

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative Frishe offered the following:

2
3 **Amendment (with directory and title amendments)**

4 Remove lines 87-380 and insert:

5 (4) All fees collected under paragraphs (1)(a), (b), (c),
6 and (d) shall be nonrefundable and shall be earned when each
7 original request or service of process is made, ~~and no~~
8 ~~additional fees shall be required for alias and pluries~~
9 ~~documents when service was not effected on the original document~~
10 ~~in that county by that sheriff.~~

11 (6) Fees under this section chargeable to the state or its
12 agencies shall be those fees that were effective under this
13 section on June 30, 2009.

14 Section 2. Subsection (1) of section 48.021, Florida
15 Statutes, is amended to read:

16 48.021 Process; by whom served.--

181511

Approved For Filing: 4/21/2009 2:04:03 PM

Amendment No.

17 (1) All process shall be served by the sheriff of the
18 county where the person to be served is found, except initial
19 nonenforceable civil process, criminal witness subpoenas, and
20 criminal summonses may be served by a special process server
21 appointed by the sheriff as provided for in this section or by a
22 certified process server as provided for in ss. 48.25-48.31.
23 Civil witness subpoenas may be served by any person authorized
24 by rules of civil procedure.

25 Section 3. Subsection (2) of section 48.27, Florida
26 Statutes, is amended to read:

27 48.27 Certified process servers.--

28 (2) (a) The addition of a person's name to the list
29 authorizes him or her to serve initial nonenforceable civil
30 process on a person found within the circuit where the process
31 server is certified when a civil action has been filed against
32 such person in the circuit court or in a county court in the
33 state. Upon filing an action in circuit or county court, a
34 person may select from the list for the circuit where the
35 process is to be served one or more certified process servers to
36 serve initial nonenforceable civil process.

37 (b) The addition of a person's name to the list authorizes
38 him or her to serve criminal witness subpoenas and criminal
39 summonses on a person found within the circuit where the process
40 server is certified. The state in any proceeding or
41 investigation by a grand jury or any party in a criminal action,
42 prosecution, or proceeding may select from the list for the
43 circuit where the process is to be served one or more certified
44 process servers to serve the subpoena or summons.

181511

Approved For Filing: 4/21/2009 2:04:03 PM

Amendment No.

45 Section 4. Subsection (2) of section 56.041, Florida
46 Statutes, is amended to read:

47 56.041 Executions; collection and return.--

48 (2) All unsatisfied executions in the hands of the sheriff
49 docketed before October 1, 2001, or 20 years after the date of
50 issuance of final judgment upon which the execution was issued
51 ~~may be returned, to the court issuing the execution, 20 years~~
52 ~~after the date of issuance of final judgment upon which the~~
53 ~~execution was issued.~~ Upon such return, the clerk of the court
54 of issuance shall provide a receipt, to the sheriff submitting
55 the return, acknowledging the return of the unsatisfied
56 execution.

57 Section 5. Section 56.21, Florida Statutes, is amended to
58 read:

59 56.21 Execution sales; notice.--Notice of all sales under
60 execution shall be given by advertisement once each week for 4
61 successive weeks in a newspaper published in the county in which
62 the sale is to take place. The time of such notice may be
63 shortened in the discretion of the court from which the
64 execution issued, upon affidavit that the property to be sold is
65 subject to decay and will not sell for its full value if held
66 until date of sale. On or before the date of the first
67 publication or posting of the notice of sale, a copy of the
68 notice of sale shall be furnished by the sheriff by certified
69 mail to the attorney of record of the judgment debtor, or to the
70 judgment debtor at the judgment debtor's last known address if
71 the judgment debtor does not have an attorney of record. Such
72 copy of the notice of sale shall be mailed even though a default
181511

Approved For Filing: 4/21/2009 2:04:03 PM

Amendment No.

