

By Senator Smith

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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 be declared null
14 and void; authorizing Mr. Pitts to practice law under
15 certain circumstances; directing the Department of Law
16 Enforcement to investigate certain illegal acts
17 committed by certain persons; providing for
18 severability; providing an effective date.

19
20 WHEREAS, this state has clearly recognized the practice of
21 law by lay persons since at least 1980 as declared in *The*
22 *Florida Bar v. Moses*, 380 So. 2d 412, 416-418 (Fla. 1980) and
23 *The Florida Bar re Advisory Opinion on Nonlawyer Representation*
24 *in Securities Arbitration*, 696 So. 2d 1178, 1180-1181, 1183-1184
25 (Fla. 1997), the Legislature and judiciary having concurrent
26 jurisdiction to regulate such, and

27 WHEREAS, Mr. Pitts has exercised this privilege since 2001
28 in Pinellas County, and his practice was later confirmed by the
29 Florida Supreme Court in case number SC02-247, in a final order

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30 dated November 6, 2003, at clause (1) declaring "unless
31 otherwise authorized by Florida Statutes, court rule, case law,
32 administrative rule, or the rules regulating The Florida Bar,"
33 and

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

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

50 WHEREAS, this course of misconduct has been ongoing from
51 2001 to 2010, such that the courts, The Florida Bar, and the
52 State Attorney's Office for the Sixth Judicial Circuit of
53 Florida being in continual collusion against Mr. Pitts in cases
54 SC02-247, SC06-1279, CRCAB-65835CFANO, CRCAB-90407CFANO, CRC07-
55 12964CFANO, CTC07-03965 MMANO, CTC03-01885MMANO, CTC03-
56 01887MMANO, and CTC03-09855MMANO, and such action has resulted
57 in wrongful and unlawful incarcerations of Mr. Pitts in the
58 Pinellas County jail for a total of nearly 1 year, and

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

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

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

84 WHEREAS, the Second District Court of Appeal has declared
85 in *Denson v. State*, 711 So. 2d 1225, 1230 (Fla. 2d DCA 1998)
86 that "appellate judges take an oath to uphold the law and the
87 constitution of this state. The citizens of this state properly

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

104 WHEREAS, the Pinellas County Sheriff's Office further
105 participated in the concerted effort of the courts, The Florida
106 Bar, and the State Attorney's Office by illegally incarcerating
107 Mr. Pitts in the Pinellas County jail during the time periods of
108 January 2003 through April 2004 and March 22, 2010, through July
109 4, 2010, and by refusing him administrative alternative
110 sentencing without cause, and by subjecting him to living
111 conditions and circumstances in violation of Florida Model Jail
112 Standards (2.15)(c), (9.08), (9.06)(b), (5.08)(a)&(c)(1)-(8),
113 (12.03)(d)-(g)&(i), (12.06), (5.08)(j), (10.01), (6.02),
114 (11.12), (11.16), Appendix A, (4.12), (4.13), (4.15), and (9.10)
115 and in violation of ss. 951.03 and 951.033(3), Florida Statutes,
116 and by extending his sentence an additional 40 and 10 days of

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

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

140 WHEREAS, such misconduct is a clear abuse of judicial,
141 executive, and administrative authority as to the state court
142 system and local government, including the State Attorney's
143 Office for the Sixth Judicial Circuit of Florida and the
144 Pinellas County Sheriff's Office, thereby resulting in a public
145 embarrassment to this state since said authorities knew there

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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, 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, he has not benefited from
152 constitutional protections against unlawful trusts by public
153 officers and employees (oath of office) and double jeopardy as
154 to criminal proceedings and sanctions, he has suffered mental
155 anguish and emotional distress as the result of the intentional
156 misconduct and gross negligence of the courts, the State
157 Attorney's Office for the Sixth Judicial Circuit of Florida, The
158 Florida Bar, and the Pinellas County Sheriff's Office relating
159 to his practice of law as a nonlawyer in this state, and,

160 further, there is no state-action exception to federal anti-
161 trust laws (Sherman Act), which were violated in this case, and

162 WHEREAS, the cases involving Mr. Pitts fail to comply with
163 the requirements of s. 20.02(1), Florida Statutes, which states
164 in part: "The judicial branch has the purpose of determining the
165 constitutional propriety of the policies and programs and of
166 adjudicating any conflicts arising from the interpretation or
167 application of the laws," and

