

**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 Criminal Justice Committee

**BILL:** CS/SB 388

**INTRODUCER:** Criminal Justice Committee and Senator Ring

**SUBJECT:** Civil and Criminal Statute of Limitations/Murder and Manslaughter

**DATE:** March 4, 2009                      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	<b>Fav/CS</b>
2.			JU	
3.			JA	
4.			WPSC	
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

The bill would amend the statute of limitations in civil actions, s. 95.11, F.S., 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. (Currently there is a two year statute of limitations for wrongful death actions.)

This bill would substantially amend section 95.11 of the Florida Statutes.

**II. Present Situation:**

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 suspended.

Under current law, civil actions for a death caused by the wrongful act, negligence, default, or breach of contract or warranty of another may be brought under the Wrongful Death Act.<sup>1</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), F.S., provides for a two year statute of limitations for wrongful death actions.

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

The bill would name the act the “Jeffrey Klee Memorial Act.”

It would amend s. 95.11, F.S., the statute of limitations in civil 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.<sup>2</sup> (Currently there is a two year statute of limitations for wrongful death actions.)

The bill would also specify that bringing a civil action is not conditioned upon the criminal prosecution, arrest, or conviction of the person being sued. Finally, the bill would provide language that limits the application of the changes to the time period in the civil statute of limitations to claims not otherwise time barred on the effective date of the act.

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

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

None.

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

None.

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

None.

### **V. Fiscal Impact Statement:**

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

None.

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<sup>1</sup> Section 768.19, F.S.

<sup>2</sup> Sections 782.04 and 782.07, F.S., respectively.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

This bill is named after Jeffrey Klee whose body was discovered in South Florida after being missing for more than 30 years. A friend of the victim recently admitted to a third party that he had killed Jeffrey accidentally. However, because prosecutors did not have sufficient evidence to go forward with more than a manslaughter prosecution, and the three year criminal statute of limitations that was in place during the relevant time period had expired, they were unable to file homicide charges against the alleged perpetrator.<sup>3</sup>

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

**CS by Criminal Justice on March 4, 2009:**

- Deletes the bill's provisions amending s. 775.15(1), F.S., the criminal statute of limitations controlling murder and manslaughter.
- Deletes the bill's specific references to "actions for murder or manslaughter" in the civil statute of limitations.
- Clarifies that the civil actions allowed to be brought at any time are wrongful death actions for "intentional torts resulting in death from acts described in s. 782.04 or s. 782.07," F.S., the murder or manslaughter statutes.

B. Amendments:

None.

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

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<sup>3</sup> [www.abajournal.com/news/florida\\_death\\_is\\_solved\\_after\\_30\\_years\\_but\\_no\\_charges...](http://www.abajournal.com/news/florida_death_is_solved_after_30_years_but_no_charges...) posted Nov. 21, 2008, 11:08a.m. CST.