

**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.)

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Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

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BILL: CS/SB 364

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Avila

SUBJECT: Bereavement Benefits for Law Enforcement Officers

DATE: March 8, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Limonas-Borja</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	_____	_____	<u>CJ</u>	_____
3.	_____	_____	<u>FP</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 364 creates the “Respecting Their Sacrifice Act.” The bill requires the head of a law enforcement agency to grant up to 8 hours of administrative leave to a law enforcement officer in order for the officer to attend the funeral service of another officer who was killed in the line of duty. The bill authorizes the denial of such leave to maintain adequate staffing levels.

The bill authorizes the head of a law enforcement agency to designate the travel of a law enforcement officer from the agency to attend the funeral of another officer killed in the line of duty as official state business. The bill also authorizes a state employed law enforcement officer to use a state vehicle to attend a funeral within the state of another officer killed in the line of duty. The law enforcement officers must be reimbursed by the agency as provided in s. 112.061, F.S.

The bill increases the amount that must be paid towards the funeral or burial expenses of a law enforcement, correctional, or correctional probation officer who was employed full time by a state agency and killed in the line of duty while performing law enforcement duties or as a result of an assault against the officer under riot conditions from \$1,000 to \$10,000.

The bill is expected to increase costs borne by state agencies employing law enforcement officers, correctional officers, correctional probation officers, and institutional security specialists.

The bill takes effect July 1, 2023.

## II. Present Situation:

### Law Enforcement

A “law enforcement agency” means an agency that has a primary mission of preventing and detecting crime and enforcing the penal, criminal, traffic, and motor vehicle laws of the state and in furtherance of that primary mission employs law enforcement officers.<sup>1</sup> A “law enforcement or correctional officer” means a law enforcement officer, special agent, correctional officer, correctional probation officer, or institutional security specialist certified under chapter 943.<sup>2</sup>

The table below shows the number of certified law enforcement and correctional officers employed by each state agency.<sup>3,4</sup>

Agency	Number of Officers
Agriculture and Consumer Services	204
Business and Professional Regulation	77
Environmental Protection	19
Financial Services	264
Highway Safety and Motor Vehicles	1,995
Law Enforcement	491
Legal Affairs	59
Lottery	22
Fish and Wildlife Conservation Commission	806
State Attorney’s Office	241
State Court System	63
State University Police Departments	531
Florida School For Deaf And Blind Campus Police Security Services	10
Florida Department Of Corrections	14,938
Florida Department Of Corrections, Office Of Inspector General	122
Florida State Hospital	96
Florida State Hospital / Agency For Persons With Disabilities	37
North Florida Evaluation And Treatment Center	49
Wellpath Treasure Coast Forensic Treatment Center	81
<b>Total Number of Officers</b>	<b>20,105</b>

<sup>1</sup> Section 943.1718, F.S.

<sup>2</sup> Section 110.107(14), F.S.

<sup>3</sup> Florida Department of Law Enforcement, *Criminal Justice Agency Profile Report 2021, State Agencies*, available at <http://www.fdle.state.fl.us/CJSTC/Publications/CJAP/CJAP-2021/SA-Index.aspx> (Last visited Feb. 28, 2023).

<sup>4</sup> Florida Department of Law Enforcement, *Criminal Justice Agency Profile Report 2021, Schools and Ports*, available at <http://www.fdle.state.fl.us/CJSTC/Publications/CJAP/CJAP-2021/SA-Index.aspx> (Last visited Mar. 1, 2023).

### ***Burial or Funeral Benefits***

Section 112.19, F.S., requires the employer of a law enforcement officer, correctional officer, and correctional probation officer to provide death benefits, including a monetary payment, waiver of educational costs, and health insurance premiums, to surviving family members of an officer killed under certain circumstances. If a full-time law enforcement, correctional or correctional probation officer, who is certified pursuant to chapter 943 and employed by a state agency, is killed in the line of duty while engaged in the performance of their law enforcement duties as a result of an assault against the officer under riot conditions, the sum of \$1,000 must be paid toward the funeral and burial expenses of such officer.<sup>5</sup> The benefit is in addition to any other benefits to which the beneficiaries or estate are entitled under the Workers' Compensation Law or any other state or federal statutes. The officer's employing agency may also pay up to \$5,000 directly towards the venue expenses associated with the funeral and burial services.<sup>6</sup>

