Bert J. Harris, Jr., Private Property Rights Protection Act” in 1995. The act provides relief to a property owner whose property is inordinately burdened by government regulation. The act is limited in scope and applies only to:

- Real, and not personal, property;
- A property owner and not a leaseholder;
- “As-applied” challenges for specific government actions, not to broad, facial challenges of government regulations; and
- Challenges that are not based on temporary impacts.<sup>12</sup>

The Legislature recognized that some laws, regulations, and ordinances of the state and its entities could inordinately burden, restrict, or limit private property rights *without* amounting to a taking<sup>13</sup> under either the State Constitution or the United States Constitution. The Legislature declared that there is “an important state interest in protecting the interests of private property owners from those inordinate burdens.” Accordingly, the Legislature created a separate and distinct cause of action for governmental actions that might not rise to the level of taking under the State Constitution or United States Constitution. The Legislature provided a process for private landowners to seek relief, or payment of compensation, when a new law, rule, regulation, or ordinance of the state or a political entity, as applied, unfairly affects real property.<sup>14</sup>

The phrases “inordinate burden” and “inordinately burdened” mean that an action by one or more governmental entities has directly restricted or limited the use of real property to the extent that:

- The property owner is permanently unable to attain the reasonable, investment-backed expectation for the existing use of the real property or a vested right to a specific use of the real property with respect to the real property as a whole; or
- The property owner is left with existing or vested uses that are unreasonable such that the property owner bears a disproportionate share of a burden imposed for the good of the public, which in fairness should be borne by the public at large.<sup>15</sup>

Before a property owner files an action for compensation under the Bert Harris Act, he or she must present a written claim to the head of the government entity at least 90 days before filing an action. In addition to the claim, the property owner must submit a valid appraisal that supports the claim and demonstrates the loss in fair market value to the property.<sup>16,17</sup> If other parties are

<sup>12</sup> W. Thomas Hawkins, *Land Use Law in Florida*, 17-3 (Routledge, 2021).

<sup>13</sup> A “taking” is generally understood to mean a government action that deprives an owner of the use or enjoyment of his or her property. A regulatory taking occurs when a government regulation seriously restricts a property owner’s rights. BLACK’S LAW DICTIONARY (10th ed. 2014).

<sup>14</sup> Section 70.001(1), F.S.

<sup>15</sup> Section 70.001(3)(e)1., F.S. The definition further explains in s. 70.001(3)(e)2., F.S., what the terms do not include with regard to other impacts.

<sup>16</sup> Section 70.001(4)(a), F.S.

<sup>17</sup> The appraisal should contain valuations of the property both before and after the government’s restriction was imposed. This will enable the government to adequately evaluate the property owner’s potential claim for the purpose of developing a settlement offer during the pre-suit period. Margaret L. Cooper, Ronald L. Weaver, and Joanne M. Connor, *Statutory Private Property Rights Protection*, 6, *The Florida Bar*, 2018 Florida Real Property Litigation (2018), <https://1.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=0368929390&pubNum=0116933&originatingD>

involved, the governmental entity must notify them, including all owners of real property that is contiguous to the owner's property.<sup>18</sup>

During the 90-day notice period, which may be extended by an agreement of the parties, the government is required to make a written settlement offer to the claimant. The settlement may contain an offer to:

- Adjust land development, permit standards, or similar provisions controlling the development or use of the land.
- Increase or modify density, intensity, or use of areas of development.
- Transfer development rights.
- Entertain land swaps or exchanges.
- Mitigate, including payments in lieu of onsite mitigation.
- Locate on the least sensitive portion of the property.
- Condition the amount of development or use permitted.
- Require that issues be addressed on a more comprehensive basis.
- Issue a development order, variance, special exception, or other extraordinary relief.
- Purchase the property or an interest in it.
- Make no changes to the proposed action.<sup>19</sup>

If the property owner rejects the settlement offer with the allowable uses, the property owner may file a claim in circuit court and the county where the real property is located.<sup>20</sup> A cause of action may not be filed more than 1 year after a law or regulation is "first applied" by the government to the property at issue. The 1-year time frame begins when the law or regulation is clear and unequivocal in its terms and notice is provided by mail to the affected property owner or registered agent. Otherwise, the law or regulation is considered first applied to the property when there is a formal denial of a written request for a development order or variance, unless under the terms of the regulation at issue, such requests would be a waste of resources.<sup>21</sup>

The court then conducts a bench trial to determine whether an existing use of the real property or a vested right to a specific use of the property existed and whether the government inordinately burdened the owner's property. If the court determines that an inordinate burden was imposed, the court must also determine the percentage of responsibility each governmental entity must bear.<sup>22</sup> The property owner may decide whether the amount of compensation is to be determined by the court or jury.<sup>23</sup>

The court, and not the jury, will determine what constitutes reasonable costs and attorney fees.<sup>24</sup>

---

[oc=N090388C02AB211E5823BE24E38CB0B04&refType=SA&originationContext=contextAnalysis&contextData=%28sc.UserEnteredCitation%29&transitionType=ContextAnalysisItem](https://www.flsenate.gov/legislation/bills/2019/oc=N090388C02AB211E5823BE24E38CB0B04&refType=SA&originationContext=contextAnalysis&contextData=%28sc.UserEnteredCitation%29&transitionType=ContextAnalysisItem).

<sup>18</sup> Section 70.001(4)(b), F.S.

<sup>19</sup> Section 70.001(4)(c), F.S.

<sup>20</sup> Section 70.001(5)(b), F.S.

<sup>21</sup> Section 70.001(11), F.S.

<sup>22</sup> Section 70.001(6)(a), F.S.

<sup>23</sup> Section 70.001(6)(b), F.S.

<sup>24</sup> Section 70.001(6)(c)3., F.S.

The property owner is entitled to recover reasonable costs and attorney fees from the government from the date the action was filed in circuit court if:

- The property owner prevails; and
- The court determines that the government’s settlement offer did not constitute a bona fide offer which reasonably would have resolved the claim during the 90-day notice period.<sup>25</sup>

Similarly, the government is entitled to recover reasonable costs and attorney fees incurred from the date the action was filed in circuit court if:

- The government prevails; and
- The court determines that the property owner did not accept a bona fide settlement offer which reasonably would have fairly resolved the claim if the offer had been accepted by the property owner during the 90 day notice period.<sup>26</sup>

### ***Governmental Exactions***

In response to a 2013 U.S. Supreme Court case, *Koontz v. St. John’s River Water Management District*,<sup>27</sup> the Legislature enacted s. 70.45, F.S., in 2015, and created a cause of action for a property owner to recover damages caused by a “prohibited exaction.”<sup>28</sup> Essential phrases from the *Koontz* decision are embedded in the statute. A prohibited exaction is defined as any condition imposed by a governmental entity on a property owner’s proposed use of real property that does not have “an essential nexus to a legitimate public purpose and is not roughly proportionate to the impacts of the proposed use that the governmental entity” is seeking to avoid, minimize, or mitigate.<sup>29</sup>

The action may not be brought until a prohibited exaction is actually imposed or required in writing as a final condition of approval for the requested use of real property. The right to bring the action may not be waived.<sup>30</sup>

The property owner must provide a written notice to the relevant governmental entity of his or her proposed action at least 90 days before filing an action but no later than 180 days after imposition of the prohibited exaction. The notice must identify the exaction that the property owner believes is prohibited and briefly explain why he or she believes the action is prohibited along with an estimate of the damages. The relevant governmental entity must review the notice of the claim, respond in writing and identify the basis for the exaction, and explain why it maintains that the exaction is proportionate to the harm created by the proposed use of real property, or propose to remove all or a proportion of the exaction.<sup>31</sup>

The government has the burden of proving that the exaction has an essential nexus to a legitimate public purpose and that it is roughly proportionate to the impact the government seeks to avoid.

<sup>25</sup> Section 70.001(6)(c)1., F.S.

<sup>26</sup> Section 70.001(6)(c)2., F.S.

<sup>27</sup> *Koontz v. St. Johns River Water Management Dist.*, 570 U.S. 595 (2013).

<sup>28</sup> Chapter 2015-142, s. 2, Laws of Fla.

<sup>29</sup> Section 70.45(1)(c), F.S.

<sup>30</sup> Section 70.45(2), F.S.

<sup>31</sup> Section 70.45(3), F.S.



The burden of proving damages that result from the prohibited exaction rests upon the property owner.<sup>32</sup>

The court may award attorney fees and costs to the prevailing party. However, if the court finds that the exaction lacks an essential nexus to a legitimate public purpose, the court must award attorney fees and costs to the property owner.<sup>33</sup>

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

SB 620 creates s. 70.91, F.S. to create a cause of action for a business that has been operating for at least 3 years to recover business damages from a county or municipality who enacts or amends an ordinance or charter provision that causes a 15 percent or greater loss of revenue or profit. Unlike the three forms of recovery for government actions described above, this new cause of action is not tied to real property ownership.

#### **Legislative Statements of Need for the Bill**

The bill provides the following statements:

WHEREAS, the Legislature recognizes that the continued economic growth and economic prosperity of this state are tied to the protection of private property rights and the stability of laws, ordinances, and charter provisions, and

WHEREAS, the Legislature recognizes that the protection of private property rights and the stability of laws and local rules and regulations affecting business activities encourage investments by businesses in their real property, facilities, operations, and workforces, and

WHEREAS, investments by businesses drive the economic growth of a community, and

WHEREAS, the economic costs of local rules and regulations that are primarily for the benefit of a county or municipality as a whole should be borne by the county or municipality as a whole, and

WHEREAS, the Legislature intends to require counties and municipalities to compensate businesses for business damages when an ordinance or a charter provision causes a business significant economic harm.

#### **Exceptions to Application of the Bill**

A county or city is not liable for business damages for any enactment or amendment of an ordinance or charter provision that is:

---

<sup>32</sup> Section 70.45(4), F.S.

<sup>33</sup> Section 70.45(5), F.S.

- Required to comply with state or federal law;
- An emergency ordinance, declaration or order enacted pursuant to the State Emergency Act;<sup>34</sup>
- A temporary emergency ordinance that remains in effect no more than 90 days; or
- An ordinance or charter amendment that increases economic freedom.

Additionally, a business may not claim damages under the bill if:

- The business has been in operation for fewer than 3 years;
- The business may claim damages under eminent domain law; or<sup>35</sup>
- Recovery under another legal theory would lead to a double recovery by the business.

