

By Senator Braynon

33-02792-11

20112212__

1 A bill to be entitled

2 An act for the relief of Brian Pitts; directing the
3 Division of Administrative Hearings to appoint an
4 administrative law judge to determine a basis for
5 equitable relief for the purpose of compensating Mr.
6 Pitts for any wrongful act or omission by the State of
7 Florida or officials thereof; requiring a report to
8 the Legislature; authorizing compensation upon a
9 determination by the administrative law judge;
10 providing an appropriation to compensate Mr. Pitts for
11 injuries and damages sustained; providing a limitation
12 on the payment of fees and costs; directing that
13 certain court orders and judgments to be declared null
14 and void; prohibiting certain specified clerks of
15 court from restricting access to court papers relating
16 to Mr. Pitts; authorizing Mr. Pitts to practice law
17 under certain circumstances; directing the Department
18 of Law Enforcement to investigate certain illegal acts
19 committed by certain persons; providing an effective
20 date.

21
22 WHEREAS, this state has clearly recognized the practice of
23 law by lay persons since at least 1980 as declared in *The*
24 *Florida Bar v. Moses*, 380 So. 2d 412, 416-418 (Fla. 1980) and
25 *The Florida Bar re Advisory Opinion on Nonlawyer Representation*
26 *in Securities Arbitration*, 696 So. 2d 1178, 1180-1181, 1183-1184
27 (Fla. 1997), the Legislature and judiciary having concurrent
28 jurisdiction to regulate such, and

29 WHEREAS, Mr. Pitts has exercised this privilege since 2001

33-02792-11

20112212

30 in Pinellas County, and his practice was later confirmed by the
31 Florida Supreme Court in case number SC02-247, in a final order
32 dated November 6, 2003, at clause (1) declaring "unless
33 otherwise authorized by Florida statutes, court rule, case law,
34 administrative rule, or the Rules Regulating The Florida Bar,"
35 and

36 WHEREAS, since the inception of Mr. Pitts' practice, the
37 Second District Court of Appeal, the Sixth Judicial Circuit of
38 Florida serving Pasco and Pinellas Counties, the state attorney
39 for the Sixth Judicial Circuit of Florida, and The Florida Bar
40 have, without cause, continued to deprive Mr. Pitts of the
41 privilege of practicing law as prescribed by the Legislature and
42 Florida Supreme Court, subjecting him to civil and criminal
43 proceedings and penalties on an ongoing basis, and

44 WHEREAS, the Florida Supreme Court, by virtue of the broad,
45 general, and ambiguous language of its 2003 final order in case
46 number SC02-247, has subjected Mr. Pitts to entrapment, and has
47 needlessly and unjustly avoided and failed upon many requests by
48 Mr. Pitts to clarify or amend the final order or to promulgate
49 court rules through The Florida Bar following original
50 proceedings brought or suggested by Mr. Pitts to correct the
51 matter, and

52 WHEREAS, this course of misconduct has been ongoing from
53 2001 to 2010, such that the courts, The Florida Bar, and the
54 state attorney's office for Pinellas County being in continual
55 collusion against Mr. Pitts in cases SC02-247, SC06-1279, CRCAB-
56 65835CFANO, CRCAB-90407CFANO, CRC07-12964CFANO, CTC07-03965
57 MMANO, CTC03-01885MMANO, CTC03-01887MMANO, and CTC03-09855MMANO,
58 and such action has resulted in wrongful and unlawful

33-02792-11

20112212__

59 incarceration of Mr. Pitts in the Pinellas County jail for a
60 total of nearly one year, and

61 WHEREAS, the purpose of this course of misconduct was to
62 retaliate against Mr. Pitts and, by way of his detainment, to
63 thwart his pending pro se actions for relief from said collusion
64 by civil, appellate, or original proceedings directed to or from
65 the above criminal cases, and