### **State Personnel Management System**

The state personnel management system provides means to recruit, select, train, develop, and maintain an effective and responsible workforce. The statutes include policies and procedures for employee hiring and advancement, training and career development, position classification, salary administration, benefits, discipline, discharge, employee performance evaluations, affirmative action, and other related activities.<sup>7</sup>

The Department of Management Services (DMS) is charged with establishing and maintaining a classification and compensation program addressing Career Service, Selected Exempt Service, and Senior Management Service positions.<sup>8</sup> The classification of a position determines the types of benefits assigned and its compensation and collective bargaining. A position must be classified as Career Service unless specifically exempted by statute.<sup>9</sup>

Career Service, Selected Exempt Service, and Senior Management Service employees may be granted paid time off in the form of administrative leave for a variety of authorized purposes. The employing agency is responsible for monitoring the use of administrative leave to ensure that its use is within the applicable statutory or rule cap, or does not otherwise exceed a reasonable amount consistent with the circumstances.<sup>10</sup> Generally, state employees may be granted administrative leave for the following purposes:

- Participating in certain international competitions;<sup>11</sup>
- Receiving treatment for a military-service disability;<sup>12</sup>

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<sup>5</sup> Section 112.19(2)(f)1., F.S.

<sup>6</sup> Section 112.19(2)(f)2., F.S.

<sup>7</sup> Section 110.105(1), F.S. Chapter 110, F.S., establishes the state's personnel management system.

<sup>8</sup> Section 110.2035(1), F.S.

<sup>9</sup> Section 110.205(1), F.S.

<sup>10</sup> Department of Management Services Division of State Human Resource Management Policy Guideline, *Administrative Leave – Prudent Fiscal Management Through Tracking and Monitoring*, available at [https://www.dms.myflorida.com/content/download/91707/528058/2018-005\\_Administrative\\_Leave\\_Prudent\\_Fiscal\\_Management\\_Through\\_Tracking\\_and\\_Monitoring\\_\[7](https://www.dms.myflorida.com/content/download/91707/528058/2018-005_Administrative_Leave_Prudent_Fiscal_Management_Through_Tracking_and_Monitoring_[7) (last visited Feb. 21, 2023).

<sup>11</sup> Section 110.118, F.S.

<sup>12</sup> Section 110.119, F.S.

- Volunteering for certain disasters;<sup>13</sup>
- Participating in certain family activities;<sup>14</sup>
- Attending jury duty;
- When subpoenaed as a witness;
- Taking an examination for military service;
- Attending a family member's funeral;
- When offices are closed under emergency conditions;
- When an employee is under formal investigation;
- Voting in an election;
- Taking certain other examinations; or
- Participating in the Governor's Mentoring Initiative.<sup>15</sup>

### **Travel Expenses of Public Employees**

The rates, procedures, and limitations placed on the use of taxpayer funds for travel by state and local government employees and officers is standardized by general law.<sup>16</sup> For public officers and employees, all travel must be authorized and approved by the head of the employing agency.<sup>17</sup> The travel request must be accompanied by a signed statement by the traveler's supervisor stating the purpose of the travel and that such travel is for official business. The agency head may only pay for travel expenses necessary to achieve the public purpose and subject to limitations established by state law.<sup>18</sup>

Travel is divided into four categories:

- Class A: Continuous travel of 24 hours or more away from official headquarters.<sup>19</sup>
- Class B: Continuous travel of less than 24 hours which involves overnight absence from official headquarters.
- Class C: Travel for short or day trips where the travel is not away from official headquarters overnight.
- Foreign travel: Travel outside the United States.<sup>20</sup>

Reimbursements for travel time are calculated based on the type of travel. Class A travel is calculated based on a calendar day, while Class B travel is calculated based on the travel period.<sup>21</sup> For Class A and Class B travel, the travelers are reimbursed for each travel day included in the travel period at the rate of one-fourth of the authorized per diem rate for each six-hour period. Class C travelers are not reimbursed per diem, but may receive a subsistence

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<sup>13</sup> Section 110.120, F.S.