### **Presuit Requirements**

Similar to eminent domain actions and claims under the Bert J. Harris, Jr. Act or the law on exactions, the bill requires the parties to engage in a presuit process before litigation ensues. The presuit process starts with a demand letter from the business followed by an opportunity for negotiation and settlement before a lawsuit may be filed. Specifically, the following procedures are required:

An initial demand letter from the business must be presented to the county or city within 180 days after the effective date of the enactment or amendment to the ordinance or charter provision. The initial demand letter must include a written offer to settle the claim. It must be made in good faith, and must include an explanation of the nature, extent, and amount of business damages. The initial demand letter must be prepared by the business owner, a certified public accountant, or a business damages expert. Copies of relevant business records that substantiate the claim must be attached to the demand. The county or city may request additional information that the owner may agree to provide. The business records that may be attached include, but are not limited to:

- Federal income tax returns.
- Federal income tax withholding statements.
- Federal miscellaneous income tax statements.
- State sales tax returns.
- Balance sheets.
- Profit and loss statements.
- State corporate income tax returns for the 3 years preceding the enactment of or amendment to an ordinance or a charter.
- Other records relied upon by the business to substantiate a claim for business damages.

The county or city has 120 days to review the demand letter and furnish a response to it by certified mail. The response must either be acceptance, rejection, or rejection with a counteroffer. A failure to respond is considered a counteroffer of zero.<sup>36</sup> If the parties agree on the amount of business damages, the business may in addition collect costs and attorney fees. Costs and

---

<sup>34</sup> Sections 252.31-.60, F.S.

<sup>35</sup> Chapter 73, F.S.

<sup>36</sup> A counteroffer of zero is significant when calculating attorney fees based on the results of the litigation.

attorney fees may be litigated separately even though the amount of business damages is agreed upon.

If the parties cannot agree on the amount of business damages, and if 180 days has elapsed since service of the initial demand letter, the business may file a lawsuit.

### **Calculation of Business Damages**

The bill does not specify criteria calculating business damages. The term is used in eminent domain litigation, is a familiar concept in that area of the law, and will likely be interpreted by the courts in a similar fashion. Thus, business damages are the probable damages to such business which application of the enacted or amended ordinance or charter provision may reasonably cause.<sup>37</sup> Business damages include lost profits attributable to the reduced profit-making capacity of the business caused by the enactment of amendment of an ordinance or charter provision.<sup>38</sup>

The business must state in its complaint the nature and extent of the business damages believed to be owed. If contested, the amount is set by the jury, unless the business waives the right to a jury and elects trial by a judge.

At trial, due to the similarities with the business damages under eminent domain law, each party will likely be “entitled to approach the ‘inherently fact-intensive’ task of business-damage valuation by presenting the opinions of qualified experts ‘based upon generally accepted accounting principles as to what should be included in the jury’s calculation.’”<sup>39</sup> These experts in calculating damages, depending upon the specific circumstances would seem to be authorized to rely on various valuation methods including an:

income-based approach (i.e., value based on current and future revenue stream discounted to a total present value), market-based approach (i.e., value based on comparison to comparable businesses existing in the particular market adjusted for the individual characteristics and risks associated with the specific business), or asset-based approach (i.e., value based on total assets net liabilities; typically used when the business is not profitable).<sup>40</sup>

### **Costs and Attorney Fees**

The initial offer only includes business damages, the issue of costs and attorney fees only arises upon settlement of, or judgment for, the business damages. A business is entitled to an additional award of costs and attorney fees if the parties reach a settlement on business damages or if the

---

<sup>37</sup> See, s. 73.071(3)(b), F.S.

<sup>38</sup> See, *LeSuer v. State Rd. Dep’t*, 231 So. 2d 265, 268 (Fla. 1st DCA 1970)

<sup>39</sup> *System Components Corp. V. Florida Dept. of Transp.*, 14 So. 3d 967, 980 (Fla. 2009).

<sup>40</sup> *Id.* (citing s. 73.071(3)(b), Fla. Stat. (2004); Jeffrey M. Risius, *Business Valuation: A Primer For The Legal Professional* chs. 8, 10, 12 (2007); American Society of Appraisers, *Business Valuation Standards Glossary*, available at [www.bvappraisers.org/glossary/glossary.pdf](http://www.bvappraisers.org/glossary/glossary.pdf)).

business prevails in court. The calculation of attorney fees differs based on when the business damages matter was resolved. Prejudgment interest for costs and attorney fees is not allowed.

### ***Calculation of Costs***

In general, a statutory reference to costs is interpreted by the courts by reference to the *Statewide Uniform Guidelines for Taxation of Costs in Civil Actions*, promulgated by the Florida Supreme Court.<sup>41</sup> Those uniform guidelines include payment of the reasonable costs of experts and professionals who assist the court. The bill provides procedural requirements and makes the following changes or clarifications to the uniform guidelines:

- Accountant fees are specifically named as a cost.
- At least 30 days prior to the hearing on costs, the business must submit to the county or municipality billing records of any expert witness. Billing records must include details of the expert's time and services by date, the nature of the services performed, the time spent performing the services, and costs incurred. The business must also submit a copy of the fee agreement.
- The court must consider all factors relevant to the reasonableness of the costs, including, but not limited to, the fees paid to similar experts retained in the case by the county or municipality or other parties and the reasonable costs of similar services by similarly qualified persons.
- The court must consider the amount the business would ordinarily have been expected to pay for the services rendered if the county or municipality was not responsible for the costs.
- The court must make specific findings that justify each sum awarded as an expert witness fee.

### ***Attorney Fees when Business Damages are Settled in Pre-Suit Initial Phase***

If the county or municipality accepts the initial offer from the business, or if the business accepts the initial counteroffer of the county or municipality, the business is entitled to an award for attorney fees.

The parties may negotiate the fee. If they cannot agree, the business has one year from the effective date of the enactment or amendment to the ordinance or charter provision to file suit in the circuit court to recover a reasonable attorney fee.

To make a claim for fees after agreement on the business damages amount, the attorney for the business must submit a claim for fees to the county or municipality at least 30 days prior to any hearing. The claim must include:

- Complete time records.
- A detailed statement of services rendered by date, the nature of the services rendered, and the time spent performing the services.
- A list of all costs incurred.
- A copy of the fee agreement.

---

<sup>41</sup> *Statewide Uniform Guidelines for Taxation of Costs in Civil Actions*, Fla.R.Civ.Pro., Appendix II.

The court must be guided by the attorney fees the business would ordinarily be expected to pay for these services if the county or municipality was not responsible for the payment of those fees, and must be based on the following factors:

- The novelty, difficulty, and importance of the questions involved.
- The skill employed by the attorney in conducting the case.
- The amount of money involved.
- The responsibility incurred and fulfilled by the attorney.
- The attorney's time and labor reasonably required to adequately represent the client in relation to the benefits resulting to the client.
- The fee, or rate of fee, customarily charged for legal services of a comparable or similar nature.

Evidence related to negotiations or mediation are admissible when determining the reasonable costs or attorney fee. Attorney fees awarded by the court must be used to reduce the amount owed or paid by the business.

***Attorney Fees when Business Damages are not Determined in the Initial Phase***

If the county or municipality does not accept the initial good faith demand, the business does not accept the initial counteroffer of the county or municipality, and the business thereafter prevails by settlement or judgment, the court must award the prevailing business an attorney fee in addition to the business damage award. The attorney fee is based on the benefit to the business:

- 33 percent of the benefit up to \$250,000; plus
- 25 percent of the benefit between \$250,000 and \$1 million; plus
- 20 percent of the benefit above \$1 million.

The benefit to the business is calculated as follows:

- The term "benefits" means the difference, exclusive of interest, between the final judgment or settlement and the last written offer made by the county or municipality before the business hires an attorney. If the county or municipality does not make a written settlement offer before the business hires an attorney, benefits must be measured from the first written offer after the attorney is hired.
- If business records kept by the owner in the ordinary course of business were provided to the county or municipality to substantiate the business damage offer made by the business, benefits for amounts awarded for business damages are based upon the difference between the final judgment or settlement and the written counteroffer made by the county or municipality.
- If existing business records kept by the owner in the ordinary course of business were not provided to the county or municipality to substantiate the business damage offer made by the business and those records that were not provided are later deemed material to the determination of business damages, benefits for amounts awarded for business damages are based upon the difference between the final judgment or settlement and the first written counteroffer made by the county or municipality within 90 days after the receipt of the business records previously not provided to the county or municipality.
- The court may also consider nonmonetary benefits obtained for the business through the efforts of the attorney, to the extent such nonmonetary benefits are specifically identified by the court and can, within a reasonable degree of certainty, be quantified.

**Effective Date**

The bill takes effect July 1, 2022, and applies to an enactment or amendment of a county or municipal ordinance or charter provision that is enacted or amended on or after July 1, 2022.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

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

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

None.

**C. Trust Funds Restrictions:**

None.

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

None.

**E. Other Constitutional Issues:**

None identified.

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

None.

**B. Private Sector Impact:**

Indeterminate. The private sector in general may be positively impacted by a more favorable regulatory climate created by SB 620. Businesses harmed by certain county or municipality actions may recover business damages to compensate them for losses.

**C. Government Sector Impact:**

Indeterminate. The bill does not appear to have a fiscal impact on those counties and municipalities that refrain from substantially impacting businesses when enacting or amending an ordinance or charter provision. The bill may have a fiscal impact on counties and municipalities that elect to enact or amend ordinances or charter provisions in a manner that negatively and significantly impacts established businesses. The extent

to which counties or municipalities may elect in the future to be impacted by this bill cannot be estimated.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 70.91, 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 Hutson

7-00457D-22

2022620\_\_

1 A bill to be entitled  
 2 An act relating to local government; creating s.  
 3 70.91, F.S.; defining the term "business records";  
 4 authorizing certain businesses to claim business  
 5 damages from a county or municipality if the county or  
 6 municipality enacts or amends certain ordinances or  
 7 charter provisions; providing exceptions; requiring  
 8 businesses and counties or municipalities to follow  
 9 certain presuit procedures before businesses file an  
 10 action for business damages; authorizing businesses to  
 11 recover costs and fees in a specified manner and if  
 12 certain requirements are met; specifying that certain  
 13 evidence relating to mediations and negotiations is  
 14 inadmissible as evidence in certain proceedings;  
 15 requiring courts to consider certain factors and  
 16 follow specified guidance when assessing costs;  
 17 defining the term "benefits"; specifying requirements  
 18 for the courts in determining and awarding attorney  
 19 fees; requiring attorneys and businesses to submit  
 20 certain documentation relating to attorney fees;  
 21 requiring businesses claiming the right to recover  
 22 business damages to state the nature and extent of the  
 23 damages; requiring a jury to determine whether a  
 24 business is entitled to business damages and the  
 25 amount of such damages unless the business elects to  
 26 have the business damages determined by the court;  
 27 providing applicability and construction; providing an  
 28 effective date.  
 29

Page 1 of 9

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

7-00457D-22

2022620\_\_

30 WHEREAS, the Legislature recognizes that the continued  
 31 economic growth and economic prosperity of this state are tied  
 32 to the protection of private property rights and the stability  
 33 of laws, ordinances, and charter provisions, and  
 34 WHEREAS, the Legislature recognizes that the protection of  
 35 private property rights and the stability of laws and local  
 36 rules and regulations affecting business activities encourage  
 37 investments by businesses in their real property, facilities,  
 38 operations, and workforces, and  
 39 WHEREAS, investments by businesses drive the economic  
 40 growth of a community, and  
 41 WHEREAS, the economic costs of local rules and regulations  
 42 that are primarily for the benefit of a county or municipality  
 43 as a whole should be borne by the county or municipality as a  
 44 whole, and  
 45 WHEREAS, the Legislature intends to require counties and  
 46 municipalities to compensate businesses for business damages  
 47 when an ordinance or a charter provision causes a business  
 48 significant economic harm, NOW, THEREFORE,  
 49  
 50 Be It Enacted by the Legislature of the State of Florida:  
 51  
 52 Section 1. Section 70.91, Florida Statutes, is created to  
 53 read:  
 54 70.91 Compensation for business damages caused by county or  
 55 municipal ordinances or charter provisions.—  
 56 (1) DEFINITION.—For purposes of this section, the term  
 57 "business records" includes, but is not limited to, copies of  
 58 federal income tax returns, federal income tax withholding

Page 2 of 9

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



7-00457D-22 2022620\_\_

59 statements, federal miscellaneous income tax statements, state  
 60 sales tax returns, balance sheets, profit and loss statements,  
 61 state corporate income tax returns for the 3 years preceding the  
 62 enactment of or amendment to an ordinance or a charter, and  
 63 other records relied upon by a business to substantiate a claim  
 64 for business damages.

