



CRIMINAL JUSTICE COMMITTEE MEETING

**Wednesday, November 9, 2005
9:45 a.m. - 11:45 a.m.
404 House Office Building**

ACTION PACKET

COMMITTEE MEETING REPORT

Criminal Justice Committee

11/9/2005 9:45:00AM

Location: 404 HOB

Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Dick Kravitz (Chair)	X		
Sandra Adams	X		
Bruce Antone	X		
Adam Hasner	X		
Wilbert Holloway	X		
Marcelo Llorente	X		
Ari Porth	X		
Everett Rice	X		
Totals:	8	0	0

Committee meeting was reported out: Wednesday, November 09, 2005 1:23:55PM

COMMITTEE MEETING REPORT

Criminal Justice Committee

11/9/2005 9:45:00AM

Location: 404 HOB

HB 85 : Assault or Battery on Security Officers

Favorable -

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Sandra Adams	X				
Bruce Antone	X				
Adam Hasner	X				
Wilbert Holloway	X				
Marcelo Llorente	X				
Ari Porth	X				
Everett Rice	X				
Dick Kravitz (Chair)	X				
Total Yeas: 8		Total Nays: 0			

Appearances:

HB 85--Assault or Battery on Security Officers

Alan LaMarche - Proponent

Fla. Association of Security Co.

2322 Kilkenny Drive. W

Tallahassee Florida 32309

Phone: 800-893-2219 or 850-893-5885

Committee meeting was reported out: Wednesday, November 09, 2005 1:23:55PM

COMMITTEE MEETING REPORT

Criminal Justice Committee

11/9/2005 9:45:00AM

Location: 404 HOB

HB 95 : Alcoholic Beverages

Favorable With Committee Substitute -

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Sandra Adams	X				
Bruce Antone	X				
Adam Hasner	X				
Wilbert Holloway	X				
Marcelo Llorente	X				
Ari Porth	X				
Everett Rice	X				
Dick Kravitz (Chair)	X				
Total Yeas: 8		Total Nays: 0			

Appearances:

HB 95--Alcoholic Beverages

Jack Skelding (Lobbyist) - Proponent

Distilled Spirits Council of the US

P.O. Box 669

Tallahassee Florida 32302

Phone: 850-222-3730

Committee meeting was reported out: Wednesday, November 09, 2005 1:23:55PM

COMMITTEE MEETING REPORT

Criminal Justice Committee

11/9/2005 9:45:00AM

Location: 404 HOB

HB 139 : Trespass

Favorable -

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Sandra Adams	X				
Bruce Antone	X				
Adam Hasner			X		
Wilbert Holloway	X				
Marcelo Llorente	X				
Ari Porth	X				
Everett Rice	X				
Dick Kravitz (Chair)	X				
Total Yeas: 7		Total Nays: 0			

Committee meeting was reported out: Wednesday, November 09, 2005 1:23:55PM

COMMITTEE MEETING REPORT

Criminal Justice Committee

11/9/2005 9:45:00AM

Location: 404 HOB

HB 147 : Criminal Prosecutions

Favorable -

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Sandra Adams	X				
Bruce Antone	X				
Adam Hasner	X				
Wilbert Holloway	X				
Marcelo Llorente	X				
Ari Porth	X				
Everett Rice	X				
Dick Kravitz (Chair)	X				
Total Yeas: 8		Total Nays: 0			

Appearances:

