

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 111 Statutes of Limitations  
**SPONSOR(S):** Civil Justice & Courts Policy Committee, Porth and others  
**TIED BILLS:** **IDEN./SIM. BILLS:**

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|    | <b>REFERENCE</b>   | <b>ACTION</b>   | <b>ANALYST</b> | <b>STAFF DIRECTOR</b> |
|----|--|-----------------|----------------|-----------------------|
| 1) | Civil Justice & Courts Policy Committee                            | 6 Y, 0 N, As CS | De La Paz      | De La Paz             |
| 2) | Criminal & Civil Justice Policy Council                            | 11 Y, 0 N       | De La Paz      | Havlicak              |
| 3) | Criminal & Civil Justice Appropriations Committee                  |                 |                |                       |
| 4) | Full Appropriations Council on General Government<br>& Health Care |                 |                |                       |
| 5) |  |                 |                |                       |

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**SUMMARY ANALYSIS**

A statute of limitations is an absolute bar to the filing of a legal case after a date set by law.

CS/HB 111 amends s. 95.11, F.S., to provide an exception to the current two year statute of limitations for wrongful death actions, to provide that wrongful death actions for intentional torts resulting in death from acts described in the murder or manslaughter statutes may be commenced at any time.

This bill does not appear to have a fiscal impact on state or local government.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

CS/HB 111 may also be referred to as the "Jeffrey Klee Act." Jeffrey Klee disappeared on June 21, 1977 after last being seen at a lounge in Tamarac, Florida. Witnesses said he left the lounge with a friend named David Cusanelli, but he didn't return home and was never seen again. On March 26, 2008, Jeffrey Klee's remains and van were found at the bottom of a canal in Coral Springs, Florida. Police detectives obtained statements from both David Cusanelli and his brother which revealed facts that appeared sufficient to charge David Cusanelli with manslaughter. The statute of limitations applicable to manslaughter at the time was 3 years. Due to the extended period of time between the day of the Jeffrey's disappearance and the recovery of his body and the admissions of David and his brother, the statute of limitations has long since expired. As a result, a charge of manslaughter cannot be brought against David Cusanelli for the death of Jeffrey Klee.

A statute of limitations is an absolute bar to the filing of a legal case after a date set by law. The date is commonly based on the time that has elapsed since the action giving rise to the case occurred. Such laws creating statutes of limitation specify when the time period begins, how long the limitations period runs, and circumstances by which the running of the statutes may be tolled (suspended).

##### Statute of Limitations on Manslaughter

Section 775.15, F.S., provides that "[a] prosecution for a capital felony, a life felony, or a *felony that resulted in a death* may be commenced at any time." Under this provision, a prosecution for manslaughter may be commenced at any time. With respect to all homicide offenses, what is now the current statutory provision was amended into the statute in 1996.<sup>1</sup>

##### Statute of Limitations on Wrongful Death Actions

Under current law, civil actions for deaths caused by the wrongful act, negligence, default, or breach of contract or warranty of another may be brought under the Wrongful Death Act.<sup>2</sup> Section 768.21, F.S., specifies the types of damages that may be recovered under a wrongful death action. Section 95.11(4)(d) provides for a two year statute of limitations for wrongful death actions. As a result,

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<sup>1</sup> Ch. 96-145, Laws of Florida

<sup>2</sup> Section 768.19, F.S.

although under current law the state may pursue criminal charges against someone for the crimes of murder or manslaughter at any time, civil actions based on the same conduct are limited by the two year statute of limitations applicable to other wrongful death actions.

#### Proposed Changes

CS/HB 111 amends s. 95.11, F.S., to provide an exception to the current two year statute of limitations for wrongful death actions, to provide that wrongful death actions for intentional torts resulting in death from acts described in the murder or manslaughter statutes may be commenced at any time. The bill also expressly states that the bringing of a civil action is not conditioned upon the criminal prosecution, arrest or conviction of the person being sued.

CS/HB 111 contains language which limits the application of the changes to the time periods in s. 95.11, F.S., to claims that are not otherwise time barred on the effective date of the act.

The bill becomes effective upon becoming law.

#### B. SECTION DIRECTORY:

Section 1. Provides a name for the act.

Section 2. Amends s. 95.11, F.S., regarding the statute of limitations for civil actions.

Section 3. Provides for application of the changes to s. 95.11, F.S., to claims not otherwise time barred.

Section 4. Provides an effective date.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

#### D. FISCAL COMMENTS:

None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

N/A

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On January 13, 2009, the Committee on Civil Justice and Court Policy approved a strike-all amendment to the bill which removed provisions of the bill amending s. 775.15, F.S., relating to the statute of limitations for all homicide offenses. The amendment also removed the original bill's provisions referring to "actions for murder or manslaughter" and clarified that the actions allowed to be commenced at any time are wrongful death actions for intentional torts resulting in death from acts described in the murder or manslaughter statutes.