73 judgment was entered. When levying upon real or personal
74 property, a notice of such levy and execution sale and a copy of
75 the affidavit required by s. 56.27(4) shall be sent by the
76 sheriff to the attorneys of record of all judgment creditors and
77 other lienholders, or to all judgment creditors and other
78 lienholders who do not have an attorney of record, who have
79 acquired a ~~judgment~~ lien as provided in s. 55.10(1) and (2), s.
80 55.202, ~~or~~ s. 55.204(3), or s. 695.01, and whose liens have not
81 lapsed at the time of levy, at the address listed in the
82 judgment lien certificate or other recorded liens, or, if
83 amended, in any amendment thereto ~~to the judgment lien~~
84 ~~certificate~~, and to all secured creditors who have filed
85 financing statements as provided in part V of chapter 679 in the
86 name of the judgment debtor reflecting a security interest in
87 property of the kind to be sold at the execution sale at the
88 address listed in the financing statement, or, if amended, in
89 any amendment to the financing statement. Such notice shall be
90 made in the same manner as notice is made to any judgment debtor
91 under this section. When levying upon real property, notice of
92 such levy and execution sale and affidavit required by s.
93 56.27(4) shall be made to the property owner of record in the
94 same manner as notice is made to any judgment debtor pursuant to
95 this section, and shall be made to each other person holding a
96 mortgage or other lien against the real property as disclosed by
97 the affidavit. When selling real or personal property, the sale
98 date shall not be earlier than 30 days after the date of the
99 first advertisement.

100 Section 6. Subsections (1), (2), and (4) of section 56.27,
181511

Approved For Filing: 4/21/2009 2:04:03 PM

Amendment No.

101 Florida Statutes, are amended to read:

102 56.27 Executions; payment of money collected.--

103 (1) All money received under executions shall be paid, in
104 the order prescribed, to the following: the sheriff, for costs;
105 the levying creditor in the amount of \$500 as liquidated
106 expenses; ~~and if the levy is upon real property, the first~~
107 ~~priority lienholder under s. 55.10(1) and (2), s. 55.10; and if~~
108 ~~the levy is upon personal property, the first priority~~
109 ~~lienholder under s. 55.202, s. 55.204(3), or s. 55.208(2), as~~
110 set forth in an affidavit required by subsection (4), or his or
111 her attorney, in satisfaction of the judgment lien, if provided
112 ~~that~~ the judgment lien has not lapsed at the time of the levy.
113 The receipt of the attorney shall be a release of the officer
114 paying the money to him or her. If ~~When~~ the name of more than
115 one attorney appears in the court file, the money shall be paid
116 to the attorney who originally commenced the action or who made
117 the original defense unless the file shows that another attorney
118 has been substituted.

119 (2) (a) If ~~When~~ property sold under execution brings more
120 than the amount needed to satisfy the provisions of subsection
121 (1), the surplus shall be paid in the order of priority to any
122 judgment lienholders whose judgment liens have not lapsed,
123 unless the affidavit required by subsection (4) discloses that
124 the property is also subject to any recorded mortgage, financing
125 statement, tax warrant, or other lien, other than a judgment
126 lien, which is junior in priority to the levying creditor's
127 judgment lien. For the purpose of the sheriff's distribution of
128 the surplus to judgment lienholders under this paragraph,

181511

Approved For Filing: 4/21/2009 2:04:03 PM

Amendment No.

129 priority of judgment liens on personal property shall be based
130 on the effective date of the judgment lien acquired under s.
131 55.202, s. 55.204(3), or s. 55.208(2), and priority of judgment
132 liens on real property shall be based on the effective date of
133 the judgment lien acquired under s. 55.10(1) and (2), as set
134 forth in an affidavit required under subsection (4). If there is
135 a surplus after all valid judgment liens and execution liens
136 have been satisfied under this paragraph, the surplus must be
137 paid to the owner of the property sold ~~defendant~~.

138 (b) If the affidavit required by subsection (4) discloses
139 that the property is also subject to any recorded mortgage,
140 financing statement, tax warrant, or other lien, other than a
141 judgment lien, which is junior in priority to the levying
142 creditor's judgment lien, any surplus from the sale of the
143 property shall be paid over to the registry of the court from
144 which the execution issued for further proceedings to determine
145 the priority in which such surplus shall be distributed among
146 judgment lienholders, other lienholders, and the owner of the
147 property sold.