168 WHEREAS, Mr. Pitts has suffered, and continues to suffer,
169 significant monetary damage by virtue of lost income, property,
170 and time, expenses, fees, fines, costs, and restitution
171 resulting from the civil and criminal proceedings relating to
172 his alleged unauthorized or unlicensed practice of law, and

173 WHEREAS, Mr. Pitts, on many occasions, appears before the
174 Legislature to instruct, advise, inform, and advocate for or

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175 against proposed legislation covering a broad spectrum of topics
176 and subject matter in fact and law in a exceptional degree of
177 technical and performance competence that would be expected of
178 any trained and experienced member of The Florida Bar, and

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

181 WHEREAS, the Legislature acknowledges that the state's
182 system of justice sometimes yields imperfect results that may
183 have tragic consequences, and

184 WHEREAS, this claim is based on a moral and legal
185 obligation of the Legislature to acknowledge its own acts and
186 inherent authority to correct a wrong whereby normal or other
187 state authority, remedy, or resolution has been intentionally
188 avoided and denied in an arbitrary and capricious manner,
189 resulting in a manifest injustice or disregard for the law, and

190 WHEREAS, this is in accord with rulings of the courts
191 concerning legislative claim bills as expressed in *Circuit Court*
192 *of Twelfth Judicial Circuit v. Dep't of Natural Res.*, 339 So. 2d
193 1113, 1116-1117 (Fla. 1976), in which the court held that one
194 may seek a claim bill through the Legislature, for "[a]bsent
195 legislation waiving the state's sovereign immunity . . . this
196 Court cannot authorize relief through the judicial process";
197 *Gerard v. Dep't of Transp.*, 472 So. 2d 1170, 1172 (Fla. 1985),
198 in which the court stated, "we agree with the Department of
199 Transportation's assertion that a judgment in this case was not
200 a prerequisite to Gerard's filing a claims bill in the
201 legislature"; *Jetton v. Jacksonville Elec. Auth.*, 399 So. 2d
202 396, 397 (Fla. 1st DCA 1981), in which the court held that,
203 while the Legislature has placed limits on recovery, "claimants

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204 remain free to seek legislative relief bills, as they did during
205 days of complete sovereign immunity"; and *Dickinson v. Bradley*,
206 298 So. 2d 352, 354 (Fla. 1974), in which the court held that
207 "any claim bill is restricted to less than the general public
208 and its purpose is to discharge the state's moral obligation to
209 any individual or other entity whom or which the legislature
210 recognizes as being entitled to such . . . The Legislature may
211 enact a claim bill for what would be a tort if a private party
212 was involved just as effectively as for what would constitute a
213 contractual debt," and

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

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

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221 Section 1. The facts stated in the preamble to this act are
222 found and declared to be true, and all judicial and
223 administrative remedies were exhausted as of May 12, 2010, and
224 July 4, 2010, respectively.

225 Section 2. The Division of Administrative Hearings shall
226 appoint an administrative law judge or special master to conduct
227 a hearing and determine a basis for equitable relief for the
228 purpose of compensating Mr. Pitts for any wrongful act or
229 omission of the State of Florida, the State Attorney's Office
230 for the Sixth Judicial Circuit of Florida, or the Pinellas
231 County Sheriff's Office in proportion to what occurred in the
232 investigations, the civil and criminal proceedings relating to

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233 Mr. Pitts' alleged unlicensed or unauthorized practice of law,
234 and his incarcerations totaling nearly 12 months from 2001 to
235 2010.

236 Section 3. (1) The administrative law judge or special
237 master shall determine by a preponderance of the evidence
238 whether the State of Florida, the State Attorney's Office for
239 the Sixth Judicial Circuit of Florida, or the Pinellas County
240 Sheriff's Office committed a wrongful act or omission and
241 whether a basis for equitable relief exists, and if it so finds,
242 the administrative law judge or special master shall award Mr.
243 Pitts an amount of up to \$375,000, to be paid proportionately by
244 the parties that wronged him and to be paid in lump sum or in
245 payments over a period of no more than 10 years.