66 WHEREAS, appearing pro se in many of his cases, Mr. Pitts
67 was complimented by several judges of the Sixth Judicial Circuit
68 for his exceptional degree of technical and performance
69 competence that would be expected of any trained and experienced
70 member of The Florida Bar, yet he was informed by express or
71 implied communication that he would not receive the relief
72 requested in any given proceeding unless represented by a member
73 of The Florida Bar, as a matter of camaraderie, and

74 WHEREAS, though appearing pro se in said cases and other
75 actions seeking relief from said collusion, Mr. Pitts was at
76 times represented by appointed counsel, however such proceedings
77 proved to be futile because the proceedings were staged by the
78 courts and state attorney to be illusory, and the courts failed
79 to abide by binding precedent and stare decisis, where
80 applicable, as well as Florida Rules of Court, as evidenced by
81 the series of filings in each case by Mr. Pitts, and then his
82 appointed counsel engaged in similar misconduct, hence depriving
83 Mr. Pitts of procedural and substantive due process, equal
84 protection of the law, self-representation, and representation
85 by counsel under the United States Constitution, and

86 WHEREAS, the Second District Court of Appeal has declared
87 in *Denson v. State*, 711 So. 2d 1225, 1230 (Fla. 2d DCA 1998)

33-02792-11

20112212

88 that "appellate judges take an oath to uphold the law and the
89 constitution of this state. The citizens of this state properly
90 expect these judges to protect their rights. When reviewing an
91 appeal with a preserved issue, if we discover that a person has
92 been subjected to a patently illegal sentence to which no
93 objection was lodged in the trial court, neither the
94 constitution nor our own consciences will allow us to remain
95 silent and hope that the prisoner, untrained in the law, will
96 somehow discover the error and request its correction. If three
97 appellate judges, like a statue of the 'see no evil, hear no
98 evil, speak no evil' monkeys, declined to consider such serious,
99 patent errors, we would jeopardize the public's trust and
100 confidence in the institution of courts of law", compare *Bedford*
101 *v. State*, 633 So. 2d 13, 14 (Fla. 1994), yet they have
102 deliberately and intentionally, in concert with the Florida
103 Supreme Court justices, failed to abide by said rules of law as
104 to Mr. Pitts' cases on appeal or by original proceedings brought
105 and maintained by him or his counsel, and

106 WHEREAS, the sheriff of Pinellas County further
107 participated in the concerted effort of the courts, The Florida
108 Bar, and the state attorney's office by illegally incarcerating
109 Mr. Pitts in the Pinellas County jail during the time periods of
110 January 2003 through April 2004 and March 22, 2010, through July
111 4, 2010, and by refusing him administrative alternative
112 sentencing without cause, and by subjecting him to living
113 conditions and circumstances in violation of Florida Model Jail
114 Standards (2.15)(c), (9.08), (9.06)(b), (5.08)(a)&(c)(1)-(8),
115 (12.03)(d)-(g)&(i), (12.06), (5.08)(j), (10.01), (6.02),
116 (11.12), (11.16), Appendix A, (4.12), (4.13), (4.15), and (9.10)

33-02792-11

20112212

117 and in violation of ss. 951.03 and 951.033(3), Florida Statutes,
118 and by extending his sentence an additional 40 and 10 days of
119 detention over the ordered sentences in violation of Inmate
120 Handbook XI. A., Florida Model Jail Standard (4.16), ss.
121 951.21(1) and 921.16(1), Florida Statutes, thereby subjecting
122 him to cruel and unusual punishment, subjecting him to false
123 imprisonment, and denying him due process and equal protection
124 of the law. See *Miller v. Carson*, 599 F.2d 742 (5th Cir. 1979);
125 *Miller v. Carson*, 563 F.2d 757 (5th Cir. 1977); *Miller v.*
126 *Carson*, 563 F.2d 741 (5th Cir. 1977); *Miller v. Carson*, 401 F.
127 Supp. 835 (M.D. Fla. 1975); *Miller v. Carson*, 392 F. Supp. 515
128 (M.D. Fla. 1975); *Solomos v. Jenne*, 776 So. 2d 953 (Fla. 4th DCA
129 2000); *Douthit v. Jones*, 619 F.2d 527 (5th Cir. 1980), and