65 (2) CLAIMS FOR BUSINESS DAMAGES.—

66 (a) Except as provided in paragraph (b), a business that  
 67 has engaged in a lawful business in this state for at least 3  
 68 years may claim business damages from a county or municipality  
 69 if the county or municipality enacts or amends an ordinance or a  
 70 charter that will cause a reduction of at least 15 percent of  
 71 the business' revenue or profit.

72 (b) A county or municipality is not liable for business  
 73 damages caused by:

74 1. An ordinance or a charter provision that is required to  
 75 comply with state or federal law;

76 2. Emergency ordinances, declarations, or orders adopted by  
 77 a county or municipality under ss. 252.31-252.60, the State  
 78 Emergency Management Act;

79 3. A temporary emergency ordinance enacted pursuant to s.  
 80 125.66 or s. 166.041 which remains in effect for no more than 90  
 81 days; or

82 4. An ordinance or a charter provision that increases  
 83 economic freedom.

84 (3) PRESUIT PROCEDURES.—

85 (a) At least 180 days before a business files an action  
 86 under this section against a county or municipality and within  
 87 180 days after the effective date of the relevant ordinance or

7-00457D-22 2022620\_\_

88 charter provision, the business must present a written offer to  
 89 settle the business' claim for business damages to the head of  
 90 the county or municipality enacting or amending the ordinance.  
 91 The settlement offer must be made in good faith and include an  
 92 explanation of the nature, extent, and monetary amount of  
 93 damages and must be prepared by the owner, a certified public  
 94 accountant, or a business damage expert familiar with the nature  
 95 of the operations of the business. The business must also  
 96 provide copies of the business' records that substantiate the  
 97 offer to settle the business damage claim. If additional  
 98 information is needed beyond the data that may be obtained from  
 99 business records existing at the time of the offer, the business  
 100 and county or municipality may agree on a schedule for the  
 101 submission of that information.

102 (b) Within 120 days after receipt of the good faith  
 103 business damage offer and accompanying business records, the  
 104 county or municipality must, by certified mail, accept or reject  
 105 the business' offer or make a counteroffer. Failure of the  
 106 county or municipality to respond to or reject the business  
 107 damage offer must be deemed to be a counteroffer of zero dollars  
 108 for purposes of calculating attorney fees under subsection (5)  
 109 solely based upon the benefits achieved for the business.

110 (c) If the business and the county or municipality reach a  
 111 settlement before a lawsuit is filed, the business that settles  
 112 the claim for business damages in lieu of litigation is entitled  
 113 to recover costs in the same manner as provided in subsection  
 114 (4) and attorney fees in the same manner as provided in  
 115 subsection (5), more specifically as follows:

116 1. If the business recovers business damages based upon the

7-00457D-22

2022620\_\_

117 county or municipality accepting the business' initial offer or  
 118 the business accepting the county's or municipality's initial  
 119 counteroffer, attorney fees must be calculated in accordance  
 120 with paragraphs (5) (c), (d), (e), and (f) for the attorney's  
 121 time required to present the business' good faith offer.  
 122 Otherwise, attorney fees for the award of business damages must  
 123 be calculated as provided in paragraphs (5) (a) and (b), based  
 124 upon the difference between the final judgment or settlement of  
 125 business damages and the county's or municipality's counteroffer  
 126 to the business owner's offer.

127 2. Presuit costs must be presented, calculated, and awarded  
 128 in the same manner as provided in subsection (4), after the  
 129 business owner submits to the county or municipality all  
 130 business damage reports or other work products for which  
 131 recovery is sought and upon the county or municipality paying  
 132 any amounts due for business damages or upon final judgment.

133 3. If the parties cannot agree on the amount of costs and  
 134 attorney fees to be paid by the county or municipality, the  
 135 business owner may file a complaint in the circuit court in the  
 136 county in which the business is located to recover attorney fees  
 137 and costs. If a business files a complaint for business damages,  
 138 it must be filed within 1 year after the effective date of the  
 139 relevant ordinance, ordinance amendment, or charter provision.

140 (d) Evidence of negotiations or of any written or oral  
 141 statements used in mediation or negotiations between the parties  
 142 under this section is inadmissible in any proceeding for  
 143 business damages, except in a proceeding to determine reasonable  
 144 costs and attorney fees.

145 (4) COSTS.—

7-00457D-22

2022620\_\_

146 (a) If a business recovers business damages, the county or  
 147 municipality must pay the business' reasonable costs, including  
 148 a reasonable accountant's fee. Prejudgment interest may not be  
 149 paid on costs or attorney fees.

150 (b) At least 30 days before a hearing to assess costs under  
 151 this subsection, the attorney for the business shall submit to  
 152 the county or municipality for each expert witness the expert  
 153 witness' complete time records and a detailed statement of  
 154 services rendered by date, nature of services performed, time  
 155 spent performing the services, and costs incurred and a copy of  
 156 any fee agreement that may exist between the expert witness and  
 157 the business or the business' attorney.

158 (c) In assessing costs, the court shall consider all  
 159 factors relevant to the reasonableness of the costs, including,  
 160 but not limited to, the fees paid to similar experts retained in  
 161 the case by the county or municipality or other parties and the  
 162 reasonable costs of similar services by similarly qualified  
 163 persons.

164 (d) In assessing costs to be paid by the county or  
 165 municipality, the court shall be guided by the amount the  
 166 business would ordinarily have been expected to pay for the  
 167 services rendered if the county or municipality was not  
 168 responsible for the costs.

169 (e) The court shall make specific findings that justify  
 170 each sum awarded as an expert witness fee.

171 (5) ATTORNEY FEES.—

172 (a) As used in this subsection, the term "benefits" means  
 173 the difference, exclusive of interest, between the final  
 174 judgment or settlement and the last written offer made by the

7-00457D-22

2022620\_\_

175 county or municipality before the business hires an attorney. If  
 176 the county or municipality does not make a written settlement  
 177 offer before the business hires an attorney, benefits must be  
 178 measured from the first written offer after the attorney is  
 179 hired.

180 (b)1. In determining attorney fees, if business records  
 181 kept by the owner in the ordinary course of business were  
 182 provided to the county or municipality to substantiate the  
 183 business damage offer made by the business, benefits for amounts  
 184 awarded for business damages must be based upon the difference  
 185 between the final judgment or settlement and the written  
 186 counteroffer made by the county or municipality.

187 2. In determining attorney fees, if existing business  
 188 records kept by the owner in the ordinary course of business  
 189 were not provided to the county or municipality to substantiate  
 190 the business damage offer made by the business and those records  
 191 that were not provided are later deemed material to the  
 192 determination of business damages, benefits for amounts awarded  
 193 for business damages must be based upon the difference between  
 194 the final judgment or settlement and the first written  
 195 counteroffer made by the county or municipality within 90 days  
 196 after the receipt of the business records previously not  
 197 provided to the county or municipality.

198 3. The court may also consider nonmonetary benefits  
 199 obtained for the business through the efforts of the attorney,  
 200 to the extent such nonmonetary benefits are specifically  
 201 identified by the court and can, within a reasonable degree of  
 202 certainty, be quantified.

203 4. Attorney fees based upon benefits achieved shall be

Page 7 of 9

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

7-00457D-22

2022620\_\_

204 awarded in accordance with the following schedule:

205 a. Thirty-three percent of any benefit up to \$250,000; plus

206 b. Twenty-five percent of any portion of the benefit

207 between \$250,000 and \$1 million; plus

208 c. Twenty percent of any portion of the benefit exceeding

209 \$1 million.

210 (c) In assessing attorney fees in a claim for business  
 211 damages, when not otherwise provided for, the court shall  
 212 consider:

213 1. The novelty, difficulty, and importance of the questions  
 214 involved.

215 2. The skill employed by the attorney in conducting the  
 216 case.

217 3. The amount of money involved.

218 4. The responsibility incurred and fulfilled by the  
 219 attorney.

220 5. The attorney's time and labor reasonably required to  
 221 adequately represent the client in relation to the benefits  
 222 resulting to the client.

223 6. The fee, or rate of fee, customarily charged for legal  
 224 services of a comparable or similar nature.

225 (d) In determining the amount of attorney fees to be paid  
 226 by the county or municipality under paragraph (c), the court  
 227 shall be guided by the fees the business would ordinarily be  
 228 expected to pay for these services if the county or municipality  
 229 was not responsible for the payment of those fees.

230 (e) At least 30 days before a hearing to assess attorney  
 231 fees under paragraph (c), the attorney for the business shall  
 232 submit to the county or municipality and to the court complete

Page 8 of 9

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

7-00457D-22

2022620\_\_

233 time records and a detailed statement of services rendered by  
234 date, nature of services performed, time spent performing the  
235 services, and costs incurred.

236 (f) The business shall provide to the court a copy of any  
237 fee agreement that may exist between the business and its  
238 attorney, and the court must reduce the amount of attorney fees  
239 to be paid by the business by the amount of any attorney fees  
240 awarded by the court.

241 (6) TRIAL.—A business claiming the right to recover  
242 business damages must state in its complaint the nature and  
243 extent of those damages. At trial, a jury shall determine  
244 whether a business is entitled to business damages and the  
245 amount of damages, if any. However, the business may elect to  
246 have business damages determined by the court.