246 (2) The administrative law judge or special master shall
247 report his or her determination to the President of the Senate
248 and the Speaker of the House of Representatives by July 1, 2012.
249 The Chief Financial Officer is directed to draw a warrant in
250 satisfaction of the relief awarded by the administrative law
251 judge or special master, as provided in this act, and to pay the
252 warrant out of the Administrative Trust Fund within the state
253 courts system and the State Attorneys Revenue Trust Fund to
254 Brian Pitts. Pinellas County is directed to and shall pay the
255 warrant out of its general revenue fund or by other means it has
256 provided for to pay valid claims against the local government as
257 pertains to the Pinellas County Sheriff's Office and as to its
258 share of the total award to Mr. Pitts.

259 (3) This award is intended to provide the sole compensation
260 for all present and future claims arising out of the factual
261 situation described in this act which resulted in unlawful or

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262 unconstitutional acts committed against Mr. Pitts in connection
263 with allegations, judgments, and convictions of the unlicensed
264 or unauthorized practice of law and his incarcerations totaling
265 nearly 12 months from 2001 through 2010. The total amount paid
266 for attorney's fees, lobbying fees, costs, and other similar
267 expenses relating to this claim may not exceed 25 percent of the
268 amount awarded under this act.

269 (4) All final orders, judgments, decrees, and convictions,
270 and orders or liens pertaining to fees, fines, costs, and
271 restitution, rendered in cases SC06-1279, SC02-247, CRCAB-
272 90407CFANO, CRCAB-65835CFANO, CRC07-12964CFANO, CTC07-
273 03965MMANO, CTC03-09855MMANO, CTC03-01885MMANO, and CTC03-
274 01887MMANO, wherein Mr. Pitts is the respondent or defendant,
275 are null and void and are annulled by this act by virtue of the
276 doctrine of separation of powers because the courts failed to
277 recognize the Legislature's lawful and valid enactments
278 authorizing lay representation as expressed in *The Florida Bar*
279 *v. Moses*, 380 So. 2d 412, 416-418 (Fla. 1980); by virtue of
280 inherent authority of this Legislature as expressed in *Florida*
281 *House of Representatives v. Crist*, 999 So. 2d 601, 611 (Fla.
282 2008), *Trianon Park Condo. Ass'n v. City of Hialeah*, 468 So. 2d
283 912, 918, 919 (Fla. 1985); and by virtue of checks and balances
284 exercised by this Legislature as expressed in *State Ex Rel.*
285 *Young v. Duval County*, 79 So. 692, 697 (Fla. 1918), in which the
286 court found, "A clear violation of the constitutional provisions
287 dividing the powers of government into departments should be
288 checked and remedied." As the court found in *State v. City of*
289 *Stuart*, 120 So. 335, 346 (Fla. 1929), "[t]he general rule is
290 that the Legislature is supreme in the legislative field, which

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291 is the most powerful branch of government, so long as it does
292 not violate any of the provisions of the organic law. There is
293 to our minds no justifiable exception of any class of
294 legislation from this all-pervasive and fundamental principle."

295 (5) The clerk of the court for the Florida Supreme Court,
296 as to cases SC06-1279 and SC02-247, and the clerk of the court
297 for the Sixth Judicial Circuit, as to cases CRCAB-90407CFANO,
298 CRCAB-65835CFANO, CRC07-12964CFANO, CTC07-03965MMANO, CTC03-
299 09855MMANO, CTC03-01885MMANO, and CTC03-01887MMANO, all
300 pertaining to Mr. Pitts, are hereby directed to remove from
301 public and private access all dockets, records, documents, and
302 recorded orders or liens related to those cases and transmit
303 them to the Department of Law Enforcement to fulfill the duties
304 required under section 6 of this act. The Department of Law
305 Enforcement is hereby directed to remove from public and private
306 access all record history and information of a criminal nature
307 concerning Mr. Pitts. This includes, but is not limited to,
308 fingerprints, felon registration, and all other matters
309 concerning the case numbers cited in this subsection. Said
310 records, information, or documents may not be used by or
311 accessed for any purpose by anyone unless access to those
312 records is required by federal authorities or for investigations
313 conducted under section 6 of this act.

314 (6) The Department of Law Enforcement is directed to ensure
315 the compliance, execution, and enforcement of subsections (4)
316 and (5) of this section, and shall provide protective services
317 to Mr. Pitts ensuring his rights, privileges, and safety under
318 sections 4, 5, and 6 of this act.