130 WHEREAS, such conditions and circumstances of the jail are
131 reflected in the St. Petersburg Times article dated July 5,
132 2010, and titled "Thousands of Pinellas jail inmates released
133 without a judge ever setting bail", which was complemented by a
134 series of articles released by the Orlando Sentinel, including
135 "Florida's suspect jails: The state's hands-off approach to
136 inspecting jails leaves them vulnerable" dated April 8, 2010,
137 "Jail-standards chief defends system of checks" dated May 15,
138 2010, "If all Central Florida jails rate an A, is it deserved?"
139 dated May 15, 2010, and "Beef up jail oversight: Florida jails
140 need tough oversight, not coddling" dated May 18, 2010, and

141 WHEREAS, such misconduct is a clear abuse of judicial,
142 executive, and administrative authority as to the state court
143 system and local government, including the state attorney and
144 sheriff of Pinellas County, thereby resulting in a public
145 embarrassment to this state since said authorities knew there

33-02792-11

20112212

146 was no basis in fact or law for their unlawful acts against Mr.
147 Pitts, and

148 WHEREAS, Mr. Pitts' good name and reputation have been
149 damaged and he has been deprived of due process, the ability to
150 conduct a lawful business, freedom of speech, property, liberty,
151 and equal protection of the law, and neither has he benefited
152 from constitutional protections against unlawful trusts by
153 public officers and employees (oath of office) and double
154 jeopardy as to criminal proceedings and sanctions, and he has
155 further suffered mental anguish and emotional distress as the
156 result of the intentional misconduct and gross negligence of the
157 courts, the state attorney's office, The Florida Bar, and the
158 sheriff of Pinellas County relating to his practice of law as a
159 nonlawyer in this state, and further there is no state action
160 exception to the resulting violation of anti-trust laws (Sherman
161 Act), and

162 WHEREAS, Mr. Pitts has suffered, and continues to suffer,
163 significant monetary damage by means of lost income, property,
164 time, expenses, fees, fines, costs, and restitution resulting
165 from the civil and criminal proceedings relating to his alleged
166 unauthorized or unlicensed practice of law, and

167 WHEREAS, Mr. Pitts, on many occasions, appears before the
168 Legislature to instruct, advise, inform, and advocate for or
169 against proposed legislation covering a large spectrum of topics
170 and subject matter in fact and law in a exceptional degree of
171 technical and performance competence that would be expected of
172 any trained and experienced member of The Florida Bar, and

173 WHEREAS, the Legislature recognizes that no system of
174 justice is impervious to human error, and

33-02792-11

20112212

175 WHEREAS, the Legislature acknowledges that the state's
176 system of justice sometimes yields imperfect results that may
177 have tragic consequences, and

178 WHEREAS, this claim is based on a moral and legal
179 obligation of the Legislature to acknowledge its own acts and
180 inherent authority to correct a wrong whereby normal or other
181 state authority, remedy, or resolution has been intentionally
182 avoided and denied in an arbitrary and capricious manner,
183 resulting in a manifest injustice or disregard for the law, and