247 (7) APPLICATION; CONSTRUCTION.—This section does not apply  
248 to a business that may claim business damages under chapter 73  
249 and may not be construed to authorize double recoveries.

250 Section 2. This act applies to county and municipal  
251 ordinances or charter provisions enacted or amended on or after  
252 July 1, 2022.

253 Section 3. This act shall take effect July 1, 2022.

The Florida Senate

APPEARANCE RECORD

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

SB 620

Bill Number or Topic

Amendment Barcode (if applicable)

11/30/2021 Meeting Date

Judiciary Committee

Name Devon West

Phone 954-789-9293

Address 100 S. Andrews Ave. Street

Email dewest@broward.org

Fort Lauderdale FL 33301 City State Zip

Speaking: [ ] For [x] Against [ ] Information OR Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

Broward County Board of County Commissioners

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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

11/30/21

Meeting Date

Judiciary 412 KB

Committee

The Florida Senate  
**APPEARANCE RECORD**

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

620

Bill Number or Topic

Amendment Barcode (if applicable)

Name **David Cullen**

Phone **941-323-2404**

Address **9830 Elm St**

Email **cullenasea@gmail.com**

Street

**Ocean City**

**MD**

**21842**

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**Sierra Club Florida**

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

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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

S-001 (08/10/2021)

The Florida Senate  
**APPEARANCE RECORD**

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

*Handwritten scribble*

620

Bill Number or Topic

Amendment Barcode (if applicable)

11/30/21  
Meeting Date

Judiciary  
Committee

Name Brewster Bevis

Phone 521-2913

Address 516 W Army  
Street

Email bevis@aiken

TLH FL 32301  
City State Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

Associated Industries of Florida

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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

The Florida Senate

APPEARANCE RECORD

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

11/30/2021

Meeting Date

SB620 ✓

Bill Number or Topic

Judiciary

Committee

Amendment Barcode (if applicable)

Name

Senator Lee Constantine

Senate County Commission - Seminole

Phone

(407) 221-5551

Address

640 Jasmine Road

Email

lee.constantine22@yahoo.com

Street

Altamonte Springs, FL 32701

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

FLA ASSO. COUNTIES

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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



The Florida Senate

APPEARANCE RECORD

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

SB 620 ✓  
Bill Number or Topic

Amendment Barcode (if applicable)

11/30/2021  
Meeting Date

Judiciary  
Committee

Name Commissioner Ralph Thomas - Wakulla County Phone 850-251-0415

Address 637 Hunters Trace  
Street  
Crawfordville, FL 32327  
City State Zip

Email rthomas@mywakulla.com

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

- I am appearing without compensation or sponsorship.
- I am a registered lobbyist, representing:
- I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

The Florida Senate

**APPEARANCE RECORD**

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

SB 620 ✓

Bill Number or Topic

Amendment Barcode (if applicable)

11/30/2021

Meeting Date

Judiciary

Committee

Name

Bob McKee

Phone

850 922-4300

Address

100 S Monroe

Email

bmckee@fl-counties.com

Street

Tallahassee FL

32308

City

State

Zip

Speaking:

For

Against

Information

**OR**

Waive Speaking:

In Support

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Association of Counties

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

The Florida Senate  
**APPEARANCE RECORD**

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

620  
SB ~~280~~

11/30/2021

Meeting Date

Bill Number or Topic

Judiciary

Committee

Amendment Barcode (if applicable)

Name JACK CORY Phone 850 893 0995

Address 730 East Park Ave Email JACKCORY@PARCONSORTIUM  
Street

Deltona FL 32341  
City State Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Village of Tequesta

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

The Florida Senate

APPEARANCE RECORD

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

11/30/2021 Meeting Date

SB 620 Bill Number or Topic

Judiciary Committee

Amendment Barcode (if applicable)

Name Sean Pittman

Phone 850 216 1002

Address 1028 E Park Ave Street

Email span@pittman-law.com

Tallahassee FL 32301 City State Zip

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [ ] In Support [x] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing: City of Port Orange

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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

The Florida Senate

**APPEARANCE RECORD**

620

11/30/2021

Meeting Date

Judiciary

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name Grace Lovett

Phone 850.222.4082

Address 227 S. Adams Street  
Street

Email grace@frf.org

Tallahassee  
City

FL  
State

32301  
Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without  
compensation or sponsorship.

I am a registered lobbyist,  
representing:

*Florida Retail  
Federation*

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

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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

The Florida Senate  
**APPEARANCE RECORD**

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

11/30/21

Meeting Date

Judiciary

Committee

620

Bill Number or Topic

Amendment Barcode (if applicable)

Name Jonathan Webber

Phone \_\_\_\_\_

Address 1700 N Monroe #11-286

Email jwebber@fvoters.org

Street

Tally

City

FL

State

32303

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

Florida conservation voters

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

The Florida Senate

APPEARANCE RECORD

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

620 ✓

Bill Number or Topic

11/30/21 Meeting Date

Judiciary Committee

Amendment Barcode (if applicable)

Name Rebecca O'Hara

Phone 222 9684

Address PO Box 1757 Street

Email rohara@flcities.com

Tall, FL 32307 City State Zip

Speaking: [ ] For [X] Against [ ] Information OR Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[X] I am a registered lobbyist, representing: Fla League of Cities

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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

The Florida Senate

# APPEARANCE RECORD

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

11/30/21

Meeting Date

Judiciary

Committee

SB 620 ✓

Bill Number or Topic

Amendment Barcode (if applicable)

Name Dr. Rich Templin Phone 850 - 224 - 6926

Address 135 S. Monroe Email \_\_\_\_\_  
Street

Tallahassee FL 32304  
City State Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida AFL-CIO

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

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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





The Florida Senate

11/30/2021

**APPEARANCE RECORD**

620

Meeting Date

Bill Number or Topic

Judiciary

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

Committee

Amendment Barcode (if applicable)

Name Matthew Choy

Phone 561-386-3451

Address 136 S. Bronough St

Email mchoy@flchamber.com

Street

Tallahassee

FL

32301

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

The Florida Chamber of Commerce

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

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

The Florida Senate

**APPEARANCE RECORD**

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



11/30/21

Meeting Date

620

Bill Number or Topic

Judiciary

Committee

Amendment Barcode (if applicable)

Name Phillip Swerman

Phone \_\_\_\_\_

Address \_\_\_\_\_

Email \_\_\_\_\_

Street

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Americans for Prosperity

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

11/30/21

Meeting Date

SB 620

Bill Number or Topic

Judiciary

Committee

Amendment Barcode (if applicable)

Name Jon Harris Mauser

Phone

Address 201 E. Park Ave., Ste 200A

Email jonharris@equalityflorida.org

TLH

City

FL

State

32301

Zip

Speaking: [ ] For [x] Against [ ] Information OR Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

Equality Florida

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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

The Florida Senate

APPEARANCE RECORD

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

11/30/21

Meeting Date

620

Bill Number or Topic



Judiciary

Committee

Amendment Barcode (if applicable)

Name

Ida V. Eskamani

Phone

4073764801

Address

134 E. Colonial Dr.

Email

ida.eskamani@gmail.com

Street

Orlando

FL

32801

City

State

Zip

Speaking:

For



Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Rising  
Florida Immigrant Coalition

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Danny Burgess, Chair  
Committee on Judiciary

**Subject:** Committee Agenda Request

**Date:** November 18, 2021

---

I respectfully request that **Senate Bill #620**, relating to Local Government, be placed on the:

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

A handwritten signature in black ink that reads "Travis Hutson".

---

Senator Travis Hutson  
Florida Senate, District 7

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

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

---

Prepared By: The Professional Staff of the Committee on Judiciary

---

BILL: CS/SB 736

INTRODUCER: Judiciary Committee and Senator Hutson

SUBJECT: Construction Defect Claims

DATE: December 1, 2021

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cibula	Cibula	JU	<b>Fav/CS</b>
2.			CA	
3.			RC	

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 736 expands on the existing “right to cure procedures” in chapter 558, F.S. These procedures establish an alternative dispute resolution process requiring a claimant and a contractor or similar person to attempt to resolve a construction defect claim before proceeding to litigation. Under the revised procedures, a claimant, in rejecting a settlement offer, must detail the reasons for rejecting the offer. The contractor must then be given an opportunity to make a supplemental offer. The bill encourages a claimant to accept a reasonable settlement offer or supplemental offer by making the claimant ineligible for an award of attorney fees in some circumstances.

Additionally, the bill provides for a 4-year limitations period for bringing a construction defect action, whether the action is based on a patent or obvious defect or a latent or hidden defect. The statutory language authorizing a 10-year statute of repose for latent defects is repealed.

The bill takes effect July 1, 2022.

**II. Present Situation:**

**Alternative Dispute Resolution Mechanism for Construction Defects**

Chapter 558, F.S., titled, “Construction Defects,” creates an alternative dispute resolution mechanism that must be used in an attempt to resolve many construction defect claims before the

claimant may resort to litigation. Under this dispute resolution mechanism, a claimant is required to file a notice of claim with a contractor or other similar person who is responsible for an alleged defect. Upon receipt of the notice of claim, the contractor or other person has an opportunity to resolve the claim through confidential settlement negotiations.<sup>1</sup> If a claimant files a civil action or arbitration proceeding before completing the requirements of chapter 558, F.S., the court must stay the action.<sup>2</sup> Legislation like chapter 558, F.S., is known as “right to cure” legislation.<sup>3</sup>

A construction defect, for purposes of chapter 558, F.S., is a:

deficiency in, or a deficiency arising out of, the design, specifications, surveying, planning, supervision, observation of construction, or construction, repair, alteration, or remodeling of real property resulting from:

- Defective material, products, or components used in the construction or remodeling;
- A violation of the applicable codes in effect at the time of construction or remodeling which gives rise to a cause of action pursuant to s. 553.84 [for a violation of the building code];
- A failure of the design of real property to meet the applicable professional standards of care at the time of governmental approval; or
- A failure to construct or remodel real property in accordance with accepted trade standards for good and workmanlike construction at the time of construction.<sup>4</sup>

### *Notice of Claim*

The specifics of the notice and cure process of chapter 558, F.S., begin with the service of a “written notice of claim” by the claimant upon the contractor, subcontractor, supplier, or design professional, who may be responsible for the alleged defect.<sup>5</sup> The claimant must serve this notice “at least 60 days before filing any action, or at least 120 days before filing an action involving an association representing more than 20 parcels.”<sup>6</sup> The notice must “describe in reasonable detail the nature of each alleged construction defect and, if known, the damage or loss resulting from the defect.”<sup>7</sup> The location of each alleged construction defect must also be sufficiently described in the notice.