HB 147--Criminal Prosecutions

Bob Dillinger (State Employee) - Opponent

Public Defender's Association

14250 49th Street North

Clearwater Florida 33762

Phone: 727-464-6866

HB 147--Criminal Prosecutions

Paula Saunders (State Employee) - Opponent

FACDL

2589 Noble Drive

Tallahassee Florida 32308

Phone: 850-385-8001

HB 147--Criminal Prosecutions

Buddy Jacobs (Lobbyist) - Proponent

State Attorney's Office

P.O. Box 1110

Fernandina Beach Florida 32034

Phone: 904-261-3693

HB 147--Criminal Prosecutions

Frank Messersmith (Lobbyist) - Proponent

Fla. Sheriff's Association

2901 Lake Bradford

Tallahassee Florida

Phone: 576-5858

Committee meeting was reported out: Wednesday, November 09, 2005 1:23:55PM

COMMITTEE MEETING REPORT

Criminal Justice Committee

11/9/2005 9:45:00AM

Location: 404 HOB

HB 175 : Drug Court Programs

Favorable With Committee Substitute -

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Sandra Adams	X				
Bruce Antone	X				
Adam Hasner	X				
Wilbert Holloway	X				
Marcelo Llorente	X				
Ari Porth	X				
Everett Rice	X				
Dick Kravitz (Chair)	X				
Total Yeas: 8		Total Nays: 0			

Committee meeting was reported out: Wednesday, November 09, 2005 1:23:55PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. 0175

COUNCIL/COMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	<u>Y</u>	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	—	

ADOPTED

1 Council/Committee hearing bill:

2 Representative Adams offered the following:

4 **Amendment (with title amendment)**

5 Remove lines 309-561 and insert:

6 coordinated strategy may include a protocol of sanctions that
7 may be imposed upon the participant. The protocol of sanctions
8 for treatment-based programs other than those authorized in
9 chapter 39 must include, and the protocol of sanctions for
10 treatment-based drug court programs authorized in chapter 39 may
11 include, as available options placement in a secure licensed
12 clinical or jail-based treatment program or serving a period of
13 incarceration for noncompliance with program rules within the
14 time limits established for contempt of court. The coordinated
15 strategy must be provided in writing to the participant before
16 the participant agrees to enter into a pretrial treatment-based
17 drug court program. Any person whose charges are dismissed after
18 successful completion of the treatment-based drug court program,
19 if otherwise eligible, may have his or her arrest record and
20 plea of nolo contendere to the dismissed charges expunged under
21 s. 943.0585.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

22 (5) Contingent upon an annual appropriation by the
23 Legislature, each judicial circuit shall establish, at a
24 minimum, one coordinator position for the treatment-based drug
25 court program within the state courts system to coordinate the
26 responsibilities of the participating agencies and service
27 providers. Each coordinator shall provide direct support to the
28 treatment-based drug court program by providing coordination
29 between the multidisciplinary team and the judiciary, providing
30 case management, monitoring compliance of the participants in
31 the treatment-based drug court program with court requirements,
32 and providing program evaluation and accountability.

33 (6)-(4)(a) The Florida Association of Drug Court ~~Program~~
34 Professionals is created. The membership of the association may
35 consist of treatment-based drug court program practitioners who
36 comprise the multidisciplinary treatment-based drug court
37 program team, including, but not limited to, judges, state
38 attorneys, defense counsel, treatment-based drug court program
39 coordinators, probation officers, law enforcement officers,
40 community representatives, members of the academic community,
41 and treatment professionals. Membership in the association shall
42 be voluntary.

43 (b) The association shall annually elect a chair whose
44 duty is to solicit recommendations from members on issues
45 relating to the expansion, operation, and institutionalization
46 of treatment-based drug court programs. The chair is responsible
47 for providing on or before October 1 of each year the
48 association's recommendations and an annual report to the
49 appropriate Supreme Court ~~Treatment-Based Drug Court Steering~~
50 committee or to the appropriate personnel of the Office of the

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

51 State Courts Administrator, and shall submit a report each year,
52 on or before October 1, to the steering committee.

53 (7)(5) If a county chooses to fund a treatment-based drug
54 court program, the county must secure funding from sources other
55 than the state for those costs not otherwise assumed by the
56 state pursuant to s. 29.004. However, this does not preclude
57 counties from using treatment and other service dollars provided
58 through state executive branch agencies. Counties may provide,
59 by interlocal agreement, for the collective funding of these
60 programs.