148 (4) Before the date of the first publication or posting of
149 the notice of sale provided for under s. 56.21, at the time of
150 the levy request to the sheriff, the levying creditor shall
151 deliver to the sheriff an affidavit setting forth all of the
152 following as to the judgment debtor:

153 (a) For a personal property levy, an attestation by ~~that~~
154 the levying creditor or the creditor's attorney of record that
155 he or she has reviewed the database or judgment lien records
156 established in accordance with ss. 55.201-55.209 and that the

Amendment No.

157 information contained in the affidavit based on that review is
158 true and correct. For a real property levy in accordance with s.
159 55.10(1) and (2), an attestation by the levying creditor or his
160 or her attorney of record that he or she has reviewed the
161 records of the clerk of the court of the county where the
162 property is situated, or that he or she has performed a title
163 search, and that the information contained in the affidavit,
164 including a disclosure of all judgment liens, mortgages,
165 financing statements, tax warrants, and other liens against the
166 real property, based on that review or title search is true and
167 correct.†

168 (b) The information required under s. 55.203(1) and (2)
169 for each judgment lien certificate indexed under the name of the
170 judgment debtor as to each judgment creditor; the file number
171 assigned to the record of the original and, if any, the second
172 judgment lien; and the date of filing for each judgment lien
173 certificate under s. 55.202 or s. 55.204(3). For each judgment
174 lien recorded on real property, the information contained in the
175 certified copy of recordation of lien under s. 55.10(1) and (2),
176 and for each other lien recorded on real property, the name and
177 address of the lienholder as shown in the copy of the recorded
178 lien disclosed by the title search.† ~~and~~

179 (c) A statement that the levying creditor either does not
180 have any other levy in process or, if another levy is in
181 process, the levying creditor believes in good faith that the
182 total value of the property under execution does not exceed the
183 amount of outstanding judgments.

184 Section 7. Paragraph (a) of subsection (8) of section
181511

Approved For Filing: 4/21/2009 2:04:03 PM

Amendment No.

185 741.30, Florida Statutes, is amended to read:

186 741.30 Domestic violence; injunction; powers and duties of
187 court and clerk; petition; notice and hearing; temporary
188 injunction; issuance of injunction; statewide verification
189 system; enforcement.--

190 (8) (a)1. The clerk of the court shall furnish a copy of
191 the petition, financial affidavit, Uniform Child Custody
192 Jurisdiction and Enforcement Act affidavit, if any, notice of
193 hearing, and temporary injunction, if any, to the sheriff or a
194 law enforcement agency of the county where the respondent
195 resides or can be found, who shall serve it upon the respondent
196 as soon thereafter as possible on any day of the week and at any
197 time of the day or night. When requested by the sheriff, the
198 clerk of the court may transmit a facsimile copy of an
199 injunction that has been certified by the clerk of the court,
200 and this facsimile copy may be served in the same manner as a
201 certified copy. Upon receiving a facsimile copy, the sheriff
202 must verify receipt with the sender before attempting to serve
203 it upon the respondent. In addition, if the sheriff is in
204 possession of an injunction for protection that has been
205 certified by the clerk of the court, the sheriff may transmit a
206 facsimile copy of that injunction to a law enforcement officer
207 who shall serve it in the same manner as a certified copy. The
208 clerk of the court shall be responsible for furnishing to the
209 sheriff such information on the respondent's physical
210 description and location as is required by the department to
211 comply with the verification procedures set forth in this
212 section. Notwithstanding any other provision of law to the
181511

Approved For Filing: 4/21/2009 2:04:03 PM

Amendment No.

213 contrary, the chief judge of each circuit, in consultation with
214 the appropriate sheriff, may authorize a law enforcement agency
215 within the jurisdiction to effect service. A law enforcement
216 agency serving injunctions pursuant to this section shall use
217 service and verification procedures consistent with those of the
218 sheriff.