### *Inspection of Alleged Defect*

Upon receipt of the notice of claim, the contractor or other person served with the notice may inspect the property or each unit described in the notice to assess the alleged defects and to determine the extent of necessary repairs. The inspections must occur within 30 days after service

---

<sup>1</sup> Section 558.001, F.S.

<sup>2</sup> Section 558.003, F.S.

<sup>3</sup> 4 TIFFANY REAL PROP. § 986.60 (3d ed.).

<sup>4</sup> Section 558.002(5), F.S.

<sup>5</sup> Section 558.004(1)(a), F.S.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

of the notice or within 50 days after service of the notice involving an association representing more than 20 parcels.<sup>8</sup>

### ***Response to Notice of Claim & Settlement Offers***

The contractor, or other person served with the notice of claim, must serve a written response to the claimant within 45 days after service of the notice of claim or within 75 days after service of a copy of the notice of claim involving an association representing more than 20 parcels. The written response must provide:

- A written offer to remedy the alleged construction defect at no cost to the claimant, a detailed description of the proposed repairs necessary to remedy the defect, and a timetable for the completion of such repairs;
- A written offer to compromise and settle the claim by monetary payment, that will not obligate the person's insurer, and a timetable for making payment;
- A written offer to compromise and settle the claim by a combination of repairs and monetary payment, that will not obligate the person's insurer, that includes a detailed description of the proposed repairs and a timetable for the completion of such repairs and making payment;
- A written statement that the person disputes the claim and will not remedy the defect or compromise and settle the claim; or
- A written statement that a monetary payment, including insurance proceeds, if any, will be determined by the person's insurer within 30 days after notification to the insurer by means of serving the claim, which service shall occur at the same time the claimant is notified of this settlement option, which the claimant may accept or reject.<sup>9</sup>

### ***Initiation of Legal Action***

The claimant may initiate an action against the contractor or other person served with the notice of claim if the contractor or other person served with the notice disputes the claim or fails to timely respond.<sup>10</sup> If the contractor or other person makes a settlement offer, the claimant may not initiate an action, unless the claimant rejects the settlement offer in writing within 45 days after receiving it.<sup>11</sup> The claimant may also initiate an action for the construction defect if the person making the settlement offer does not make the agreed upon repairs or payments within the agreed-upon time or manner.<sup>12</sup>

### **Statutes of Limitation and Repose**

Legal actions must be brought within the timeframes authorized by law. With respect to construction defect actions, there are two timeframes—a 4-year limitations period<sup>13</sup> and a

---

<sup>8</sup> Section 558.004(2), F.S.

<sup>9</sup> Section 558.004(5), F.S.

<sup>10</sup> See s. 558.004(7), F.S.

<sup>11</sup> Section 558.004(6), F.S.

<sup>12</sup> Section 558.004(8), F.S.

<sup>13</sup> A statute of limitations “set[s] a time limit within which an action must be filed as measured from the accrual of the cause of action, after which time obtaining relief is barred.” *National Auto Service Centers, Inc., v. F/R 500, LLC*, 192 So. 3d 498, 509 (Fla. 2d DCA 2016) (quoting *Hess v. Philip Morris USA, Inc.*, 175 So. 3d 687, 695 (Fla. 2015) (quoting *Merkle v. Robinson*, 737 So. 2d 540, 542 n. 6 (Fla.1999)). The purposes of a statute of limitations are to “require that a plaintiff with a known cause of action prosecute that claim diligently and within a predictable time that will allow for finality of claims prior



10-year statute of repose.<sup>14</sup> The 4-year limitations period applies to actions based on a patent defect,<sup>15</sup> which is an obvious defect, and to a latent or hidden defect<sup>16</sup> once it is discovered or should have been discovered.<sup>17</sup> However, any action based on a latent or hidden defect must be brought within the 10-year statute of repose.<sup>18</sup>

The 4-and 10-year periods for bringing a construction defect action begin to run from:

the date of actual possession by the owner, the date of the issuance of a certificate of occupancy, the date of abandonment of construction if not completed, or the date of completion of the contract or termination of the contract between the professional engineer, registered architect, or licensed contractor and his or her employer, whichever date is latest.

The specific point at which the 4-or 10-year periods commence has been a subject of litigation and refined somewhat through legislation over the years.

### III. Effect of Proposed Changes:

As detailed below, the bill expands on the existing policy in chapter 558, F.S., of requiring the parties to a potential construction defect action to attempt to resolve their disputes before initiating a civil action or arbitration proceeding.

#### Supplemental Offers, Attorney Fees, & Settlement Payments (Section 2)

##### *Supplemental Offers*

Existing law requires a contractor or other person who is served a notice of claim for a construction defect to make an offer to settle the claim or dispute the claim. If a settlement offer is made, the claimant may not initiate a civil action or an arbitration proceeding based on the claim unless the claimant timely serves a written notice of rejection on the offeror.

The bill requires the claimant to include more information in a notice of rejection. Specifically, the notice must state the reasons for rejecting the offer, identify any items that the claimant believes were omitted from the offer, and detail all reasons why the claimant believes that the offer is unreasonable. The claimant's provision of additional information seems to function as a counteroffer or a request for clarification of the offer. Once the offeror is served the claimant's

---

to the potential loss of available evidence over time." *Id.* at 510 (citing Statute of limitations, BLACK'S LAW DICTIONARY (10th ed. 2014)).

<sup>14</sup> A statute of repose "precludes a right of action after a specified time . . . rather than establishing a time period within which the action must be brought measured from the point in time when the cause of action accrued." *Id.* at 509 (citing *Univ. of Miami v. Bogorff*, 583 So. 2d 1000, 1003 (Fla.1991)).

<sup>15</sup> A patent defect is "either one about which the owner had actual knowledge or one about which the owner would have known had he or she made a reasonably careful inspection." *U.S. Lodging of Jacksonville, Ltd., v H.B. Daniel Const. Co., Inc.*, 617 So. 2d 448, 449 (Fla. 1st DCA 1993).

<sup>16</sup> A latent defect is a defect that is not discernable by the exercise of reasonable care. *Kala Investments, Inc. v. Sklar*, 538 So. 2d 909, 914 (Fla. 3d DCA 1989) (citing *Maas Bros., Inc. v. Bishop*, 204 So.2d 16 (Fla. 2d DCA 1967)).

<sup>17</sup> Section 95.11(3)(c), F.S.

<sup>18</sup> *Id.*

notice of rejection, the bill authorizes the offeror to make a supplemental offer of repair or monetary payment, or both, to the claimant within 15 days after service of the notice of rejection.

A claimant who rejects an initial settlement offer may not initiate an action for a construction defect until the claimant rejects any supplemental offer or the offeror has had 15 days to make a supplemental offer.

### ***Attorney Fee Limitation***

Existing law does not directly discourage a claimant from rejecting a reasonable settlement offer and initiating an action for a construction defect claim. However, the bill discourages the claimant from rejecting a reasonable settlement offer by limiting the potential for an award of attorney fees. Specifically, the bill provides that if:

[t]he claimant rejects a timely settlement offer or supplemental offer provided to remedy the alleged construction defect at no cost to the claimant, in any action brought for that defect, the claimant may not recover attorney fees from the offeror on any basis unless the claimant proves by a preponderance of the evidence that, at the time of the offer, additional repairs beyond those offered were necessary to remedy the defect. This [provision, however,] does not apply to any claim for attorney fees based on a contract between the claimant and the offeror.<sup>19</sup>

### **Court Appointed Expert (Section 3)**

The bill requires the court in a civil action for a construction defect to appoint an engineer, contractor, building code inspector, or another expert to examine the alleged defect. The expert must then submit a written report which contains the expert's findings to the court for its consideration and to the parties. But the expert may not be appointed if all of the parties object or if the court finds that the costs of an expert outweigh any potential benefits to the resolution of the action. If appointed, the expert's report must:

- Describe how the expert conducted the examination of the alleged defect.
- Identify persons present at the site of the improvement while the expert conducted the examination.
- Include photographs or other documentation of the alleged defect including any relevant test results.
- State whether the damages claimed by the claimant are more likely than not the result of a construction defect, another identified cause, or a construction defect and another identified cause.
- Address other matters related to the alleged defect as directed by the court.

If the expert's report wholly or partially validates the claimant's construction defect claim, the report "must state the actions necessary to repair the defect and any repairs related to the defect, provide an estimate of the reasonable cost of repairs, and state the anticipated time needed for repairs under the current market conditions for construction services and materials."<sup>20</sup>

---

<sup>19</sup> SB 736, lines 136-143.

<sup>20</sup> SB 736, lines 193-198.

The bill provides for the expert to be compensated by the parties, but the prevailing party is entitled to reimbursement by the nonprevailing party. Moreover, the expert may not be employed to repair the alleged defect or recommend contractors to repair the defect.

### **Payment of Repair Costs (Sections 2 & 4)**

Nothing in chapter 558, F.S., currently requires a claimant to use any funds recovered as a result of a construction defect claim to repair the defect.

The bill requires a claimant who accepts a settlement offer that includes a monetary payment for repairs to enter into a contract for repairs within 90 days. The payments, however, are to be made by the offeror directly to the claimant's contractor as the work is performed and expenses are incurred. The repairs generally must be completed within 12 months after the claimant contracts for repairs. The provision of payment from the offeror to the claimant's contractor is similar to procedures that an insurer may follow to pay for the repair of property damaged by a sinkhole.<sup>21</sup>

If a claimant recovers funds for a construction defect as the result of a civil action or arbitration, the bill requires the claimant to use the funds to repair the defect. If the claimant fails to fully repair the defect, the claimant is liable to a subsequent purchaser of the property for any damages resulting from the failure to disclose the defect.

The liability for failing to repair or disclose the defect is consistent with the duties of a seller of real property under existing law. The seller of real property has a duty to disclose "facts materially affecting the value of the property which are not readily observable and are not known to the buyer."<sup>22</sup>

### **Timeframe for Construction Defect Action (Section 1)**

Existing law specifies a 4-year statute of limitations for a claimant to bring a construction defect action based on a patent or obvious defect and a 10-year statute of repose for a claimant to bring a construction defect action based on a latent or hidden defect. The bill requires all actions for a construction defect, whether patent or latent, to be brought within 4 years after the commencement of the limitations period.

### **Effective Date, Application & Savings Cause (Sections 5 & 6)**

The bill takes effect on July 1, 2022, and the provisions of the bill amending the presuit procedures of ch. 558, F.S., apply to civil actions and arbitration proceedings initiated on or after that date.

The reduced time period for bringing a construction defect action applies to construction defects occurring before the effective date of the bill. However, the bill provides a savings clause that

---

<sup>21</sup> Section 627.707(5)(e), F.S., upon approval by any lienholder, authorizes an insurer to pay for repairs due to a sinkhole directly to the persons selected by the policyholder to perform the land and building stabilization and foundation repairs.