61 (8) The chief judge of each judicial circuit may appoint
62 an advisory committee for the treatment-based drug court
63 program. The committee shall be composed of the chief judge, or
64 his or her designee, who shall serve as chair; the judge of the
65 treatment-based drug court program, if not otherwise designated
66 by the chief judge as his or her designee; the state attorney,
67 or his or her designee; the public defender, or his or her
68 designee; the treatment-based drug court program coordinators;
69 community representatives; treatment representatives; and any
70 other persons the chair finds are appropriate.

71 Section 8. Paragraphs (b) and (e) of subsection (5) of
72 section 910.035, Florida Statutes, are amended to read:

73 910.035 Transfer from county for plea and sentence.--

74 (5) Any person eligible for participation in a drug court
75 treatment program pursuant to s. 948.08(6) may be eligible to
76 have the case transferred to a county other than that in which
77 the charge arose if the drug court program agrees and if the
78 following conditions are met:

79 (b) If approval for transfer is received from all parties,
80 the trial court shall accept a plea of nolo contendere and enter

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

81 a transfer order directing the clerk to transfer the case to the
82 county which has accepted the defendant into its drug court
83 program.

84 (e) Upon successful completion of the drug court program,
85 the jurisdiction to which the case has been transferred shall
86 dispose of the case pursuant to s. 948.08(6). If the defendant
87 does not complete the drug court program successfully, the
88 jurisdiction to which the case has been transferred shall
89 dispose of the case within the guidelines of the Criminal
90 Punishment Code ~~case shall be prosecuted as determined by the~~
91 ~~state attorneys of the sending and receiving counties.~~

92 Section 9. Subsections (6), (7), and (8) of section
93 948.08, Florida Statutes, are amended to read:

94 948.08 Pretrial intervention program.--

95 (6)(a) Notwithstanding any provision of this section, a
96 person who is charged with a felony of the second or third
97 degree for purchase or possession of a controlled substance
98 under chapter 893, prostitution, tampering with evidence,
99 solicitation for purchase of a controlled substance, or
100 obtaining a prescription by fraud; who has not been charged with
101 a crime involving violence, including, but not limited to,
102 murder, sexual battery, robbery, carjacking, home-invasion
103 robbery, or any other crime involving violence; and who has not
104 previously been convicted of a felony nor been admitted to a
105 felony pretrial program referred to in this section is eligible
106 for voluntary admission into a pretrial substance abuse
107 education and treatment intervention program, including a
108 treatment-based drug court program established pursuant to s.
109 397.334, approved by the chief judge of the circuit, for a

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

10 period of not less than 1 year in duration, upon motion of
111 either party or the court's own motion, except:

112 ~~1. If a defendant was previously offered admission to a~~
113 ~~pretrial substance abuse education and treatment intervention~~
114 ~~program at any time prior to trial and the defendant rejected~~
115 ~~that offer on the record, then the court or the state attorney~~
116 ~~may deny the defendant's admission to such a program.~~

117 2. if the state attorney believes that the facts and
118 circumstances of the case suggest the defendant's involvement in
119 the dealing and selling of controlled substances, the court
120 shall hold a preadmission hearing. If the state attorney
121 establishes, by a preponderance of the evidence at such hearing,
122 that the defendant was involved in the dealing or selling of
123 controlled substances, the court shall deny the defendant's
124 admission into a pretrial intervention program.

125 (b) While enrolled in a pretrial intervention program
126 authorized by this section, the participant is subject to a
127 coordinated strategy developed by a drug court team under s.
128 397.334(3). The coordinated strategy may include a protocol of
129 sanctions that may be imposed upon the participant. The protocol
130 of sanctions must include as available options placement in a
131 secure licensed clinical or jail-based treatment program or
132 serving a period of incarceration for noncompliance with program
133 rules within the time limits established for contempt of court.
134 The coordinated strategy must be provided in writing to the
135 participant before the participant agrees to enter into a
136 pretrial treatment-based drug court program, or other pretrial
137 intervention program.

138 (c)(b) At the end of the pretrial intervention period, the
139 court shall consider the recommendation of the administrator

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

140 pursuant to subsection (5) and the recommendation of the state
141 attorney as to disposition of the pending charges. The court
142 shall determine, by written finding, whether the defendant has
143 successfully completed the pretrial intervention program.