219 2. When an injunction is issued, if the petitioner
220 requests the assistance of a law enforcement agency, the court
221 may order that an officer from the appropriate law enforcement
222 agency accompany the petitioner and assist in placing the
223 petitioner in possession of the dwelling or residence, or
224 otherwise assist in the execution or service of the injunction.
225 A law enforcement officer shall accept a copy of an injunction
226 for protection against domestic violence, certified by the clerk
227 of the court, from the petitioner and immediately serve it upon
228 a respondent who has been located but not yet served.

229 3. All orders issued, changed, continued, extended, or
230 vacated subsequent to the original service of documents
231 enumerated under subparagraph 1., shall be certified by the
232 clerk of the court and delivered to the parties at the time of
233 the entry of the order. The parties may acknowledge receipt of
234 such order in writing on the face of the original order. In the
235 event a party fails or refuses to acknowledge the receipt of a
236 certified copy of an order, the clerk shall note on the original
237 order that service was effected. If delivery at the hearing is
238 not possible, the clerk shall mail certified copies of the order
239 to the parties at the last known address of each party. Service
240 by mail is complete upon mailing. When an order is served

181511

Approved For Filing: 4/21/2009 2:04:03 PM

Amendment No.

241 pursuant to this subsection, the clerk shall prepare a written
242 certification to be placed in the court file specifying the
243 time, date, and method of service and shall notify the sheriff.
244

245 If the respondent has been served previously with the temporary
246 injunction and has failed to appear at the initial hearing on
247 the temporary injunction, any subsequent petition for injunction
248 seeking an extension of time may be served on the respondent by
249 the clerk of the court by certified mail in lieu of personal
250 service by a law enforcement officer.

251 Section 8. Paragraph (a) of subsection (8) and subsection
252 (13) of section 784.046, Florida Statutes, are amended to read:

253 784.046 Action by victim of repeat violence, sexual
254 violence, or dating violence for protective injunction; dating
255 violence investigations, notice to victims, and reporting;
256 pretrial release violations.--

257 (8) (a) 1. The clerk of the court shall furnish a copy of
258 the petition, notice of hearing, and temporary injunction, if
259 any, to the sheriff or a law enforcement agency of the county
260 where the respondent resides or can be found, who shall serve it
261 upon the respondent as soon thereafter as possible on any day of
262 the week and at any time of the day or night. When requested by
263 the sheriff, the clerk of the court may transmit a facsimile
264 copy of an injunction that has been certified by the clerk of
265 the court, and this facsimile copy may be served in the same
266 manner as a certified copy. Upon receiving a facsimile copy, the
267 sheriff must verify receipt with the sender before attempting to
268 serve it upon the respondent. In addition, if the sheriff is in

181511

Approved For Filing: 4/21/2009 2:04:03 PM

Amendment No.

269 possession of an injunction for protection that has been
270 certified by the clerk of the court, the sheriff may transmit a
271 facsimile copy of that injunction to a law enforcement officer
272 who shall serve it in the same manner as a certified copy. The
273 clerk of the court shall be responsible for furnishing to the
274 sheriff such information on the respondent's physical
275 description and location as is required by the department to
276 comply with the verification procedures set forth in this
277 section. Notwithstanding any other provision of law to the
278 contrary, the chief judge of each circuit, in consultation with
279 the appropriate sheriff, may authorize a law enforcement agency
280 within the chief judge's jurisdiction to effect this type of
281 service and to receive a portion of the service fee. No person
282 shall be authorized or permitted to serve or execute an
283 injunction issued under this section unless the person is a law
284 enforcement officer as defined in chapter 943.

285 2. When an injunction is issued, if the petitioner
286 requests the assistance of a law enforcement agency, the court
287 may order that an officer from the appropriate law enforcement
288 agency accompany the petitioner and assist in the execution or
289 service of the injunction. A law enforcement officer shall
290 accept a copy of an injunction for protection against repeat
291 violence, sexual violence, or dating violence, certified by the
292 clerk of the court, from the petitioner and immediately serve it
293 upon a respondent who has been located but not yet served.

