

# FLORIDA HOUSE OF REPRESENTATIVES BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

**BILL #:** [CS/HB 399](#)

**TITLE:** Ethics

**SPONSOR(S):** Maney

**COMPANION BILL:** [CS/SB 348](#) (Gaetz)

**LINKED BILLS:** None

**RELATED BILLS:** None

## Committee References

[Rules & Ethics](#)

16 Y, 0 N, As CS



[Judiciary](#)

18 Y, 0 N



[State Affairs](#)

22 Y, 0 N

## SUMMARY

### **Effect of the Bill:**

The bill creates new standards of conduct in the Code of Ethics for public officers and public employees relating to “stolen valor.” Specifically, the bill prohibits a candidate, an elected or appointed public officer, or a public employee from knowingly making false, fictitious, or fraudulent statements or representations, directly or indirectly, for the purpose of material gain, regarding military service, military decorations, medals, titles, and honors, military qualifications or occupational specialties; or wartime service. The bill further prohibits the unauthorized wearing of military uniforms, medals, and insignia.

The bill authorizes the Chief Financial Officer or the governing body of the appropriate county, municipality, school district, or special district to impose wage garnishment on a public officer’s or public employee’s salary who has an outstanding delinquent civil penalty or restitution penalty imposed for a violation of the Code of Ethics.

The bill further authorizes the Attorney General to take any action to collect any unpaid civil penalty or restitution penalty imposed within 20 years after the date such penalty is imposed.

### **Fiscal or Economic Impact:**

The bill may have an indeterminate fiscal impact on state government.

**JUMP TO**

[SUMMARY](#)

[ANALYSIS](#)

[RELEVANT INFORMATION](#)

[BILL HISTORY](#)

## ANALYSIS

### **EFFECT OF THE BILL:**

#### **Stolen Valor**

The bill creates “stolen valor” provisions within the Code of Ethics for public officers and employees. Under such provisions, the bill prohibits a candidate, an elected or appointed public officer, or a public employee from knowingly making the following false, fictitious, or fraudulent statements or representations, directly or indirectly, for the purpose of material gain:

- That he or she is or was a servicemember or veteran of the United States Armed Forces.
- That he or she is or was the recipient of a decoration, medal, title, or honor from the United States Armed Forces or otherwise related to military service, including, but not limited to, any of the following:
  - Air Force Combat Action Medal.
  - Air Force Cross.
  - Combat Action Badge.
  - Combat Action Ribbon.
  - Combat Infantryman Badge.
  - Combat Medical Badge.
  - Distinguished Service Cross.
  - Medal of Honor.
  - Navy Cross.
  - Purple Heart.

**STORAGE NAME:** h0399e.SAC

**DATE:** 4/8/2025

- Silver Star Medal.
- That he or she is a holder of an awarded qualification or military occupational specialty, including, but not limited to, any of the following:
  - Aircraft pilot, navigator, or crew member.
  - Explosive Ordinance Disposal Technician.
  - Parachutist.
  - United States Army Ranger.
  - United States Navy Seal or Diver.
- That he or she actively served in the United States Armed Forces during a wartime era, regardless of whether there was a declared war; served in combat operations in a warzone; or was a prisoner of war.
- Wearing the uniform or any medal or insignia authorized for use by members or veterans of the United States Armed Forces which he or she is not authorized to wear. However, the bill provides that this prohibition does not apply to individuals in the theatrical profession, who are permitted to wear military uniforms, medals, or insignia during a performance while engaged in such profession. (Section [1](#))

Under the bill, “material gain” means any thing of value, regardless of whether such value is monetary, remunerative, or tangible, which is received by or given to, or is intended to be received by or given to, an individual. The term includes, but is not limited to:

- Food;
- Lodging;
- Compensation;
- Travel expenses;
- Placards;
- Public benefits;
- Public relief;
- Financial relief;
- Obtaining or retaining employment or a promotion in such individual’s current employment or public employment, including gaining a position in state or local government with authority over another person, regardless of whether the individual receives compensation or remuneration for his or her service in the position;
- Obtaining or retaining state or local public office through election or appointment; or
- Any thing in which or for which a tangible benefit was gained, even if the value of such benefit is de minimis. (Section [1](#))

### **Penalties**

The bill provides that any candidate, elected or appointed public officer, or public employee who violates these prohibitions is subject to penalties provided in [s. 112.317, F.S.](#), including civil penalties and restitution penalties. (Section [1](#))

The bill provides that the prohibitions and penalties provided for under the “stolen valor” provisions do not preclude prosecution for any such action which is also [prohibited by another law](#). (Section [1](#))

### **Collection of Penalties**

Under the bill, when a civil penalty or restitution penalty remains unpaid 90 days after the date it was imposed by the Commission on Ethics, it is considered delinquent. The bill requires the Attorney General to attempt to determine whether the individual owing such penalty is a current public officer or public employee prior to referring the delinquent penalty to the Department of Financial Services. If the Attorney General determines the individual is a public officer or public employee, he or she is required to notify the Chief Financial Officer (CFO) or the governing body of the appropriate county, municipality, school district, or special district of the total amount of the penalty owed by such individual. (Section [2](#))