144 ~~(e)1.~~ If the court finds that the defendant has not
145 successfully completed the pretrial intervention program, the
146 court may order the person to continue in education and
147 treatment, which may include secure licensed clinical or jail-
148 based treatment programs, or order that the charges revert to
149 normal channels for prosecution.

150 2. The court shall dismiss the charges upon a finding that
151 the defendant has successfully completed the pretrial
152 intervention program.

153 (d) Any entity, whether public or private, providing a
154 pretrial substance abuse education and treatment intervention
155 program under this subsection must contract with the county or
156 appropriate governmental entity, and the terms of the contract
157 must include, but need not be limited to, the requirements
158 established for private entities under s. 948.15(3).

159 ~~(7) The chief judge in each circuit may appoint an~~
160 ~~advisory committee for the pretrial intervention program~~
161 ~~composed of the chief judge or his or her designee, who shall~~
162 ~~serve as chair; the state attorney, the public defender, and the~~
163 ~~program administrator, or their designees; and such other~~
164 ~~persons as the chair deems appropriate. The advisory committee~~
165 ~~may not designate any defendant eligible for a pretrial~~
166 ~~intervention program for any offense that is not listed under~~
167 ~~paragraph (6) (a) without the state attorney's recommendation and~~
168 ~~approval. The committee may also include persons representing~~

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

169 ~~any other agencies to which persons released to the pretrial~~
170 ~~intervention program may be referred.~~

171 ~~(7)(8)~~ The department may contract for the services and
172 facilities necessary to operate pretrial intervention programs.

173 Section 10. Section 948.16, Florida Statutes, is amended
174 to read:

175 948.16 Misdemeanor pretrial substance abuse education and
176 treatment intervention program.--

177 (1) (a) A person who is charged with a misdemeanor for
178 possession of a controlled substance or drug paraphernalia under
179 chapter 893, and who has not previously been convicted of a
180 felony nor been admitted to a pretrial program, is eligible for
181 voluntary admission into a misdemeanor pretrial substance abuse
182 education and treatment intervention program, including a
183 treatment-based drug court program established pursuant to s.
184 397.334, approved by the chief judge of the circuit, for a
185 period based on the program requirements and the treatment plan
186 for the offender, upon motion of either party or the court's own
187 motion, except, if the state attorney believes the facts and
188 circumstances of the case suggest the defendant is involved in
189 dealing and selling controlled substances, the court shall hold
190 a preadmission hearing. If the state attorney establishes, by a
191 preponderance of the evidence at such hearing, that the
192 defendant was involved in dealing or selling controlled
193 substances, the court shall deny the defendant's admission into
194 the pretrial intervention program.

195 (b) While enrolled in a pretrial intervention program
196 authorized by this section, the participant is subject to a
197 coordinated strategy developed by a drug court team under s.
198 397.334(3). The coordinated strategy may include a protocol of

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

199 sanctions that may be imposed upon the participant. The protocol
200 of sanctions must include as available options placement in a
201 secure licensed clinical or jail-based treatment program or
202 serving a period of incarceration for noncompliance with program
203 rules within the time limits established for contempt of court.
204 The coordinated strategy must be provided in writing to the
205 participant before the participant agrees to enter into a
206 pretrial treatment-based drug court program, or other pretrial
207 intervention program.

208 (2) At the end of the pretrial intervention period, the
209 court shall consider the recommendation of the treatment program
210 and the recommendation of the state attorney as to disposition
211 of the pending charges. The court shall determine, by written
212 finding, whether the defendant successfully completed the
213 pretrial intervention program.

214 ~~(a)~~ If the court finds that the defendant has not
215 successfully completed the pretrial intervention program, the
216 court may order the person to continue in education and
217 treatment or return the charges to the criminal docket for
218 prosecution.

219 ~~(b)~~ The court shall dismiss the charges upon finding that
220 the defendant has successfully completed the pretrial
221 intervention program.