294 (13) Whenever a law enforcement officer determines upon
295 probable cause that an act of dating violence has been committed
296 within the jurisdiction, or that a person has violated a

181511

Approved For Filing: 4/21/2009 2:04:03 PM

Amendment No.

297 condition of pretrial release as provided in s. 903.047 and the
298 original arrest was for an act of dating violence, the officer
299 may arrest the person or persons suspected of its commission and
300 charge such person or persons with the appropriate crime. The
301 decision to arrest and charge shall not require consent of the
302 victim or consideration of the relationship of the parties.

303 Section 9. Subsection (13) of section 901.15, Florida
304 Statutes, is amended to read:

305 901.15 When arrest by officer without warrant is
306 lawful.--A law enforcement officer may arrest a person without a
307 warrant when:

308 (13) There is probable cause to believe that the person
309 has committed an act that violates a condition of pretrial
310 release provided in s. 903.047 when the original arrest was for
311 an act of domestic violence as defined in s. 741.28, or when the
312 original arrest was for an act of dating violence as defined in
313 s. 784.046.

314
315 -----
316 **D I R E C T O R Y A M E N D M E N T**

317 Remove lines 42-43 and insert:

318 Section 1. Subsections (1) and (4) of section 30.231,
319 Florida Statutes, are amended, and subsection (6) is added to
320 that section, to read:

321
322 -----
323 **T I T L E A M E N D M E N T**

324 Remove lines 2-38 and insert:

181511

Approved For Filing: 4/21/2009 2:04:03 PM

Amendment No.

325 An act relating to service of process; amending s. 30.231,
326 F.S.; increasing the fees charged by the sheriff in civil
327 cases for service of process; deleting a prohibition on
328 additional fees for certain documents; exempting the state
329 and its agencies from increased fees or additional fees
330 required for alias and pluries; amending s. 48.021, F.S.;
331 providing that criminal witness subpoenas and criminal
332 summonses may be served by a special process server
333 appointed by the local sheriff or by a certified process
334 server; amending s. 48.27, F.S.; providing for the
335 selection of authorized certified process servers to serve
336 such subpoenas and summonses; amending s. 56.041, F.S.;
337 providing that all unsatisfied executions in the
338 possession of the sheriff docketed before October 1, 2001,
339 may be returned to the issuing court; amending s. 56.21,
340 F.S.; requiring the submission of an affidavit before
341 levying a judgment upon real property; requiring the
342 sheriff to furnish to the judgment debtor or lienholder,
343 or the debtor's or lienholder's attorney of record, a copy
344 of the notice of sale, notice of levy, and affidavit
345 within a specified period before execution of a sale or
346 levy; amending s. 56.27, F.S.; requiring that priority of
347 liens on real property be based on the effective date of
348 the judgment lien for a specified purpose, unless an
349 affidavit discloses that the property is subject to a
350 recorded mortgage, financing statement, tax warrant, or
351 other lien that is junior in priority to the judgment
352 lien; requiring a levying creditor to deliver the

181511

Approved For Filing: 4/21/2009 2:04:03 PM

HOUSE AMENDMENT
Bill No. CS/CS/HB 113

Amendment No.

353 affidavit to the sheriff at the time of the levy request
354 setting forth certain information and attestations;
355 requiring certain information to be contained in the
356 certified copy of recordation of lien; amending ss. 741.30
357 and 784.046, F.S., relating to service of process in cases
358 of domestic violence or sexual abuse; authorizing clerks
359 of the court to transmit facsimile copies of previously
360 certified injunctions to sheriffs upon request; requiring
361 sheriffs to verify receipt of facsimile copies of
362 injunctions with clerks of the court before attempting
363 service; authorizing law enforcement officers to serve
364 facsimile copies of injunctions in the same manner as
365 certified copies; authorizing a law enforcement officer to
366 arrest a person suspected of violating a condition of
367 pretrial release if the original arrest was for an act of
368 dating violence; amending s. 901.15, F.S.; conforming
369 provisions to changes made by the act; providing an
370 effective date.

181511

Approved For Filing: 4/21/2009 2:04:03 PM

Page 14 of 14