

**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 Criminal Justice

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BILL: SB 768

INTRODUCER: Senator Stewart

SUBJECT: Duty to Report Certain Deaths

DATE: January 12, 2024

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wyant	Stokes	CJ	<b>Pre-meeting</b>
2.			HP	
3.			FP	

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**I. Summary:**

SB 768 amends s. 406.12, F.S., to specify that a person who becomes aware of the death of any person occurring under the circumstances described in s. 406.11, F.S., must immediately report such to the district medical examiner.

The bill increases, from a first degree misdemeanor to a third degree felony, the criminal penalty for any person who becomes aware of the death of a person due to circumstances listed under s. 406.11, F.S., and he or she:

- Knowingly fails or refuses to report such death and circumstances;
- Refuses to make available prior medical records or other information pertinent to the death investigation; or
- 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 evidence or circumstances surrounding the death.

The bill may have an indeterminate fiscal impact on the Department of Corrections. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2024.

**II. Present Situation:**

**Duty to Report**

Section 406.12, F.S., requires any person in the district where a death occurs, including all municipalities and unincorporated and federal areas, who becomes aware of the death of a person due to circumstances listed under s. 406.11, F.S., to report such death and circumstances forthwith to the district medical examiner.

A person commits a first degree misdemeanor<sup>1</sup> if he or she:

- Knowingly fails or refuses to report such death and circumstances;
- Refuses to make available prior medical records or other information pertinent to the death investigation; or
- 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 evidence or circumstances surrounding the death.

Section 406.11, F.S., provides the following circumstances that require the medical examiner of the district in which the death occurred or the body was found, to determine the cause of death and for that purpose, make or perform such examinations, investigations, and autopsies as he or she deems necessary or as requested by the state attorney:

- When a 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.<sup>2</sup>
- When a dead body is brought into this state without proper medical certification.<sup>3</sup>
- When a body is to be cremated, dissected, or buried at sea.<sup>4</sup>

### III. Effect of Proposed Changes:

The bill amends s. 406.12, F.S., to specify that a person who becomes aware of the death of any person occurring under the circumstances described in s. 406.11, F.S., must immediately report such to the district medical examiner.

The bill increases, from a first degree misdemeanor to a third degree felony,<sup>5</sup> the criminal penalty for any person who becomes aware of the death of a person due to circumstances listed under s. 406.11, F.S., and he or she:

- Knowingly fails or refuses to report such death and circumstances;

<sup>1</sup> A first degree misdemeanor is punishable by a term of imprisonment not exceeding 1 year and a fine of up to \$1,000. Sections 775.082 and 775.083, F.S.

<sup>2</sup> Section 406.12(1)(a), F.S.

<sup>3</sup> Section 406.12(1)(b), F.S.

<sup>4</sup> Section 406.12(1)(c), F.S.

<sup>5</sup> A third degree felony is generally punishable by no more than 5 years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S.

- Refuses to make available prior medical records or other information pertinent to the death investigation; or
- 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 evidence or circumstances surrounding the death.

The bill is effective July 1, 2024.

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

A. Municipality/County Mandates Restrictions:

None.

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:

This bill may have a positive indeterminate impact (unqualified positive prison bed impact), due to the increased penalty provided in the bill. However, the Legislature's Office of Economic and Demographic Research (EDR) and the Criminal Justice Impact conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not yet reviewed the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill amends section 406.12 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.