<sup>22</sup> *Johnson v. Davis*, 480 So. 2d 625, 629 (Fla. 1985).

enables a person to bring an action for a construction defect within 1 year after the effective date of the bill if the action would otherwise be time barred by the bill.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/SB 736 may reduce litigation costs to parties to a construction contract by requiring a claimant to detail the reasons for rejecting a presuit settlement offer and by authorizing counteroffers. Provisions requiring the use of any recovery for a construction defect to repair the defect may discourage the bringing of claims that are not well-founded.

C. Government Sector Impact:

The bill may reduce costs of the judicial branch to the extent that the bill reduces litigation.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 95.11 and 558.004.

This bill creates the following sections of the Florida Statutes: 558.0045 and 558.0046.

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

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

**CS by Judiciary on November 30, 2021:**

The committee substitute does not include section 5 of the original bill. The section required a claimant who served a notice of claim on a contractor or similar person to also provide notice of the claim to a mortgagee or assignee having a security interest in the relevant property. Additionally, the section required the claimant to notify the mortgagee or assignee of the completion of repairs that correct a construction defect.

**B. Amendments:**

None.



207164

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/30/2021	.	
	.	
	.	
	.	

---

The Committee on Judiciary (Hutson) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 214 - 241  
and insert:

Section 5. (1) The amendments by this act to s. 95.11(3)(c), Florida Statutes, apply to any action commenced on or after July 1, 2022, regardless of when the cause of action accrued. However, any action that would not have been barred under s. 95.11(3)(c), Florida Statutes, before the amendments made by this act to that section may be commenced before July 1, 2023. If such action is not commenced by July 1, 2023, and is



207164

12 barred by the amendments made by this act to s. 95.11(3)(c),  
13 Florida Statutes, the action is barred.

14 (2) Sections 2 through 4 of this act apply to compensation  
15

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

17 And the title is amended as follows:

18 Delete lines 40 - 44

19 and insert:

20 purchaser of a property; providing

By Senator Hutson

7-00786-22

2022736\_\_

1 A bill to be entitled  
 2 An act relating to construction defect claims;  
 3 amending s. 95.11, F.S.; revising the limitations  
 4 period for certain actions founded on the design,  
 5 planning, or construction of an improvement on real  
 6 property; amending s. 558.004, F.S.; requiring a  
 7 claimant to include the reasons for rejecting an offer  
 8 in a notice rejecting a settlement offer to remedy a  
 9 construction defect; authorizing the person served  
 10 with a notice rejecting a settlement offer to make a  
 11 supplemental offer within a specified timeframe;  
 12 providing notice requirements for a claimant who  
 13 rejects a supplemental offer; requiring the court to  
 14 stay an action if a claimant initiates an action  
 15 without first accepting or rejecting a supplemental  
 16 offer; limiting entitlement to attorney fees if a  
 17 claimant rejects certain settlement offers to fully  
 18 repair an alleged construction defect; requiring a  
 19 claimant who accepts a certain offer to enter into a  
 20 contract to complete repairs to remedy an alleged  
 21 construction defect; requiring the offeror or insurer  
 22 to pay the contractor or contractors directly for the  
 23 repairs; prohibiting an offeror or insurer from  
 24 requiring a claimant to advance payment for repairs;  
 25 requiring that the repairs be completed within a  
 26 specified timeframe; creating s. 558.0045, F.S.;  
 27 requiring a court to appoint an expert to examine  
 28 certain alleged construction defects and to prepare an  
 29 examination report, under certain circumstances;

Page 1 of 9

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

7-00786-22

2022736\_\_

30 requiring that the report contain specified  
 31 information; requiring the parties to compensate the  
 32 expert; prohibiting the expert from being employed to  
 33 make repairs or from recommending contractors to make  
 34 repairs; creating s. 558.0046, F.S.; requiring a  
 35 claimant to repair a construction defect if the  
 36 claimant receives compensation for an alleged  
 37 construction defect from specified persons; providing  
 38 that a claimant is liable for damages resulting from  
 39 failure to disclose a construction defect to a  
 40 purchaser of a property; creating s. 558.006, F.S.;  
 41 requiring a claimant to serve certain notices relating  
 42 to construction defects on the mortgagee or assignee  
 43 of the relevant real property within a specified  
 44 timeframe under certain circumstances; providing  
 45 applicability; providing an effective date.  
 46  
 47 Be It Enacted by the Legislature of the State of Florida:  
 48  
 49 Section 1. Paragraph (c) of subsection (3) of section  
 50 95.11, Florida Statutes, is amended to read:  
 51 95.11 Limitations other than for the recovery of real  
 52 property.—Actions other than for recovery of real property shall  
 53 be commenced as follows:  
 54 (3) WITHIN FOUR YEARS.—  
 55 (c) An action founded on the design, planning, or  
 56 construction of an improvement to real property, with the time  
 57 running from the date of actual possession by the owner, the  
 58 date of the issuance of a certificate of occupancy, the date of

Page 2 of 9

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



7-00786-22

2022736\_\_

59 abandonment of construction if not completed, or the date of  
 60 completion of the contract or termination of the contract  
 61 between the professional engineer, registered architect, or  
 62 licensed contractor and his or her employer, whichever date is  
 63 latest, ~~except that, when the action involves a latent defect,~~  
 64 ~~the time runs from the time the defect is discovered or should~~  
 65 ~~have been discovered with the exercise of due diligence. In any~~  
 66 ~~event, the action must be commenced within 10 years after the~~  
 67 ~~date of actual possession by the owner, the date of the issuance~~  
 68 ~~of a certificate of occupancy, the date of abandonment of~~  
 69 ~~construction if not completed, or the date of completion of the~~  
 70 ~~contract or termination of the contract between the professional~~  
 71 ~~engineer, registered architect, or licensed contractor and his~~  
 72 ~~or her employer, whichever date is latest. However,~~  
 73 counterclaims, cross-claims, and third-party claims that arise  
 74 out of the conduct, transaction, or occurrence set out or  
 75 attempted to be set out in a pleading may be commenced up to 1  
 76 year after the pleading to which such claims relate is served,  
 77 even if such claims would otherwise be time barred. With respect  
 78 to actions founded on the design, planning, or construction of  
 79 an improvement to real property, if such construction is  
 80 performed pursuant to a duly issued building permit and if a  
 81 local enforcement agency, state enforcement agency, or special  
 82 inspector, as those terms are defined in s. 553.71, has issued a  
 83 final certificate of occupancy or certificate of completion,  
 84 then as to the construction which is within the scope of such  
 85 building permit and certificate, the correction of defects to  
 86 completed work or repair of completed work, whether performed  
 87 under warranty or otherwise, does not extend the period of time

Page 3 of 9

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

7-00786-22

2022736\_\_

88 within which an action must be commenced. Completion of the  
 89 contract means the later of the date of final performance of all  
 90 the contracted services or the date that final payment for such  
 91 services becomes due without regard to the date final payment is  
 92 made.

93 Section 2. Present subsections (8) through (15) of section  
 94 558.004, Florida Statutes, are redesignated as subsections (9)  
 95 through (16), respectively, a new subsection (8) is added to  
 96 that section, and paragraph (c) of subsection (1) and subsection  
 97 (7) of that section are amended, to read:

98 558.004 Notice and opportunity to repair.-

99 (1)  
 100 (c) The claimant shall endeavor to serve the notice of  
 101 claim within 15 days after discovery of an alleged defect, but  
 102 the failure to serve notice of claim within 15 days does not bar  
 103 the filing of an action, subject to s. 558.003. This subsection  
 104 does not preclude a claimant from filing an action sooner than  
 105 60 days, or 120 days as applicable, after service of written  
 106 notice as expressly provided in subsection (6), subsection (7),  
 107 or subsection (9) ~~(8)~~.

108 (7) (a) A claimant who receives a timely settlement offer  
 109 must accept or reject the offer by serving written notice of  
 110 such acceptance or rejection on the person making the offer  
 111 within 45 days after receiving the settlement offer.

112 (b) If the claimant rejects the settlement offer, the  
 113 claimant must include the reasons for rejecting the offer in the  
 114 notice rejecting the offer. If the claimant believes that the  
 115 settlement offer omitted reference to any portion of the claim  
 116 or was unreasonable in any manner, the claimant must include in

Page 4 of 9

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

7-00786-22 2022736\_\_

117 the notice the items that the claimant believes were omitted and  
 118 state in detail all known reasons why the claimant believes the  
 119 settlement offer is unreasonable.

120 (c) Upon receipt of a claimant's notice of rejection and  
 121 the reasons for such rejection, the person served with the  
 122 rejection, within 15 days after receipt of the notice, may make  
 123 a supplemental offer of repair or monetary payment, or both, to  
 124 the claimant.

125 (d) If the claimant rejects a supplemental offer to repair  
 126 the construction defect or to settle the claim by monetary  
 127 payment or a combination of both, the claimant must serve  
 128 written notice of the claimant's rejection on the person making  
 129 the supplemental offer. The notice must include all known  
 130 reasons for the claimant's rejection of the supplemental  
 131 settlement offer.

132 (e) If a claimant initiates an action without first  
 133 accepting or rejecting the offer or supplemental offer, the  
 134 court shall stay the action upon timely motion until the  
 135 claimant complies with this subsection.

136 (8) (a) If the claimant rejects a timely settlement offer or  
 137 supplemental offer provided to remedy the alleged construction  
 138 defect at no cost to the claimant, in any action brought for  
 139 that defect, the claimant may not recover attorney fees from the  
 140 offeror on any basis unless the claimant proves by a  
 141 preponderance of the evidence that, at the time of the offer,  
 142 additional repairs beyond those offered were necessary to remedy  
 143 the defect. This paragraph does not apply to any claim for  
 144 attorney fees based on a contract between the claimant and the  
 145 offeror.

Page 5 of 9

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

7-00786-22 2022736\_\_

146 (b) If a claimant accepts an offer made pursuant to  
 147 paragraph (5) (b), paragraph (5) (c), or paragraph (5) (e) or a  
 148 supplemental offer made pursuant to paragraph (7) (c), the  
 149 claimant must, within 90 days after the acceptance, enter into a  
 150 contract with one or more appropriately licensed contractors to  
 151 complete the repairs necessary to remedy the alleged  
 152 construction defect. The offeror or insurer shall pay directly  
 153 to the contractor or contractors, from the accepted monetary  
 154 payment, the amounts necessary to begin and to continue the  
 155 repairs as the work is performed and expenses are incurred. The  
 156 offeror or insurer may not require the claimant to advance  
 157 payment for the repairs. The repairs must be completed within 12  
 158 months after the claimant enters into the contract for repairs,  
 159 absent mutual agreement between the offeror or insurer and the  
 160 claimant.