<sup>14</sup> See s. 110.1522, F.S., and R. 60L-34.0051, F.A.C.

<sup>15</sup> See R. 60L-34.0071, F.A.C.

<sup>16</sup> Section 112.061, F.S.

<sup>17</sup> Section 112.061(3)(a), F.S. (travel must be approved by "head of the agency"). The "head of the agency" is defined as the highest policymaking authority of a public agency. Section 112.061(2)(b), F.S.

<sup>18</sup> Section 112.061(3)(b), F.S.

<sup>19</sup> The official headquarters of an officer or employee assigned to an office is the city or town in which the office is located, unless an exception applies. See s. 112.061(4), F.S.

<sup>20</sup> Section 112.061(2)(k)-(m), F.S.

<sup>21</sup> Section 112.061(5)(a), F.S.

allowance based on the time of travel.<sup>22</sup> Class C travelers receive a subsistence allowance for \$6 for breakfast, \$11 for lunch, and \$19 for dinner.<sup>23</sup> The per diem and subsistence allowance for Class A and B travelers is the greater of \$80 per day or the sum of actual expenses for lodging at a single-occupancy rate plus the value of the subsistence allowance for Class C travelers for the same number of meals.<sup>24</sup>

Travelers are only reimbursed for the actual expenses of lodging or meals. When the lodging or meals are provided at a state institution the traveler may not be reimbursed.<sup>25</sup> Travelers may not be reimbursed, even when traveling out of state, for any meal or lodging included in a convention or conference registration fee paid for by the state.<sup>26</sup>

Public officers and employees may also receive reimbursement for transportation expenses.<sup>27</sup> Travel is reimbursed according to a usually traveled route, with any costs associated with deviation from that route being borne by the traveler. The agency head or designee must determine the most economical method of travel considering the nature of the business, the most efficient and economical means of travel (including a consideration of time and impact on productivity of the traveler), and the number of persons making the trip.<sup>28</sup> If the traveler pays for the cost of official travel out of pocket, the traveler must provide documentation for reimbursement.<sup>29</sup> Use of a personal vehicle for official business is reimbursed to the traveler at the rate of 44.5 cents per mile, or at the common carrier fare for such travel.<sup>30</sup> Mileage is calculated based on the current map of the Department of Transportation, plus vicinity mileage traveled for the conduct of official business.<sup>31</sup>

Travelers may also be reimbursed for:

- Taxi and ferry fares;
- Bridge, road, and tunnel tolls;
- Parking and storage fees;
- Communication expenses; and
- Convention registration fees, if the convention or conference serves a direct public purpose relating to the employer of the public official, including expenses such a banquet or other meal functions, if the traveler can show the charges were proper and necessary to enhance the public purpose of participation of the governmental entity at the conference.<sup>32</sup>

Counties, county constitutional officers, school boards, special districts, and metropolitan planning organizations may adopt per diem, subsistence, and mileage rates that vary from this framework, as long as their adopted rates are not less than the statutorily established rates in

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<sup>22</sup> Section 112.061(5)(b), F.S.

<sup>23</sup> Section 112.061(6)(b), F.S.

<sup>24</sup> Section 112.061(6)(a), F.S.

<sup>25</sup> Section 112.061(6)(a), F.S.

<sup>26</sup> Section 112.061(6)(c), F.S.

<sup>27</sup> *See s. 112.061(7), F.S.*

<sup>28</sup> Section 112.061(7)(a), F.S.

<sup>29</sup> Section 112.061(7)(c), F.S.

<sup>30</sup> Section 112.061(7)(d)1., F.S.

<sup>31</sup> Section 112.061(7)(d)3., F.S.

