

**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 Health Policy

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BILL: SB 768

INTRODUCER: Senator Stewart

SUBJECT: Duty to Report Certain Deaths

DATE: February 5, 2024

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wyant	Stokes	CJ	<b>Favorable</b>
2.	Brown	Brown	HP	<b>Pre-meeting</b>
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 death and circumstances 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 provides an effective date of 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<sup>1</sup> to the district medical examiner.

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<sup>1</sup> Merriam-Webster defines “forthwith” to mean “without any delay.”

A person commits a first degree misdemeanor<sup>2</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>3</sup>
- When a dead body is brought into this state without proper medical certification.<sup>4</sup>
- When a body is to be cremated, dissected, or buried at sea.<sup>5</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 (instead of “forthwith” as under current law) report such death and circumstances to the district medical examiner.

The bill increases, from a first degree misdemeanor to a third degree felony,<sup>6</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>2</sup> A first degree misdemeanor is punishable by a term of imprisonment not exceeding one year and a fine of up to \$1,000. *See* ss. 775.082 and 775.083, F.S.

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

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

<sup>5</sup> Section 406.12(1)(c), F.S.

<sup>6</sup> A third degree felony is generally punishable by no more than five years in state prison and a fine not exceeding \$5,000. *See* ss. 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 provides an effective date of 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 an insignificant fiscal impact on the Department of Corrections by potentially increasing the number of prison beds in use, due to the increased criminal penalty created by the bill, according to a preliminary proposed estimate by the Legislature's Office of Economic and Demographic Research.<sup>7</sup>

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<sup>7</sup> Office of Economic and Demographic Research, *SB 768 – Duty to Report Certain Deaths* (on file with the Senate Committee on Health Policy).

**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.