184 WHEREAS, this is in accord with rulings of the courts
185 concerning legislative claim bills as expressed in *Circuit Court*
186 *of Twelfth Judicial Circuit v. Dep't of Natural Res.*, 339 So. 2d
187 1113, 1116-1117 (Fla. 1976) (One may seek a claim bill through
188 the legislature, for "[a]bsent legislation waiving the state's
189 sovereign immunity . . . this Court cannot authorize relief
190 through the judicial process"); *Gerard v. Dep't of Transp.*, 472
191 So. 2d 1170, 1172 (Fla. 1985) ("we agree with the Department of
192 Transportation's assertion that a judgment in this case was not
193 a prerequisite to Gerard's filing a claims bill in the
194 legislature"); *Jetton v. Jacksonville Elec. Auth.*, 399 So. 2d
195 396, 397 (Fla. 1st DCA 1981) (while the Legislature has placed
196 limits on recovery, "claimants remain free to seek legislative
197 relief bills, as they did during days of complete sovereign
198 immunity"); and *Dickinson v. Bradley*, 298 So. 2d 352, 354 (Fla.
199 1974) ("any claim bill is restricted to less than the general
200 public and its purpose is to discharge the state's moral
201 obligation to any individual or other entity whom or which the
202 legislature recognizes as being entitled to such. . . . The
203 legislature may enact a claim bill for what would be a tort if a

33-02792-11

20112212__

204 private party was involved just as effectively as for what would
205 constitute a contractual debt.”), and

206 WHEREAS, the Legislature intends that any compensation made
207 pursuant to this act be the sole compensation to be provided by
208 the state for any and all present and future claims arising out
209 of the facts presented in this act, NOW, THEREFORE,

210

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

212

213 Section 1. The facts stated in the preamble to this act are
214 found and declared to be true, and all remedies were exhausted
215 as of May 12, 2010, and July 4, 2010, both judicially and
216 administratively, respectively.

217 Section 2. The Division of Administrative Hearings shall
218 appoint an administrative law judge or special master to conduct
219 a hearing and determine a basis for equitable relief for the
220 purpose of compensating Mr. Pitts for any wrongful act or
221 omission of the State of Florida, the state attorney of Pinellas
222 County, or the sheriff of Pinellas County in proportion to what
223 occurred in the investigations, the civil and criminal
224 proceedings relating to Mr. Pitts' alleged unlicensed or
225 unauthorized practice of law, and his incarcerations totaling
226 nearly 12 months, if not longer, from 2001 to 2010.

227 Section 3. (1) The administrative law judge or special
228 master is to determine by a preponderance of the evidence that
229 the State of Florida, the state attorney of Pinellas County, or
230 the sheriff of Pinellas County committed a wrongful act or
231 omission and that a basis for equitable relief exists, and the
232 administrative law judge or special master shall award Mr. Pitts

33-02792-11

20112212

233 an amount of \$7 million, unless it is determined that a lesser
234 award is in order which shall be no less than \$1 million in
235 proportionate shares to be paid in lump sum or payments over a
236 period of no more than 10 years.

237 (2) The administrative law judge or special master shall
238 report his or her determination to the President of the Senate
239 and the Speaker of the House of Representatives no later than
240 July 1, 2011. The Chief Financial Officer is directed to draw a
241 warrant in satisfaction of the relief awarded by the
242 administrative law judge or special master, as provided in this
243 act, and to pay the warrant out of the state courts trust fund
244 and state attorneys trust fund in the State Treasury to be
245 payable to Brian Pitts. Pinellas County is directed to and shall
246 pay the warrant out of its general revenue fund of the county or
247 by other means it has provided for to pay valid claims against
248 said local government as pertains to the sheriff of Pinellas
249 County, as to its share to be payable to Mr. Pitts.

250 (3) This award is intended to provide the sole compensation
251 for all present and future claims arising out of the factual
252 situation described in this act which resulted in unlawful or
253 unconstitutional acts committed against Mr. Pitts in connection
254 with allegations, judgments, and convictions of the unlicensed
255 or unauthorized practice of law and his incarcerations totaling
256 nearly 12 months, if not longer, from 2001 through 2010. The
257 total amount paid for attorney's fees, lobbying fees, costs, and
258 other similar expenses relating to this claim may not exceed 25
259 percent of the amount awarded under this act.