161 Section 3. Section 558.0045, Florida Statutes, is created  
 162 to read:

163 558.0045 Construction defect actions; attorney fees and  
 164 costs.-

165 (1) In a civil action alleging a construction defect, the  
 166 court shall appoint an engineer, a contractor, a building code  
 167 inspector, or another expert having experience in the type of  
 168 construction that is the basis of the claimant's claim to  
 169 examine the alleged defect or, if repairs have been made, any  
 170 evidence of the alleged defect. However, the court may not  
 171 appoint an expert if all of the parties object or if the court  
 172 finds that the costs of an expert outweigh any potential  
 173 benefits to the resolution of the action. If an expert is  
 174 appointed, the expert must coordinate and communicate with the

Page 6 of 9

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

7-00786-22

2022736\_\_

175 parties as directed by the court. Within 15 days after  
 176 conducting the examination, or as otherwise determined by the  
 177 court, the expert shall submit a written report to the court for  
 178 its consideration and to the parties which contains the expert's  
 179 findings. The report must do all of the following:

180 (a) Describe how the expert conducted the examination of  
 181 the alleged defect.

182 (b) Identify persons present at the site of the improvement  
 183 while the expert conducted the examination.

184 (c) Include photographs or other documentation of the  
 185 alleged defect including any relevant test results.

186 (d) State whether the damages claimed by the claimant are  
 187 more likely than not the result of a construction defect,  
 188 another identified cause, or a construction defect and another  
 189 identified cause.

190 (e) Address other matters related to the alleged defect as  
 191 directed by the court.

192 (2) If the expert concludes that the damages are wholly or  
 193 partially the result of a construction defect, the report must  
 194 state the actions necessary to repair the defect and any repairs  
 195 related to the defect, provide an estimate of the reasonable  
 196 cost of repairs, and state the anticipated time needed for  
 197 repairs under the current market conditions for construction  
 198 services and materials.

199 (3) The parties shall compensate the expert, but the  
 200 prevailing party is entitled to reimbursement from the  
 201 nonprevailing party.

202 (4) An expert appointed by the court under this section may  
 203 not be employed to repair the alleged defect or recommend

7-00786-22

2022736\_\_

204 contractors to repair the defect.

205 Section 4. Section 558.0046, Florida Statutes, is created  
 206 to read:

207 558.0046 Duty to repair construction defect.—If a claimant  
 208 receives compensation for an alleged construction defect from a  
 209 contractor, a subcontractor, a supplier, a design professional,  
 210 or an insurer, the claimant must repair the defect. A claimant  
 211 who receives compensation and fails to fully repair the defect  
 212 is liable to a purchaser of the property for any damages  
 213 resulting from the failure to disclose the defect.

214 Section 5. Section 558.006, Florida Statutes, is created to  
 215 read:

216 558.006 Notice to mortgagee or assignee.—

217 (1) If a notice of claim alleging a construction defect is  
 218 made with respect to real property to which a mortgagee or an  
 219 assignee has a security interest, the claimant must, within 30  
 220 days after service of the notice of claim on the contractor,  
 221 subcontractor, supplier, or design professional, provide the  
 222 mortgagee or assignee with a copy of the notice of claim, by  
 223 certified mail, return receipt requested.

224 (2) If repairs relating to the defect are completed after  
 225 the claimant notifies the mortgagee or assignee as required  
 226 under subsection (1), or if any settlement, partial settlement,  
 227 arbitration award, or judgment is obtained by the claimant, the  
 228 claimant must provide an additional notice to the mortgagee or  
 229 assignee within 60 days after completion of the repairs or any  
 230 settlement, partial settlement, arbitration award, or judgment,  
 231 whichever is later, by certified mail, return receipt requested.

232 Section 6. (1) The amendments by this act to s.

7-00786-22

2022736\_\_

233 95.11(3)(c), Florida Statutes, apply to any action commenced on  
234 or after July 1, 2022, regardless of when the cause of action  
235 accrued. However, any action that would not have been barred  
236 under s. 95.11(3)(c), Florida Statutes, before the amendments  
237 made by this act to that section may be commenced before July 1,  
238 2023. If such action is not commenced by July 1, 2023, and is  
239 barred by the amendments made by this act to s. 95.11(3)(c),  
240 Florida Statutes, the action is barred.

241 (2) Sections 2 through 5 of this act apply to compensation  
242 for construction defects received on or after July 1, 2022, and  
243 to civil actions and proceedings for a construction defect which  
244 are initiated on or after July 1, 2022.

245 Section 7. This act shall take effect July 1, 2022.

The Florida Senate

APPEARANCE RECORD

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

11.30.21

Meeting Date

736

Bill Number or Topic

✓

Judiciary

Committee

Amendment Barcode (if applicable)

Name

Barry Ansbacher

Phone

904-568-1000

Address

8818 Goodbys Exec Dr.

Email

bba@ansbacher.net

Street

Jax

FL

32217

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](https://www.flsenate.gov/2020-2022-JointRules.pdf)

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

S-001 (08/10/2021)

11-29-21  
Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

SB 736  
Bill Number or Topic

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

Committee  
Name MARI HERBANK  
Address 215 S. Menoel St  
TALLAHASSEE, FL 32301  
City State Zip

Amendment Barcode (if applicable)  
Phone 850-566-7824  
Email Mherbank@carltonfields.com

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

PLT  
FLORIDA HOME BUILDERS

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. 511.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](https://www.flsenate.gov/2020-2022-JointRules.pdf)

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

11/30/2021

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

736

Bill Number or Topic

Judiciary

Committee

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

Amendment Barcode (if applicable)

Name Dan Olson

Phone \_\_\_\_\_

Address 300 S. Duval Street

Street

Email dan@meenanlawfirm.com

Tallahassee

FL

32301

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without  
compensation or sponsorship.

I am a registered lobbyist,  
representing:

**Florida Fire Sprinkler Association**

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

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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

S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

11-30-21

Meeting Date

JUDICIARY

Committee

736

Bill Number or Topic

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

Amendment Barcode (if applicable)

Name DANE BENNETT

Phone 941-468-8479

Address 2600 CENTENNIAL PLACE

Email DBENNETT@FHBA.COM

Street

TALLAHASSEE

FL

32308

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

FLORIDA HOME BUILDERS ASSOCIATION

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)



The Florida Senate

APPEARANCE RECORD

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

11/30/21

Meeting Date

736

Bill Number or Topic

Judiciary

Committee

Amendment Barcode (if applicable)

Name TRAVIS MOORE

Phone 727.421.6902

Address P.O. Box 2020

Email travis@moore-relations.com

Street

St. Petersburg FL 33731

City

State

Zip

Speaking: [ ] For [x] Against [ ] Information OR Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

Community Associations Institute (CAI)

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

11/30/2021

Meeting Date

Judiciary

Committee

# The Florida Senate APPEARANCE RECORD

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

SB 736

Bill Number or Topic

Name Ron Woods

Phone 904-219-7994

Amendment Barcode (if applicable)

Address 6260-D Dupont Station Court

Street

Email rwoods@woodsengineering.com

Jacksonville

FL

32217

City

State

Zip

Speaking:  For  Against  Information

**OR**

Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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

The Florida Senate

**APPEARANCE RECORD**

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

11/30/21

Meeting Date

SB 736 ✓

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Martin Langesfeld

Phone 305-494-4767

Address 11310 Nw 53 Lane  
Street

Email martinlangesfeld@gmail.com

Doral FL 33178  
City State Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

11/30/2021

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

SB 736

Bill Number or Topic

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

**Judiciary**

Committee

Amendment Barcode (if applicable)

Name **Neil O'Brien**

Phone **727-786-5000**

Address **777 Alderman Rd**

Email **nobrien@florinroebig.com**

Street

**Palm Harbor**

**FL**

**34683**

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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

S-001 (08/10/2021)



The Florida Senate

## Committee Agenda Request

**To:** Senator Danny Burgess, Chair  
Committee on Judiciary

**Subject:** Committee Agenda Request

**Date:** November 26, 2021

---

I respectfully request that **Senate Bill #736**, relating to Construction Defect Claims, be placed on the:

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

A handwritten signature in cursive script that reads "Travis J. Hutson".

---

Senator Travis Hutson  
Florida Senate, District 7

# CourtSmart Tag Report

Room: KB 412

Caption: Committee on Judiciary

Case No.: -

Judge:

Type:

Started: 11/30/2021 9:03:41 AM

Ends: 11/30/2021 11:29:51 AM

Length: 02:26:11

9:03:46 AM Good morning everybody, the Committee on Judiciary will now come to order.  
9:04:44 AM Roll call taken, quorum present.  
9:05:11 AM Sen. Wright's bill, SB 432, will be taken up first  
9:05:51 AM Question from Sen. Rouson  
9:06:37 AM response from Sen. Wright  
9:06:48 AM Alison Dudley representing Judicial Assistants Assoc. of Fla. waives in support  
9:07:42 AM no debate; Sen. Wright waives close  
9:07:54 AM call roll on SB 432; the bill passes  
9:08:21 AM SB 156 by Broxson  
9:08:28 AM it's been TP'd  
9:08:39 AM Sen. Boyd's SB 552  
9:08:50 AM We will press on with this bill  
9:10:46 AM Sen. Boyd is recognized to explain the bill  
9:10:48 AM Questions?  
9:10:53 AM Sen. Thurston is recognized  
9:10:59 AM follow up from Sen. Thurston  
9:10:59 AM response from Sen. Boyd  
9:11:03 AM response from Sen. Boyd  
9:11:27 AM any further questions? Seeing none, there are appearance cards  
9:11:43 AM Hillsborough Co. Clerk of Courts Jenna Hodgens waives in support  
9:11:48 AM Nikki Alvarez Sowles, Pasco Co. Clerk of Court, is recognized  
9:12:20 AM They are in support of SB 552  
9:15:25 AM Chair recognizes Sen. Broxson  
9:15:26 AM question from Sen. Broxson  
9:17:16 AM Clerk of Court answers  
9:18:16 AM Sen. Broxson for a comment  
9:19:59 AM Clerk of Court responds to comment  
9:20:49 AM Sen. Thurston has a question  
9:21:20 AM Clerk Sowles responds  
9:21:41 AM follow up question  
9:22:02 AM Ms. Sowles answers  
9:22:45 AM another follow up from Sen. Thurston re: late fees & costs  
9:23:18 AM Clerk Sowles is recognized  
9:24:05 AM follow up from Thurston  
9:24:33 AM Clerk Sowles responds  
9:24:48 AM follow up from Thurston  
9:25:07 AM Clerk Sowles responds & will get info for Sen. Thurston  
9:25:34 AM no other questions  
9:25:41 AM 2 waiving in support: Tom Bexley & Jason Harrel on behalf of Fla. Clerks & Comptrollers  
9:26:05 AM debate from Sen. Thurston, who'll support the bill  
9:27:02 AM no other debate; Sen. Boyd closes on his bill  
9:28:17 AM roll call on SB 552  
9:28:27 AM SB 552 passes  
9:28:46 AM Sen. Broxson to bring up SB 156  
9:29:11 AM having explained his bill, any questions?  
9:29:18 AM None, but there is an amendment (774698)  
9:29:27 AM the amendment was w/d  
9:29:40 AM BG Murphy, George Feijoo, & Paul Runk all waive in support  
9:29:56 AM no debate  
9:30:00 AM Broxson waives close  
9:30:04 AM SB 156 passes  
9:30:30 AM SB 620 by Sen. Hutson

