

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1653 Duties and Prohibited Acts Associated with Death

**SPONSOR(S):** Criminal Justice Subcommittee, Giallombardo

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 768

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	17 Y, 0 N, As CS	Padgett	Hall
2) Justice Appropriations Subcommittee	14 Y, 0 N	Saag	Keith
3) Judiciary Committee			

### SUMMARY ANALYSIS

Generally, s. 406.11, F.S., requires a district medical examiner to determine the cause of death of a deceased human being in specified circumstances, including when a person's cause of death is not obvious, when a death may implicate criminal activity, or when a death impacts public health and safety. Section 406.12, F.S., requires a person who becomes aware of the death of any person under circumstances described in s. 406.11, F.S., to report such a death and the circumstances surrounding the death to the district medical examiner. Any person who knowingly fails or refuses to report such a death or the circumstances surrounding the death, who refuses to make available prior medical or other information pertinent to the death investigation, or who, without an order from the office of the district medical examiner, willfully touches, removes, or disturbs the body, clothing, or any article upon or near the body, with the intent to alter the evidence or circumstances surrounding the death, commits a first degree misdemeanor.

CS/HB 1653 amends s. 406.12, F.S., to require a person who becomes aware of the death of any person under the circumstances described in s. 406.11, F.S., to report such a death and the circumstances surrounding the death to *either* the district medical examiner *or* to a law enforcement agency having jurisdiction over the location.

The bill retains the first degree misdemeanor offense in current law if a person knowingly fails or refuses to report a death under the circumstances described in s. 406.11, F.S., or refuses to make available prior medical or other information pertinent to a death investigation, and creates a new offense, punishable as a third degree felony, if a person fails to make such a report or fails to make such specified information available with the intent to conceal the death or to alter the circumstances surrounding the death.

The bill *increases* the penalty if a person, without an order from the office of the district medical examiner, willfully touches, removes or disturbs a body, clothing, or any article upon or near the body, with the intent to conceal the death or alter the evidence or circumstances surrounding the death, from a first degree misdemeanor to a third degree felony.

The bill may have an indeterminate positive impact on prison and jail beds by creating a new felony offense and increasing the penalty for a specified violation of s. 406.12, F.S., from a first degree misdemeanor to a third degree felony, which may lead to increased admissions and longer terms of incarceration in such facilities.

The bill provides an effective date of July 1, 2024.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### District Medical Examiner

The Governor is required to appoint a district medical examiner, who must be a physician who practices in pathology, for each medical examiner district in the state.<sup>1</sup> Currently, there are 25 medical examiner districts in Florida.<sup>2</sup> Section 406.11, F.S., requires a district medical examiner to determine the cause of death of a deceased human being in the following circumstances:

- When any person dies in this state:
  - Of criminal violence.
  - By accident.
  - By suicide.
  - Suddenly, when in apparent good health.
  - Unattended by a practicing physician or other recognized practitioner.
  - In any prison or penal institution.
  - In police custody.
  - In any suspicious or unusual circumstance.
  - By criminal abortion.
  - By poison.
  - By disease constituting a threat to public health.
  - By disease, injury, or toxic agent resulting from employment.
- When a dead body is brought into this state without proper medical certification.
- When a body is to be cremated, dissected, or buried at sea.<sup>3</sup>

To determine the cause of death, a medical examiner may perform examinations, investigations, and autopsies as he or she deems necessary or as requested by the state attorney.<sup>4</sup>

##### Duty to Report

Section 406.12, F.S., requires a person who becomes aware of the death of any person under circumstances described in s. 406.11, F.S., to report such a death and the circumstances surrounding the death to the district medical examiner. Any person who knowingly fails or refuses to report such a death or the circumstances surrounding the death, who refuses to make available prior medical or other information pertinent to the death investigation, or who, without an order from the office of the district medical examiner, willfully touches, removes, or disturbs the body, clothing, or any article upon or near the body, with the intent to alter the evidence or circumstances surrounding the death, commits a first degree misdemeanor.<sup>5, 6</sup>

#### Effect of Proposed Changes

CS/HB 1653 amends s. 406.12, F.S., to require a person who becomes aware of the death of any person under the circumstances described in s. 406.11, F.S., to report such a death and the

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<sup>1</sup> S. 406.06(1)(a), F.S.

<sup>2</sup> Florida Department of Law Enforcement, *Coverage Map – Florida Medical Examiner Districts*, <https://www.fdle.state.fl.us/MEC/Maps/Documents/Coverage-Map.aspx> (last visited Jan. 30, 2024).

<sup>3</sup> S. 406.11(1), F.S.

<sup>4</sup> *Id.*

<sup>5</sup> S. 406.12, F.S.

<sup>6</sup> A first degree misdemeanor is punishable by up to one year in jail and a \$1,000 fine. Ss. 775.082 and 775.083, F.S.

circumstances surrounding the death to *either* the district medical examiner *or* to a law enforcement agency having jurisdiction over the location.

The bill retains the first degree misdemeanor offense in current law if a person knowingly fails or refuses to report a death under the circumstances described in s. 406.11, F.S., or refuses to make available prior medical or other information pertinent to a death investigation, and creates a new offense, punishable as a third degree felony,<sup>7</sup> if a person fails to make such a report or fails to make such specified information available with the intent to conceal the death or to alter the circumstances surrounding the death.

The bill *increases* the penalty if a person, without an order from the office of the district medical examiner, willfully touches, removes or disturbs a body, clothing, or any article upon or near the body, with the intent to conceal the death or alter the evidence or circumstances surrounding the death, from a first degree misdemeanor to a third degree felony.

The bill provides an effective date of July 1, 2024.

**B. SECTION DIRECTORY:**

**Section 1:** Amends s. 406.12, F.S., relating to duty to report; prohibited acts.

**Section 2:** Provides an effective date of July 1, 2024.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

The bill may have an indeterminate positive impact on prison and jail beds by creating a new felony offense and increasing the penalty for a specified violation of s. 406.12, F.S., from a first degree misdemeanor to a third degree felony, which may lead to increased admissions and longer terms of incarceration in such facilities.

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<sup>7</sup> A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Ss. 775.082, 775.083, or 775.084, F.S.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

Not applicable.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 25, 2024, the Criminal Justice Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Required a person who becomes aware of the death of any person under the circumstances described in s. 406.11, F.S., to report such a death and the circumstances surrounding the death to *either* the district medical examiner *or* to a law enforcement agency having jurisdiction over the location.
- Created a third degree felony offense if a person, with the intent to conceal the death or to alter the circumstances surrounding the death, fails or refuses to report the death of any person under circumstances described in s. 406.11, F.S., or fails to make available prior medical or other information pertinent to a death investigation.
- Increased the penalty if a person, without an order from the office of the district medical examiner, willfully touches, removes or disturbs a body, clothing, or any article upon or near the body, with the intent to conceal the death or alter the evidence or circumstance surrounding the death, from a first degree misdemeanor to a third degree felony.

This analysis is drafted to the committee substitute as passed by the Criminal Justice Subcommittee.