260 (4) All final orders, judgments, decrees, and convictions,
261 and orders or liens as to fees, fines, costs, and restitution

33-02792-11

20112212

262 rendered in cases SC06-1279, SC02-247, CRCAB-90407CFANO, CRCAB-
263 65835CFANO, CRC07-12964CFANO, CTC07-03965MMANO, CTC03-
264 09855MMANO, CTC03-01885MMANO, CTC03-01887MMANO, wherein Mr.
265 Pitts is the respondent or defendant, are hereby null and void
266 and are annulled by this act by virtue of the doctrine of
267 separation of powers because the courts failed to recognize the
268 Legislature's lawful and valid enactments authorizing lay
269 representation as expressed in *The Florida Bar v. Moses*, 380 So.
270 2d 412, 416-418 (Fla. 1980); by virtue of inherent authority of
271 this Legislature as expressed in *Florida House of*
272 *Representatives v. Crist*, 999 So. 2d 601, 611 (Fla. 2008),
273 *Trianon Park Condo. Ass'n v. City of Hialeah*, 468 So. 2d 912,
274 918, 919 (Fla. 1985); and by virtue of checks and balances
275 exercised by this Legislature as expressed in *State Ex Rel.*
276 *Young v. Duval County*, 79 So. 692, 697 (Fla. 1918) ("A clear
277 violation of the constitutional provisions dividing the powers
278 of government into departments should be checked and remedied").
279 As declared in *State v. City of Stuart*, 120 So. 335, 346 (Fla.
280 1929), "[t]he general rule is that the Legislature is supreme in
281 the legislative field, which is the most powerful branch of
282 government, so long as it does not violate any of the provisions
283 of the organic law. There is to our minds no justifiable
284 exception of any class of legislation from this all-pervasive
285 and fundamental principle."

286 (5) The clerk of the court for the Florida Supreme Court,
287 as to cases SC06-1279 and SC02-247, and the clerk of the court
288 for the Sixth Judicial Circuit, as to cases CRCAB-90407CFANO,
289 CRCAB-65835CFANO, CRC07-12964CFANO, CTC07-03965MMANO, CTC03-
290 09855MMANO, CTC03-01885MMANO, and CTC03-01887MMANO, relating to

33-02792-11

20112212__

291 Mr. Pitts, are hereby directed to remove from public and private
292 access all docket, records, documents, and recorded orders or
293 liens on said cases handing said records or documents over to
294 the Department of Law Enforcement to fulfill their duties under
295 section 6 of this act. The Department of Law Enforcement is
296 hereby directed to remove from public and private access all
297 record history and information of a criminal nature concerning
298 Mr. Pitts. This includes, but is not limited to, fingerprints,
299 felon registration, and all other matters concerning the case
300 numbers cited in this subsection. Said records, information, or
301 documents are prohibited from being used by or accessed for any
302 purpose by anyone unless inquired to by federal authorities or
303 for investigations under section 6 of this act.

304 (6) The Department of Law Enforcement is directed to ensure
305 the compliance, execution, and enforcement of subsections (4)
306 and (5) of this section, and shall and is directed to provide
307 protective services to Mr. Pitts ensuring his rights,
308 privileges, and safety under sections 4, 5, and 6 of this act.

309 Section 4. In accordance with the Florida Supreme Court's
310 final order in case number SC02-247 and the exception contained
311 in clause (1) therein declaring "unless otherwise authorized by
312 Florida statutes, court rule, case law, administrative rule, or
313 the Rules Regulating The Florida Bar," thereby authorizing Mr.
314 Pitts to practice law in this state, the Legislature authorizes
315 Mr. Pitts to practice law in this state under the following
316 designations, titles, rules, decisions, or acts in the capacity
317 as a lay counselor or lay representative:

318 (1) Chapter 120, Florida Statutes, relating to a qualified
319 representative.

33-02792-11

20112212

320 (2) Chapter 44, Florida Statutes, relating to a designated
321 representative.