9:31:02 AM relating to local gov't  
9:31:04 AM Sen. Hutson explains the bill  
9:31:19 AM any questions?  
9:31:23 AM Sen. Gibson is recognized  
9:32:00 AM Sen. Gibson is recognized  
9:32:00 AM Sen. Hutson answers  
9:33:14 AM Sen. Polsky has questions  
9:33:33 AM response from Sen. Hutson  
9:34:20 AM follow up from Sen. Polsky  
9:34:31 AM Sen. Hutson responds  
9:35:03 AM Polsky follows up  
9:35:32 AM Hutson responds  
9:35:59 AM Sen. Polsky asks another question  
9:36:58 AM Sen. Hutson thanks her for the question & answers  
9:37:55 AM follow up from Polsky  
9:38:26 AM Hutson responds  
9:39:09 AM Polsky follows up  
9:39:50 AM Sen. Hutson answers  
9:40:26 AM Sen. Polsky has another question  
9:40:39 AM Sen. Hutson responds  
9:41:29 AM Chair wants to give other senators a chance for questions  
9:41:44 AM Sen. Thurston asks about eminent domain  
9:41:53 AM response from Sen. Hutson  
9:42:52 AM follow up from Sen. Thurston  
9:43:14 AM Sen. Hutson responds  
9:43:47 AM Sen. Thurston asks question  
9:44:37 AM Sen. Hutson responds  
9:46:17 AM one more follow up from Sen. Thurston  
9:47:04 AM Sen. Hutson responds  
9:48:21 AM Sen. Broxson is recognized for a question  
9:48:44 AM Sen. Hutson responds  
9:49:17 AM Sen. Broxson follows up  
9:49:39 AM response from Sen. Hutson  
9:50:00 AM Question from Sen. Gibson?  
9:50:10 AM Sen. Polsky will be next  
9:50:16 AM Sen. Hutson responds to Sen. Gibson's question  
9:51:26 AM follow up from Sen. Gibson  
9:51:51 AM Sen. Hutson answers  
9:52:45 AM Sen. Polsky is recognized for more questions  
9:53:25 AM Sen. Hutson answers  
9:54:03 AM Question from Sen. Polsky  
9:54:27 AM Answer from Sen. Hutson  
9:55:23 AM 2 more questions from Sen. Polsky  
9:55:52 AM Sen. Hutson responds to questions  
9:56:15 AM last question from Sen. Polsky  
9:56:25 AM Sen. Hutson responds  
9:57:31 AM any appearance cards? There are quite a few  
9:57:47 AM please keep comments to 3 minutes or less, & keep to the bill  
9:58:05 AM Ida Eskamani  
9:58:38 AM with Fla. Rising & Fla. Immigration Coalition  
9:59:25 AM Asks they please oppose the bill  
9:59:31 AM Jon Harris Maurer w/ Equality Fla. is recognized to speak against  
10:00:43 AM next is Phillip Suderman, who waives in support  
10:00:55 AM Next is Matthew Choy w/ Fla. Chamber of Commerce, waiving in support  
10:01:04 AM Dr. Rich Templin w/ Fla. AFL-CIO speaks against  
10:04:25 AM Rebecca O'Hara w/ Fla. League of Cities, speaking against  
10:04:45 AM w/ the Fla. League of Cities  
10:09:06 AM Ms. O'Hara asked to wrap it up  
10:09:33 AM Sen. Rodrigues has a question for Ms. O'Hara  
10:10:08 AM Ms. O'Hara responds  
10:11:27 AM Sen. Rodrigues yields to Sen. Thurston for a question  
10:12:15 AM Ms. O'Hara responds

10:13:15 AM no further questions  
10:13:20 AM Jonathan Webber w/ Fla. Conservation Voters waives against  
10:13:29 AM Grace Lovett w/ Fla. Retail Federation waives in support  
10:13:30 AM Sean Pittman w/ City of Port Orange waives against  
10:13:36 AM Jack Cory representing Village of Tequesta  
10:13:42 AM Mr. Cory waives against  
10:13:51 AM Bob McKee speaks against  
10:14:23 AM w/ the Fla. Ass'n of Counties  
10:18:08 AM Chair asks for speaker to wind down  
10:18:41 AM Cmsr. Lee Constantine for Seminole Co. asks that Ralph Thomas of Wakulla Co. speak first  
10:19:27 AM Commissioner of Wakulla Co.  
10:19:41 AM He's speaking against  
10:21:52 AM Sen. Rodrigues has a question for Cmsr. Thomas  
10:22:21 AM Cmsr. Thomas responds  
10:23:13 AM follow up from Sen. Rodrigues  
10:23:51 AM back & forth  
10:23:58 AM next up is Cmsr. Constantine  
10:24:17 AM Speaking against  
10:28:21 AM Brewster Bevis waives in support  
10:28:33 AM David Cullen w/ Sierra Club Fla. speaks against  
10:30:41 AM last is Devon West w/ Broward co. speaking against  
10:31:15 AM Now in debate, but short on time  
10:31:27 AM Sen. Thurston debates  
10:33:47 AM he'll be voting against it  
10:33:53 AM Sen. Polsky debates against  
10:36:22 AM Sen. Broxson debates for the bill  
10:37:34 AM Sen. Baxley debates in support  
10:38:06 AM agrees that there needs to be a lot done to narrow the bill down  
10:38:39 AM Sen. Boyd debates in favor  
10:39:44 AM Sen. Gibson debates against  
10:41:11 AM Sen. Hutson is recognized to close  
10:42:59 AM roll call  
10:43:06 AM SB 620 is reported favorably  
10:43:27 AM we have an SPB to get through  
10:43:43 AM chair is given over to Sen. Gibson, tab 6, SB 7014 by Sen. Burgess  
10:44:33 AM any questions?  
10:44:37 AM Sen. Rouson  
10:44:51 AM asks a question  
10:44:57 AM Sen. Burgess responds  
10:45:46 AM Sen. Thurston has a question  
10:46:18 AM Sen. Burgess responds  
10:46:42 AM no further questions  
10:46:46 AM Jason Hand, VP of Public Policy for Fla. Senior Living Ass'n., speaking for the bill  
10:48:27 AM Sen. Thurston has a question for speaker  
10:49:03 AM Mr. Hand responds  
10:49:22 AM follow up from Sen. Thurston  
10:49:44 AM Mr. Hand responds  
10:50:13 AM Steve Cain speaking against  
10:52:08 AM Mr. Robin Khanal speaking for bill  
10:54:21 AM Madam Chair asks that he wrap up  
10:54:30 AM Sen. Thurston has a question of speaker  
10:55:53 AM follow up from Sen. Thurston  
10:56:09 AM Mr. Khanal responds  
10:56:29 AM Mike Cusick, representing Fla. Ass'n of Children's Hospitals, waives in support  
10:56:38 AM Steve Bauhmer, representing Leading Age Fla.  
10:56:59 AM waives in support  
10:57:02 AM David Mica Jr., representing Fla. Hospital Ass'n, waives in support  
10:57:07 AM Wm. Large w/ Fla. Justice Reform Institute waives in support  
10:57:40 AM Mary Thomas of the Fla. Medical Ass'n. waives in support  
10:57:47 AM Carolyn Johnson of the Fla. Chamber of Commerce waives in support  
10:57:56 AM Grace Lovett of Fla. Retail Federation  
10:58:04 AM waives in support



10:58:08 AM Brewster Bevis, AIF, waives in support  
10:58:15 AM Greg ? w/ Fla. Insurance Council waives in support  
10:58:24 AM Tim Parson - Fla. Assisted Living Ass'n - waives in support  
10:58:31 AM Mary Lou Woods waives against  
10:58:45 AM Sen. Polsky debates  
11:01:38 AM Sen. Burgess is recognized to close  
11:01:53 AM SB 7014 roll call  
11:02:18 AM SB 7014 is reported favorably  
11:02:44 AM Sen. Mayfield asks that it be reported as a committee bill  
11:02:59 AM Chair Burgess brings Sen. Hutson back up to explain SB 736  
11:04:11 AM Sen. Rouson called on for a question  
11:06:07 AM Sen. Thurston has a question  
11:06:38 AM Sen. Hutson responds  
11:08:18 AM Sen. Polsky has a question  
11:09:11 AM follow up from Sen. Polsky  
11:09:19 AM Sen. Hutson responds  
11:10:51 AM final question from Sen. Polsky  
11:11:24 AM Sen. Hutson answers  
11:12:06 AM Sen. Gibson for a question  
11:12:37 AM Sen. Hutson responds  
11:13:07 AM Sen. Gibson has follow up; Sen. Hutson responds  
11:13:19 AM Question from Sen. Gibson  
11:13:48 AM Sen. Hutson answers Gibson's question  
11:14:29 AM final question from Sen. Gibson  
11:14:57 AM Sen. Hutson responds  
11:15:10 AM Amend. 207164 is explained by Sen. Hutson  
11:15:37 AM no questions, appearance forms, or debate  
11:15:46 AM amend. is adopted  
11:15:53 AM back on bill as amended  
11:16:05 AM testimony limited to 1 minute or less  
11:16:14 AM Ron Woods speaks against  
11:17:28 AM Martin Langesfeld speaks against  
11:20:20 AM Neil O'Brien (for the Fla. Justice Ass'n?) speaks against  
11:21:57 AM Sen. Thurston has a question of speaker  
11:23:00 AM Barry Ansbacher speaks against; he's an attn'y from Jax  
11:24:38 AM Travis Moore w/ Community Assocs. Institute waives against  
11:24:43 AM Dane Bennett w/ Fla. Home Builders Ass'n, waives in support  
11:24:49 AM Dan Olson, representing the Fla. Fire Sprinkler Ass'n, waives in support  
11:24:51 AM Kari Hebrank w/ the Fla. Home Builders, waives in support  
11:25:15 AM Sen. Rodrigues debates in support, but says there's more work to be done  
11:25:47 AM Sen. Gibson debates  
11:27:35 AM Sen. Thurston debates against  
11:28:28 AM Sen. Hutson's recognized to close, & waives close  
11:28:44 AM roll call; CS/SB 736 passes  
11:29:14 AM SB 190 & SB 634 get rolled to next meeting agenda  
11:29:34 AM Leader Mayfield sees that the meeting is adjourned