222 (3) Any public or private entity providing a pretrial
223 substance abuse education and treatment program under this
224 section shall contract with the county or appropriate
225 governmental entity. The terms of the contract shall include,
226 but not be limited to, the requirements established for private
227 entities under s. 948.15(3).

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

228 Section 11. Section 985.306, Florida Statutes, is amended
229 to read:

230 985.306 Delinquency pretrial intervention program.--

231 (1)~~(a)~~ Notwithstanding any provision of law to the
232 contrary, a child who is charged ~~under chapter 893~~ with a felony
233 of the second or third degree for purchase or possession of a
234 controlled substance under chapter 893; tampering with evidence;
235 solicitation for purchase of a controlled substance; or
236 obtaining a prescription by fraud, and who has not previously
237 been adjudicated for a felony ~~nor been admitted to a delinquency~~
238 ~~pretrial intervention program under this section,~~ is eligible
239 for voluntary admission into a delinquency pretrial substance
240 abuse education and treatment intervention program, including a
241 treatment-based drug court program established pursuant to s.
242 397.334, approved by the chief judge or alternative sanctions
243 coordinator of the circuit to the extent that funded programs
244 are available, for a period based on the program requirements
245 and the treatment services that are suitable for the offender ~~of~~
246 ~~not less than 1 year in duration,~~ upon motion of either party or
247 the court's own motion. However, if the state attorney believes
248 that the facts and circumstances of the case suggest the child's
249 involvement in the dealing and selling of controlled substances,
250 the court shall hold a preadmission hearing. If the state
251 attorney establishes by a preponderance of the evidence at such
252 hearing that the child was involved in the dealing and selling
253 of controlled substances, the court shall deny the child's
254 admission into a delinquency pretrial intervention program.

255 (2) While enrolled in a delinquency pretrial intervention
256 program authorized by this section, a child is subject to a

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

257 coordinated strategy developed by a drug court team under s.
258 397.334(3). The coordinated strategy may include a protocol of

259
260 ===== T I T L E A M E N D M E N T =====

261 Remove lines 44-48 and insert:
262 abuse education and treatment intervention programs; deleting a
263 provision allowing state attorney to deny a defendant's
264 admission to a pretrial substance abuse education and treatment
265 intervention program if the defendant previously declined
266 admission to such a program; providing for application of the
267 coordinated strategy developed by the drug court team; removing
268 provisions authorizing appointment

COMMITTEE MEETING REPORT

Criminal Justice Committee

11/9/2005 9:45:00AM

Location: 404 HOB

HB 187 : Lawful Testing for Alcohol, Chemical Substances, or Controlled Substances

Retained -

Appearances:

HB 187--Lawful Testing for Alcohol, Chemical Substances, or Controlled

David Weigel - Proponent

State Attorney - 7th Circuit

201 SE 6th St

Ft. Lauderdale Florida 33301

HB 187--Lawful Testing for Alcohol, Chemical Substances, or Controlled

Bob Dillinger (State Employee) - Proponent

Public Defender's Association

14250 49th Street North

Tallahassee Florida 33762

Phone: 727-464-6866

hb 187

Ron Barthelome (Lobbyist) - Proponent

Fraternal Order of Police

205 S. Adams Street

Tallahassee Florida 32301

Phone: 224-0880

HB 187--Lawful Testing for Alcohol, Chemical Substances, or Controlled

David C. Folsom (Lobbyist) - Proponent

Fla. Police Chief's Assoc.

Tallahassee Florida

Committee meeting was reported out: Wednesday, November 09, 2005 1:23:55PM

**House of Representatives
COMMITTEE BILL ACTION WORK SHEET**

Committee on:

CRIMINAL JUSTICE

BILL NO

187

Date of Meeting:

11/9/2005

Subject

Lawful

Time:

9:45 a.m. -11:45 a.m.