The bill requires that upon receipt of such notice from the Attorney General, the CFO or appropriate governing body is required to impose a wage garnishment on the salary of the individual owing the penalty in an amount which is the lesser of 25 percent of his or her salary or the maximum amount allowed under federal law. The bill

authorizes the CFO or appropriate governing body to retain a specified amount from each withheld payment to cover the administrative costs associated with the wage garnishment. (Section [2](#))

The bill authorizes the Attorney General to refer any unpaid civil penalty or restitution penalty to the appropriate collection agency as directed by the CFO. The bill further authorizes such collection agency to use any collection method authorized by law. The bill further authorizes the Attorney General to take any action to collect any unpaid civil penalty or restitution penalty imposed within 20 years after the date such penalty is imposed. (Section [2](#))

### **Effective Date**

The bill provides an effective date of July 1, 2025. (Section [3](#))

### **FISCAL OR ECONOMIC IMPACT:**

#### STATE GOVERNMENT:

The bill may have an indeterminate fiscal impact on state government. Specifically, the bill may have a negative fiscal impact on the Commission on Ethics and the Office of the Attorney General by creating a new standard of conduct under the Code of Ethics for public officers and public employees, to the extent that additional costs are incurred or resources are required to investigate reported violations and to impose and collect penalties from such violators. However, the bill may have a positive fiscal impact on the state to the extent additional fines are collected.

## **RELEVANT INFORMATION**

### **SUBJECT OVERVIEW:**

#### **[Code of Ethics for Public Officers and Employees](#)**

[Article II, s. 8, of the Florida Constitution](#) requires the creation of an independent commission to conduct investigations and make public reports on all complaints concerning breach of public trust by public officers or employees not within the jurisdiction of the judicial qualifications commission. Accordingly, in 1974, the Florida Legislature created the Commission on Ethics (Commission) to serve as guardian of the standards of conduct for the officers<sup>1</sup> and employees<sup>2</sup> of the state, and of a county, city, or other political subdivision of the state.<sup>3</sup>

The Commission is required to receive and investigate sworn complaints regarding any violation of the code of ethics and any other breach of the public trust, including an investigation of all facts and parties materially related to the complaint at issue.<sup>4</sup> Upon completion of any investigation, the Commission must make a finding and public report determining whether a provision of the code of ethics was violated or there has been any other breach of the public trust committed by the subject public official or employee. If the Commission finds that a violation or breach has occurred, it must recommend appropriate action to the agency or official having power to impose a penalty.<sup>5</sup>

#### **[Penalties for Violations of the Code of Ethics](#)**

A public officer or employee who the Commission finds has violated any standard of conduct<sup>6</sup> or any breach of public trust may be punished, among other things, by imposition of a civil penalty not to exceed \$20,000 and

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<sup>1</sup> “Public officer” includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body. S. [112.313\(1\), F.S.](#)

<sup>2</sup> “Public employee” means an individual, whether commissioned or not, other than an officer or authorized person as defined herein, who is filling a regular or full-time authorized position and is responsible to an agency head. S. [112.061\(2\)\(h\), F.S.](#)

<sup>3</sup> S. [112.320, F.S.](#)

<sup>4</sup> S. [112.322\(1\), F.S.](#)

<sup>5</sup> Ss. [112.322\(2\)\(b\)](#) and [112.324, F.S.](#)

<sup>6</sup> Section [112.313, F.S.](#), provides standards of conduct for public officers, employees of agencies, and local government attorneys, including standards relating to: solicitation or acceptance of gifts; doing business with one’s agency; unauthorized compensation; misuse of public position; conflicting employment or contractual relationships; and disclosure of certain information.

restitution of any pecuniary benefit received because of the violation committed.<sup>7</sup> Additionally, a candidate may also be required to pay a civil penalty not to exceed \$20,000 for a similar violation or breach.<sup>8</sup>

In any case in which a civil penalty or restitution has been imposed, the Attorney General must bring a civil action to recover such penalty or restitution. The Attorney General must also collect any costs, attorney fees, expert witness fees, or other costs of collection incurred in bringing the action.<sup>9</sup>

### **Unlawful Use of Uniforms, Medals, or Insignia**

Under [s. 817.312, F.S.](#), a person commits a third-degree felony<sup>10</sup> if he or she, while soliciting for charitable contributions or for the purpose of material gain, including, but not limited to, obtaining employment or public office resulting in receiving compensation:

- Misrepresents himself or herself as a member or veteran of the United States Armed Forces<sup>11</sup> or National Guard; or
- Wears the uniform of or any medal or insignia authorized for use by members or veterans of the United States Armed Forces or the National Guard which he or she is not authorized to wear.