<sup>32</sup> Section 112.061(8)(a), F.S.

effect during the 2005 - 2006 fiscal year.<sup>33</sup> Alternative rates may be adopted by ordinance or resolution of the governing body. The rates must apply uniformly to all travel conducted by officers and employees of the government entity.<sup>34</sup>

Travelers are not required to provide notarized documentation of travel expenses, but must include a written declaration that the claimed travel expenses were necessary for the performance of official duties and accurately reflect travel costs. A traveler making a deliberate misrepresentation is guilty of a second-degree misdemeanor and is civilly liable for the amount of overpayment.<sup>35</sup>

### **Limitation on the use of motor vehicles**

State-owned vehicles are available for “official state business” as authorized by agency heads.<sup>36</sup> Agency heads are required to consider the following criteria in determining appropriate use of state vehicles:

- Carrying out state official or employee job assignments;
- Transporting an employee, state official, or other person for the purpose of conducting official state business or performing services for the state;
- Providing security; and
- Protecting life or property in any emergency situation which requires the use of a state vehicle.<sup>37</sup>

For law enforcement officers employed by the state, the term “official state business” is interpreted to permit the use of the motor vehicle during normal duty hours to and from lunch or meal breaks and incidental stops for personal errands if such use is at the direction of or with the permission of the agency head. However, substantial deviations from official state business are prohibited.<sup>38</sup>

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

**Section 1** creates the “Respecting Their Sacrifice Act.”

**Section 2** creates s. 110.1205, F.S., to authorize the head of a law enforcement agency to grant up to eight hours of administrative leave to a state employee whose duties are those of a law enforcement officer, as defined in s. 943.10(1), F.S., in order for the officer to attend the funeral service of another officer who was killed in the line of duty. The head of a law enforcement agency is authorized to deny the use of administrative leave for such purpose in order to maintain adequate staffing levels.

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<sup>33</sup> Section 112.061(14)(a), F.S.

<sup>34</sup> Section 112.061(14)(b), F.S.

<sup>35</sup> Section 112.061(10), F.S. A second-degree misdemeanor is punishable by up to 60 days imprisonment and a \$500 fine. Sections 775.082 and 775.083, F.S.

<sup>36</sup> Section 287.17(1), F.S.

<sup>37</sup> Section 287.17(2), F.S.

<sup>38</sup> Section 287.17(3)(b), F.S.

**Section 3** amends s. 112.061, F.S., to authorize the head of a law enforcement agency to designate the travel of a state employee whose duties are those of a law enforcement officer, as defined in s. 943.10(1), F.S., to attend a funeral within the state of an officer killed in the line of duty as official state business.

**Section 4** amends s. 112.09, F.S., to increase from \$1,000 to \$10,000 the maximum amount that must be paid towards the funeral or burial expenses of a law enforcement, correctional, or correctional probation officer who was employed full time by a state agency and killed in the line of duty while performing law enforcement duties or as a result of an assault against the officer under riot conditions. With the continuation of the current statutory authority for an employing agency to pay up to an additional \$5,000 toward the venue expenses associated with funeral and burial services, the estate of a fallen law enforcement, correctional, or correctional probation officer may receive up to \$15,000 to cover actual funeral or burial expenses.

**Section 5** amends s. 287.17, F.S., to expand the definition of “official state business” for a law enforcement officer, as defined in s. 943.10(1), F.S., to allow the use of a state vehicle to attend the funeral within the state of an officer from his or her agency who was killed in the line of duty.

**Section 6** provides that the bill takes effect July 1, 2023.

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

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

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties’ or municipalities’ ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill is expected to have indeterminate negative fiscal impact on state government expenditures. The bill authorizes the head of a law enforcement agency to authorize travel expenses for a law enforcement officer to attend a funeral service within the state of another officer who was killed in the line of duty. The dollar amount of expenditures authorized by the bill depends upon whether the agency decides to authorize travel expenses and is otherwise indeterminate. In addition, the bill increases the amount that must be paid towards the funeral of a law enforcement officer, correctional officer, or correctional probation officer under certain circumstances from \$1,000 to \$10,000.

The bill is not expected to increase the costs to local governments employing law enforcement officers, correctional officers, and correctional probation officers.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 112.061, 112.19, and 287.17 of the Florida Statutes.

This bill creates section 110.1205 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

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

**CS by Governmental Oversight and Accountability on March 7, 2023:**

The committee substitute:

- Changes the short title;
- Narrows the definition of law enforcement officer to be as defined in s. 943.10(1), F.S.; and



- Specifies that the head of a law enforcement agency may only authorize travel expenses and the use of a state vehicle to attend a funeral service within the state.

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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