Date Received

Place:

404 House Office Building

Date Reported

COMMITTEE ACTION:

- Favorable
- Favorable with Committee Substitute
- Temporarily Passed

- Favorable with
- Unfavorable
- Reconsidered

Amendments

Bill Retained in committee

VOTE:

Other Action: #1 #2

Final Vote on Bill		MEMBER	Adams		Adams					
Yeas	Nays		Yeas	Nays	Yeas	Nays	Yeas	Nays	Yeas	Nays
✓		Adams								
	✓	Antone								
		Hasner								
		Holloway, Vice Chair								
✓	✓	Llorente								
		Porth								
✓	✓	Rice								
✓	✓	Rep. Kravitz, Chair								
		Speakers								
		David Weigel								
		Bob Dillinger								
		Ron Hartman								
		David Fulsom								
<i>Motion to Retain in Comm.</i>										

Yeas	Nays	Yeas	Nays	Yeas	Nays	Yeas	Nays	Yeas	Nays
3	3	TOTALS							

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. 187

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION Y (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Council/Committee hearing bill: Criminal Justice Committee
2 Representative(s) Adams offered the following:
3

4 **Amendment (with directory and title amendments)**

5 Between lines 219 and 220 insert:

6 (f)1. The tests determining the weight of alcohol in the
7 defendant's blood or breath shall be administered at the request
8 of a law enforcement officer substantially in accordance with
9 rules of the Department of Law Enforcement. Such rules must
10 specify precisely the test or tests that are approved by the
11 Department of Law Enforcement for reliability of result and ease
12 of administration, and must provide an approved method of
13 administration which must be followed in all such tests given
14 under this section. However, the failure of a law enforcement
15 officer to request the withdrawal of blood does not affect the
16 admissibility of a test of blood withdrawn for medical purposes.

17 2.a. Only a physician, certified paramedic, registered
18 nurse, licensed practical nurse, other personnel authorized by a
19 hospital to draw blood, or duly licensed clinical laboratory
20 director, supervisor, technologist, or technician, acting at the
21 request of a law enforcement officer, may withdraw blood for the

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

22 purpose of determining its alcoholic content or the presence of
23 chemical substances or controlled substances therein. However,
24 the failure of a law enforcement officer to request the
25 withdrawal of blood does not affect the admissibility of a test
26 of blood withdrawn for medical purposes.

27 b. Notwithstanding any provision of law pertaining to the
28 confidentiality of hospital records or other medical records, if
29 a health care provider, who is providing medical care in a
30 health care facility to a person injured in a motor vehicle
31 crash, becomes aware, as a result of any blood test performed in
32 the course of that medical treatment, that the person's blood-
33 alcohol level meets or exceeds the blood-alcohol level specified
34 in s. 316.193(1)(b), the health care provider may notify any law
35 enforcement officer or law enforcement agency. Any such notice
36 must be given within a reasonable time after the health care
37 provider receives the test result. Any such notice shall be used
38 only for the purpose of providing the law enforcement officer
39 with reasonable cause to request the withdrawal of a blood
40 sample pursuant to this section.

41 c. The notice shall consist only of the name of the person
42 being treated, the name of the person who drew the blood, the
43 blood-alcohol level indicated by the test, and the date and time
44 of the administration of the test.

45 d. Nothing contained in s. 395.3025(4), s. 456.057, or any
46 applicable practice act affects the authority to provide notice
47 under this section, and the health care provider is not
48 considered to have breached any duty owed to the person under s.
49 395.3025(4), s. 456.057, or any applicable practice act by
50 providing notice or failing to provide notice. It shall not be a

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

51 breach of any ethical, moral, or legal duty for a health care
52 provider to provide notice or fail to provide notice.

53 e. A civil, criminal, or administrative action may not be
54 brought against any person or health care provider participating
55 in good faith in the provision of notice or failure to provide
56 notice as provided in this section. Any person or health care
57 provider participating in the provision of notice or failure to
58 provide notice as provided in this section shall be immune from
59 any civil or criminal liability and from any professional
60 disciplinary action with respect to the provision of notice or
61 failure to provide notice under this section. Any such
62 participant has the same immunity with respect to participating
63 in any judicial proceedings resulting from the notice or failure
64 to provide notice.