A person in the theatrical profession is exempt from this prohibition if he or she wears such uniforms, medals, or insignia while actually engaged in such profession.<sup>12</sup>

### **Federal Stolen Valor Act of 2005**

In 2006, Congress passed the Stolen Valor Act of 2005,<sup>13</sup> which, among other things, prohibited a person from falsely misrepresenting himself or herself, verbally or in writing, to be a recipient of:

- Any military decoration or medal authorized by Congress for the Armed Forces of the United States;
- Any of the service medals or badges awarded to the members of such forces;
- The ribbon, button, or rosette of any such badge, decoration, or medal; or
- Any colorable imitation of such item.<sup>14</sup>

### **United States v. Alvarez**

In 2012, the United States Supreme Court, noting that it had never before confronted a measure such as the Stolen Valor Act (Act), which targets falsity and nothing more, held that the Act constituted a content-based restriction on free speech, in violation of the First Amendment.<sup>15</sup> The Court noted that while there exist permissible content-based restrictions on certain categories of speech, including incitement, obscenity, defamation, speech integral to criminal conduct, fighting words, child pornography, fraud, true threats, and speech presenting some grave and imminent threat the Government has the power to prevent, there is no general exception from the First Amendment protections for false statements.<sup>16</sup> The Court noted that falsity alone may not suffice to bring speech outside the First Amendment protections.<sup>17</sup>

The Court found that the Act sought to “control and suppress all false statements on this one subject in almost limitless times and settings without regard to whether the lie was made for the purpose of material gain.”<sup>18</sup> The Court further acknowledged that although there are many statutes and common law doctrines that make the

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<sup>7</sup> S. [112.317\(1\)\(a\) and \(b\), F.S.](#)

<sup>8</sup> S. [112.317\(1\)\(c\), F.S.](#)

<sup>9</sup> S. [112.317\(2\), F.S.](#)

<sup>10</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.](#)

<sup>11</sup> “Armed forces” means the United States Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard. S. [250.01\(4\), F.S.](#)

<sup>12</sup> S. [817.312\(1\)\(b\), F.S.](#)

<sup>13</sup> S. 1998, 109<sup>th</sup> Congress (Dec. 20, 2006).

<sup>14</sup> 18 U.S.C. § 704(b) (2006). A person who violated this prohibition was subject to fine or imprisonment for up to six months, or both. *See* 18 U.S.C. § 704(a) (2006).

<sup>15</sup> *U.S. v. Alvarez*, 132 S. Ct. 2537 (2012).

<sup>16</sup> *Id.* at 2539.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 2540.

utterance of certain kinds of false statements unlawful, those statutes and doctrines tend to be narrower than the Act, in that they limit the scope of their application in various ways, such as by requiring proof of specific harm to identifiable victims.<sup>19</sup> The Court signaled that First Amendment concerns presented by the Act might be diminished or eliminated “by a more finely tailored statute, for example, a statute that requires a showing that the false statement caused specific harm or is focused on lies more likely to be harmful or on contexts where such lies are likely to cause harm.”<sup>20</sup>

The Court held that “[a]lthough the First Amendment stands against any freewheeling authority to declare new categories of speech outside the scope of the First Amendment, the Court has acknowledged that perhaps there exist some categories of speech that have been historically unprotected but have not yet been specifically identified or discussed in our case law.”<sup>21</sup> The Court noted that “[w]here false claims are made to effect a fraud or secure moneys or other valuable considerations, say offers of employment, it is well established that the Government may restrict speech without affronting the First Amendment.”<sup>22</sup>

**Federal Stolen Valor Act of 2013**

In the Stolen Valor Act of 2013, Congress amended 18 U.S.C. § 704(b) to narrow the statute and remove the First Amendment concerns raised in *Alvarez* by requiring a person fraudulently misrepresent himself or herself as the recipient of certain military decorations or medals *with the intent to obtain money, property, or other tangible benefit*.<sup>23</sup>

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**BILL HISTORY**

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
<a href="#">Rules &amp; Ethics Committee</a>	16 Y, 0 N, As CS	3/20/2025	Havlicak	Barrineau
THE CHANGES ADOPTED BY THE COMMITTEE:	<ul style="list-style-type: none"> <li>Defines “delinquent” civil or restitution penalty as a penalty that has not been paid within 90 days of the date the penalty was imposed.</li> </ul>			
<a href="#">Judiciary Committee</a>	18 Y, 0 N	4/2/2025	Kramer	Leshko
<a href="#">State Affairs Committee</a>	22 Y, 0 N	4/8/2025	Williamson	Kilpatrick

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**THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.**  
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<sup>19</sup> *Id.* at 2541.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 2547 (internal citations omitted).

<sup>22</sup> *Id.*

<sup>23</sup> 18 U.S.C. §704(b) (2025); the Stolen Valor Act of 2013. H.R. 258, 113<sup>th</sup> Congress (June 3, 2013). A person who violates this prohibition is subject to a fine or imprisonment up to one year, or both.