319 Section 4. In accordance with the Florida Supreme Court's

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320 final order in case number SC02-247 and the exception contained
321 in clause (1) of that ruling, unless otherwise authorized by
322 Florida Statutes, court rule, case law, administrative rule, or
323 the rules regulating The Florida Bar, thereby authorizing Mr.
324 Pitts to practice law in this state, the Legislature authorizes
325 Mr. Pitts to practice law in this state under the following
326 designations, titles, rules, decisions, or acts in the capacity
327 as a lay counselor or lay representative:

328 (1) Chapter 120, Florida Statutes, relating to a qualified
329 representative.

330 (2) Chapter 44, Florida Statutes, relating to a designated
331 representative.

332 (3) Section 709.08, Florida Statutes, relating to an
333 attorney in fact.

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

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

338 (6) Decisions or rules of the Florida Supreme Court
339 relating to representation in county or small claims civil
340 proceedings.

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

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

345 (9) Judicial discretion under the inherent authority
346 doctrine.

347 (10) Federal law or any other clearly expressed rule,
348 statute, or court or administrative decision or order under

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349 other federal, state, or local law and authority.

350 Section 5. Any appearance or public testimony given by Mr.
351 Pitts on bills or matters before the Legislature, wherever held
352 or convened throughout this state, does not constitute the
353 practice of law. In all circumstances Mr. Pitts retains the
354 right to represent himself at any time he has valid standing
355 supported by law, or, if he is the subject of civil,
356 administrative, or criminal proceedings, Mr. Pitts retains the
357 right to represent himself without a lawyer in court and in
358 administrative actions or cases.

359 Section 6. Due to the period of ongoing misconduct against
360 Mr. Pitts as described in this act, the Legislature directs the
361 Department of Law Enforcement, assisted by Mr. Pitts, to
362 investigate these acts committed by:

363 (1) The Florida Supreme Court justices involved for
364 violations of ss. 775.15(12)(b), 777.04(2) and (3), 836.05,
365 843.03, 839.13(1), 839.24, 876.10, 843.0855(2) and (3), 895.03,
366 914.22(2)(f), 914.22(4)(f), and 918.13, Florida Statutes, and 18
367 U.S.C. ss. 241, 242, 1512, 1951, and 1962, relating to the
368 court's final ruling rendered February 22, 2010, in case number
369 SC06-1279 for the incarceration of Mr. Pitts on the eve of the
370 2010 legislative session pending proceedings on Senate Bill 58.

371 (2) The Second District Court of Appeal judges assigned to
372 Mr. Pitts' cases on motions, reviews, and original proceedings;
373 the Sixth Judicial Circuit judges; and the state attorneys
374 involved for violations of ss. 775.15(12)(b), 843.0855(2) and
375 (3), 839.13(1), 839.24, 918.13, 836.05, 843.03, 876.10 777.04(2)
376 and (3), and 895.03, Florida Statutes, and 18 U.S.C. 241, 242,
377 1951, and 1962.

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378 (3) The Florida Bar and its representatives, who pursued
379 charges of unlicensed practice of law against Mr. Pitts, for
380 violations of ss. 839.13(1), 918.13, 836.05, 777.04(2) and (3),
381 and 895.03, Florida Statutes, and 18 U.S.C. 241, 242, 1951, and
382 1962, as well as s. 542.21(2), Florida Statutes, and 15 U.S.C.
383 1, 2, and 3, relating to the practice of law by lawyers and
384 nonlawyers.

385 (4) The Pinellas County Sheriff's Office for violations of
386 ss. 775.15(12)(b), 843.0855(2) and (3), 843.03, 839.13(1),
387 876.10, 950.09, and 951.14, Florida Statutes, and 18 U.S.C. 241
388 or 242.

389
390 The Department of Law Enforcement shall exercise all authority
391 it has under general law to investigate criminal violations
392 under this act and shall refer any evidence of such crimes to
393 the appropriate officials for prosecution. Charges arising out
394 of the criminal investigation shall be brought before a grand
395 jury impaneled in Leon County within 1 year after passage of
396 this act.

397 Section 7. If any provision of this act or its application
398 to any person or circumstance is held invalid, the invalidity
399 does not affect other provisions or applications of this act
400 which can be given effect without the invalid provision or
401 application, and to this end the provisions of the act are
402 severable. Mr. Pitts retains the right to make future requests
403 of the Legislature for any relief severed in part or in whole.

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