322 (3) Section 709.08, Florida Statutes, relating to an
323 attorney-in-fact.

324 (4) Decisions or rules of the Florida Supreme Court
325 relating to representation by a realty property manager.

326 (5) Decisions or rules of the Florida Supreme Court
327 relating to a nonlawyer using approved forms.

328 (6) Decisions or rules of the Florida Supreme Court
329 relating to representation in county or small claims civil
330 proceedings.

331 (7) Decisions or rules of the Florida Supreme Court
332 relating to third party standing representation.

333 (8) Rule 5-15, Rules Relating to Admission to The Florida
334 Bar.

335 (9) Judicial discretion under the inherent authority
336 doctrine.

337 (10) Federal law or any other clearly expressed rule,
338 statute, or court or administrative decision or order under
339 other federal, state, or local law and authority.

340 Section 5. Any appearance or public testimony given by Mr.
341 Pitts on bills or matters before the Legislature, wherever held
342 or convened throughout this state, does not constitute the
343 practice of law. In all circumstances, Mr. Pitts retains the
344 right anytime he has valid standing supported by law or, if he
345 is the subject of civil, administrative, or criminal
346 proceedings, retains the right to represent himself without a
347 lawyer in court and administrative actions or cases.

348 Section 6. Due to the period of ongoing misconduct against

33-02792-11

20112212

349 Mr. Pitts as described in this act, the Legislature directs the
350 Department of Law Enforcement, assisted by Mr. Pitts, to
351 investigate these acts committed by:

352 (1) The Florida Supreme Court justices for violations of
353 ss. 914.22(2)(f) or 914.22(4)(f), Florida Statutes, and 18
354 U.S.C. 1512 relating to their final ruling rendered February 22,
355 2010, in case SC06-1279 for the incarceration of Mr. Pitts on
356 the eve of the 2010 legislative session pending Senate bill 58
357 proceedings.

358 (2) The Second District Court of Appeal judges assigned to
359 Mr. Pitts' cases on motions, reviews, and original proceedings;
360 the Sixth Judicial Circuit judges; and the state attorneys
361 involved for violations of ss. 775.15(12)(b), 843.0855(2) and
362 (3), 839.13(1), 839.24, 918.13, 836.05, 843.03, 777.04(2) and
363 (3), and 895.03, Florida Statutes, and 18 U.S.C. 241, 242, 1951,
364 and 1962.

365 (3) The Florida Bar and their unlicensed practice of law
366 prosecutors involved for violations of ss. 839.13(1), 918.13,
367 836.05, 777.04(2) and (3), and 895.03, Florida Statutes, and 18
368 U.S.C. 241, 242, 1951, and 1962, as well as s. 542.21(2),
369 Florida Statutes, and 15 U.S.C. 1, 2, and 3 relating to the
370 practice of law by lawyers and nonlawyers.

371 (4) The sheriff of Pinellas County for violations of ss.
372 775.15(12)(b), 843.0855(2) and (3), 843.03, 839.13(1), 950.09,
373 and 951.14, Florida Statutes, and 18 U.S.C. 241 or 242.

374
375 The Department of Law Enforcement shall exercise all authority
376 it has under general law to pursue criminal violations under
377 this act and refer the evidence of such crimes to the officials

33-02792-11

20112212__

378 authorized to conduct the prosecution which shall be placed
379 before a grand jury to be impaneled in Leon County to make
380 presentment as to the criminal matters under this section of the
381 act within one year.

382 Section 7. The President of the Senate, the Speaker of the
383 House of Representatives, or the Governor may sever in whole or
384 in part any section of this act, excluding this section 7, which
385 remaining parts shall be in full force and effect upon becoming
386 law. Notwithstanding severance, Mr. Pitts shall retain the right
387 or privilege in future Legislatures to request the relief
388 severed in part or whole by virtue of this section until fully
389 remedied.

390 Section 8. This act shall take effect upon becoming a law.