65 3. The person tested may, at his or her own expense, have
66 a physician, registered nurse, other personnel authorized by a
67 hospital to draw blood, or duly licensed clinical laboratory
68 director, supervisor, technologist, or technician, or other
69 person of his or her own choosing administer an independent test
70 in addition to the test administered at the direction of the law
71 enforcement officer for the purpose of determining the amount of
72 alcohol in the person's blood or breath or the presence of
73 chemical substances or controlled substances at the time
74 alleged, as shown by chemical analysis of his or her blood or
75 urine, or by chemical or physical test of his or her breath. The
76 failure or inability to obtain an independent test by a person
77 does not preclude the admissibility in evidence of the test
78 taken at the direction of the law enforcement officer. The law
79 enforcement officer shall not interfere with the person's
80 opportunity to obtain the independent test and shall provide the

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

81 person with timely telephone access to secure the test, but the
82 burden is on the person to arrange and secure the test at the
83 person's own expense.

84 4. Upon the request of the person tested, full information
85 concerning the results of the test taken at the direction of the
86 law enforcement officer shall be made available to the person or
87 his or her attorney. Full information is limited to the
88 following:

89 a. The type of test administered and the procedures
90 followed;

91 b. The time of the collection of the blood or breath
92 sample analyzed;

93 c. The numerical results of the test indicating the
94 alcohol content of the blood and breath;

95 d. The type and status of any permit issued by the
96 Department of Law Enforcement which was held by the person who
97 performed the test; and

98 e. If the test was administered by means of a breath
99 testing instrument, the date of performance of the most recent
100 required maintenance of such instrument.

101
102 Full information does not include manual, schematics, or
103 software of the instrument used to test the person or any other
104 material that is not in the actual possession of the state.
105 Additionally, full information does not include information in
106 the possession of the manufacturer of the test instrument.

107 5. A hospital, clinical laboratory, medical clinic, or
108 similar medical institution or physician, certified paramedic,
109 registered nurse, licensed practical nurse, other personnel
110 authorized by a hospital to draw blood, or duly licensed

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

111 clinical laboratory director, supervisor, technologist, or
112 technician, or other person assisting a law enforcement officer
113 does not incur any civil or criminal liability as a result of
114 the withdrawal or analysis of a blood or urine specimen, or the
115 chemical or physical test of a person's breath pursuant to
116 accepted medical standards when requested by a law enforcement
117 officer, regardless of whether or not the subject resisted
118 administration of the test.

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121 ===== D I R E C T O R Y A M E N D M E N T =====

122 Remove line(s) 39-40 and insert:
123 Section 1. Paragraphs (a), (c) and (f) of subsection (1)
124 of section 316.1932, Florida Statutes, are amended to read:

125

126 ===== T I T L E A M E N D M E N T =====

127 Remove line(s) 9 and insert:
128 reference to treatment at a medical facility; revising language
129 relating to information given to person tested; amending s.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

Bill No. 187

COUNCIL/COMMITTEE ACTION

ADOPTED — (Y/N)
ADOPTED AS AMENDED — (Y/N)
ADOPTED W/O OBJECTION \underline{Y} (Y/N)
FAILED TO ADOPT — (Y/N)
WITHDRAWN — (Y/N)
OTHER —

1 Council/Committee hearing bill: Criminal Justice Committee
2 Representative(s) Adams offered the following:
3

4 **Amendment (with directory and title amendments)**

5 Between lines 376 and 377 insert:

6 (e)1. The tests determining the weight of alcohol in the
7 defendant's blood or breath shall be administered at the request
8 of a law enforcement officer substantially in accordance with
9 rules of the Department of Law Enforcement. However, the failure
10 of a law enforcement officer to request the withdrawal of blood
11 does not affect the admissibility of a test of blood withdrawn
12 for medical purposes.

