

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1796

SPONSOR: Criminal Justice Committee and Senator McKay

SUBJECT: Repeal of obsolete statutes

DATE: March 20, 2000 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Gomez</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>RC</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

This bill repeals various statutes that have become obsolete, have served their purpose, or have been impliedly repealed or superseded, as follows:

- ▶ Section 16.55, F.S., which required the attorney general's office to develop model training materials no later than July of 1988 for local governments on how to reduce commercial crime exposure through environmental design.
- ▶ Subsection (1) of s. 27.181, F.S., which provides for the transitional period from elected to appointed assistant state attorneys which has been completed.
- ▶ An outdated portion of s. 27.58, F.S., enacted after the creation of the current elected public defender system, stating that the provisions of chapter 27, F.S., are supplementary to any local laws or ordinances.
- ▶ Section 213.305, F.S., which provides intent language on the application of tax violation penalties for a time period that has expired.

This bill shall take effect upon becoming a law.

This bill substantially amends or repeals the following sections of the Florida Statutes: 16.55, 27.181, 27.58, 213.305.

## II. Present Situation:

During the 1999-2000 legislative session interim, staff of the House of Representatives reviewed each chapter of the five volumes of the Florida Statutes to find provisions which were outdated or obsolete. Upon completion of the first draft, staff of Senate counterpart committees reviewed the work product to further refine the sections identified. The final list of some one thousand original

sections of Florida law contained an identification of statutory sections which shared one or more of the following characteristics:

1. A reference to a dormant board, council or other non-governing authority;
2. A provision rendered obsolete due to the passage of time;
3. A requirement which was nonrecurring due to the completion of the activity;
4. A statement of legislative intent, findings or purpose so generalized as to provide no specific interpretive guidance on the context or particularity of the statute or its application;
5. A cross-reference to another section which was otherwise repealed;
6. The use of boilerplate language, such as a severability clause, which is assumed as part of legislative style and drafting or of judicial interpretation;
7. The creation of a short title, or popular name, unrelated to the purpose of the statute;
8. The use of archaic language or descriptions; and
9. A redundancy in text or reference no longer needed.

Provisions relating to various criminal justice entities and issues contained in this bill were determined to meet the above criteria and are described in a section by section analysis below.

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

Section 1. Section 16.55, F.S., requires the Attorney General's office to develop model training materials for local governments on how to reduce commercial crime exposure through environmental design including information on lighting, cash-handling procedures, obstructed vision, traffic flow, counter placement, and staffing. The training materials were to be distributed no later than July 1988. According to the Attorney General's office, the materials were developed and distributed.

Section 2. Before 1967, assistant state attorneys were elected officers. Section 27.181(1), F.S., provides that upon the expiration of the term of office being served by each assistant state attorney, the office would be abolished and the position would then be appointed by the state attorney. This subsection providing for the transitional period to appointed state attorneys is no longer necessary because all assistant state attorneys now work at the pleasure of the state attorney.

Section 3. Section 27.58, F.S., enacted after the creation of the current elected public defender system, states that the provisions of chapter 27, F.S., are supplementary to any local laws or ordinances. A portion of the section is outdated and provides that "[t]his act shall not repeal but shall be supplementary to any local law or ordinance heretofore providing for a public defender or assigned defense counsel in any county or counties of the state, and the public defender in such county or counties may continue to operate under such prior act or ordinance to the extent determined by the board of county commissioners." The remainder of the section is not outdated and provides that the public defender shall be the chief administrator of all public defender services within the circuit whether such services are rendered by the state or county public defenders. This portion is retained.

Section 4. Chapter 87-6 was the omnibus tax bill which reinstated the sales tax exemption for essential services. Several sections in chapter 87-6 increased criminal penalties from misdemeanors to third degree felonies, effective July 1, 1988. *See* ss. 61-98.

Section 213.305, F.S., was created to make clear that: (1) the increased penalties did not apply in those cases where the period of time for bringing an action or enforcing a lien expired prior to July 1, 1988, (*i.e.*, where the statute of limitations had run), and, (2) the penalties provided in ss. 49 through 98 of chapter 87-6, Laws of Florida, were applicable to the failure to pay taxes which were due before and remained unpaid on July 1, 1988. This second point clarified that the penalties would apply not only to taxes coming due *after* the effective date, July 1, 1988, but also to taxes due and remaining unpaid *before* that date. According to the Department of Revenue, this provision was intended, in part, to serve notice on the public of a grace period in which to pay taxes before taxpayers would be subject to much stiffer penalties.

According to the Department, the language in s. 213.305, F.S., is no longer necessary and could be repealed because the statute of limitations has run on taxpayers with open liabilities prior to July 1, 1988.

Section 5. Section 790.22(4), F.S., prohibits any parent from permitting a minor to possess a firearm under certain circumstances and provides that if the minor unlawfully possesses a firearm, the parent may be required to participate in classes on parenting education. Upon a subsequent conviction of the minor, the court may order further parent education classes or it may require the parent to complete community service hours together with the child. Paragraph (c) provides that no later than July 1, 1994, the district juvenile justice boards or county juvenile justice councils or the Department of Juvenile Justice shall establish appropriate community service programs to be available to the alternative sanctions coordinators of the circuit courts in implementing this subsection. The boards or councils or department were required to propose the implementation of a community service plan in each circuit. This bill repeals paragraph (c) of s. 790.22(4), F.S.

Section 6. Amends s. 984.09, F.S., by deleting cross-references to s. 790.22(4)(c), F.S., which is made obsolete by section 5 of the bill.

Section 7. Amends s. 985.216, F.S., by deleting cross-references to s. 790.22(4)(c), F.S., which is made obsolete by section 5 of the bill.

Section 8. Provides that this act shall take effect upon becoming a law.

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

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

None.

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

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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