13 2. Only a physician, certified paramedic, registered
14 nurse, licensed practical nurse, other personnel authorized by a
15 hospital to draw blood, or duly licensed clinical laboratory
16 director, supervisor, technologist, or technician, acting at the
17 request of a law enforcement officer, may withdraw blood for the
18 purpose of determining its alcoholic content or the presence of
19 chemical substances or controlled substances therein. However,
20 the failure of a law enforcement officer to request the

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

21 withdrawal of blood does not affect the admissibility of a test
22 of blood withdrawn for medical purposes.

23 3. The person tested may, at his or her own expense, have
24 a physician, registered nurse, other personnel authorized by a
25 hospital to draw blood, or duly licensed clinical laboratory
26 director, supervisor, technologist, or technician, or other
27 person of his or her own choosing administer an independent test
28 in addition to the test administered at the direction of the law
29 enforcement officer for the purpose of determining the amount of
30 alcohol in the person's blood or breath or the presence of
31 chemical substances or controlled substances at the time
32 alleged, as shown by chemical analysis of his or her blood or
33 urine, or by chemical or physical test of his or her breath. The
34 failure or inability to obtain an independent test by a person
35 does not preclude the admissibility in evidence of the test
36 taken at the direction of the law enforcement officer. The law
37 enforcement officer shall not interfere with the person's
38 opportunity to obtain the independent test and shall provide the
39 person with timely telephone access to secure the test, but the
40 burden is on the person to arrange and secure the test at the
41 person's own expense.

42 4. Upon the request of the person tested, full information
43 concerning the results of the test taken at the direction of the
44 law enforcement officer shall be made available to the person or
45 his or her attorney. Full information is limited to the
46 following:

47 a. The type of test administered and the procedures
48 followed;

49 b. The time of the collection of the blood or breath
50 sample analyzed;

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

51 c. The numerical results of the test indicating the
52 alcohol content of the blood and breath;

53 d. The type and status of any permit issued by the
54 Department of Law Enforcement which was held by the person who
55 performed the test; and

56 e. If the test was administered by means of a breath
57 testing instrument, the date of performance of the most recent
58 required maintenance of such instrument.

59
60 Full information does not include manual, schematics, or
61 software of the instrument used to test the person or any other
62 material that is not in the actual possession of the state.
63 Additionally, full information does not include information in
64 the possession of the manufacturer of the test instrument.

65 5. A hospital, clinical laboratory, medical clinic, or
66 similar medical institution or physician, certified paramedic,
67 registered nurse, licensed practical nurse, other personnel
68 authorized by a hospital to draw blood, or duly licensed
69 clinical laboratory director, supervisor, technologist, or
70 technician, or other person assisting a law enforcement officer
71 does not incur any civil or criminal liability as a result of
72 the withdrawal or analysis of a blood or urine specimen, or the
73 chemical or physical test of a person's breath pursuant to
74 accepted medical standards when requested by a law enforcement
75 officer, regardless of whether or not the subject resisted
76 administration of the test.

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79 ===== D I R E C T O R Y A M E N D M E N T =====

80 Remove line(s) 287-288 and insert:

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

81 Section 4. Paragraphs (a), (c) and (e) of subsection (1)
82 of section 327.352, Florida Statutes, are amended to read:

83

84 ===== T I T L E A M E N D M E N T =====

85 Remove line(s) 25 and insert:

86 to treatment at a medical facility; revising language relating

87 to information given to person tested; amending s. 327.353,

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COMMITTEE MEETING REPORT

Criminal Justice Committee

11/9/2005 9:45:00AM

Location: 404 HOB

Summary:

Criminal Justice Committee

Wednesday November 09, 2005 09:45 am

HB 85	Favorable	Yeas: 8	Nays: 0
HB 95	Favorable With Committee Substitute	Yeas: 8	Nays: 0
HB 139	Favorable	Yeas: 7	Nays: 0
HB 147	Favorable	Yeas: 8	Nays: 0
HB 175	Favorable With Committee Substitute	Yeas: 8	Nays: 0
HB 187	Retained		

Committee meeting was reported out: Wednesday, November 09, 2005 1:23:55PM