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**CRIMINAL JUSTICE  
COMMITTEE  
MEETING**

**Wednesday, January 25, 2006  
9:30 a.m. – 12:00 p.m.  
(404 HOB)**

**Action Packet**

Allan G. Bense  
Speaker

Dick Kravitz  
Chair

Wilbert "Tee" Holloway  
Vice Chair

# COMMITTEE MEETING REPORT

## Criminal Justice Committee

1/25/2006 9:30:00AM

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		
<b>Totals:</b>	<b>8</b>	<b>0</b>	<b>0</b>

Committee meeting was reported out: Wednesday, January 25, 2006 3:26:37PM

# COMMITTEE MEETING REPORT

## Criminal Justice Committee

1/25/2006 9:30:00AM

Location: 404 HOB

HB 271 : Custody of Criminal Defendants

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				
<b>Total Yeas: 7</b>		<b>Total Nays: 0</b>			

### Appearances:

HB 271--Custody of Criminal Defendants

Frank Messersmith (Lobbyist) - Proponent

Fla. Sheriff's Association

2901 Lake Bradford

Tallahassee Florida

Phone: 576-5858

Committee meeting was reported out: Wednesday, January 25, 2006 3:26:37PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 271

COUNCIL/COMMITTEE ACTION

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WITHDRAWN                               — (Y/N)  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

**ADOPTED**

1 Council/Committee hearing bill: Criminal Justice Committee  
2 Representative Kreegel offered the following:

**Amendment (with title amendment)**

Remove lines 23-27 and insert:

6 sentence of imprisonment, unless otherwise ordered by the court,  
7 such person shall remain in the department's custody pending  
8 disposition of the charge, or until the person's underlying  
9 sentence of imprisonment expires, whichever occurs earlier. If  
10 the arrested state prisoner's presence is required in court for  
11 any reason, the provisions of s. 944.17(8) shall apply.

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

Remove lines 3-7 and insert:

15 amending s. 907.04, F.S.; providing that arrestees in the  
16 custody of the Department of Corrections at the time of arrest  
17 be retained in the department's custody pending disposition of  
18 the charge or until the expiration of the arrestee's original  
19 sentence of imprisonment; providing for the provisions of s.  
20 944.17(8) to apply if an arrested state prisoner's presence is  
21 required in court; providing an effective date.

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# COMMITTEE MEETING REPORT

## Criminal Justice Committee

1/25/2006 9:30:00AM

Location: 404 HOB

HB 297 : Driving and Boating Under the Influence

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				
<b>Total Yeas: 6</b>		<b>Total Nays: 0</b>			

### Appearances:

HB 297--Driving and Boating Under the Influence

Robert Trammell (Lobbyist) - Opponent

Fl. Public Defender Association, Inc.

907 Hays

Tallahassee Florida 32310

Phone: 850-510-2187

HB 297--Driving and Boating Under the Influence

Wade Hopping (Lobbyist) - Proponent

National Marine Manufacturing Association

710 N. Ridz Road

Tallahassee Florida 32303

Phone: 222-7500

HB 297--Driving and Boating Under the Influence

Alan Richard (State Employee) - Information Only

Fish & Wildlife Conservation Commission

620 S. Meridian

Tallahassee Florida 32399

Phone: 487-1764

HB 297--Driving and Boating Under the Influence

Jason Berger (State Employee) - Proponent

3040 SW Woolard Trail

Palm City Florida 34996

Phone: 772-462-1360

HB 297--Driving and Boating Under the Influence

Eric Miller - Proponent

MADD

5024 SE Pine Knoll Way

Stuart Florida 34957

Phone: 561-262-1158

Committee meeting was reported out: Wednesday, January 25, 2006 3:26:37PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

Bill No. 0297

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 \_\_\_\_\_

**ADOPTED**



1 Council/Committee hearing bill: Criminal Justice Committee  
 2 Representative Harrell offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

6 Section 1. Subsection (6) of section 316.193, Florida  
 7 Statutes, is amended, paragraph (1) is added to that subsection,  
 8 and subsection (13) is added to that section, to read:

9 316.193 Driving under the influence; penalties.--

10 (6) With respect to any person convicted of a violation of  
 11 ~~this section subsection (1), regardless of any penalty imposed~~  
 12 ~~pursuant to subsection (2), subsection (3), or subsection (4):~~

13 (a) For the first conviction, the court shall place the  
 14 defendant on probation ~~for a period not to exceed 1 year~~ and, as  
 15 a condition of such probation, shall order the defendant to  
 16 participate in public service or a community work project for a  
 17 minimum of 50 hours; or the court may order instead, that any  
 18 defendant pay an additional fine of \$10 for each hour of public  
 19 service or community work otherwise required, if, after  
 20 consideration of the residence or location of the defendant at  
 21 the time public service or community work is required, payment

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

22 of the fine is in the best interests of the state. ~~However, the~~  
23 ~~total period of probation and incarceration may not exceed 1~~  
24 ~~year.~~ The court must also, as a condition of probation, order  
25 the impoundment or immobilization of the vehicle that was  
26 operated by or in the actual control of the defendant or any one  
27 vehicle registered in the defendant's name at the time of  
28 impoundment or immobilization, for a period of 10 days or for  
29 the unexpired term of any lease or rental agreement that expires  
30 within 10 days. The impoundment or immobilization must not occur  
31 concurrently with the incarceration of the defendant. The  
32 impoundment or immobilization order may be dismissed in  
33 accordance with paragraph (e), paragraph (f), paragraph (g), or  
34 paragraph (h).

35 (b) For the second conviction for an offense that occurs  
36 within a period of 5 years after the date of a prior conviction  
37 for violation of this section, the court shall order  
38 imprisonment for not less than 10 days. The court must also, as  
39 a condition of probation, order the impoundment or  
40 immobilization of all vehicles owned by the defendant at the  
41 time of impoundment or immobilization, for a period of 30 days  
42 or for the unexpired term of any lease or rental agreement that  
43 expires within 30 days. The impoundment or immobilization must  
44 not occur concurrently with the incarceration of the defendant  
45 and must occur concurrently with the driver's license revocation  
46 imposed under s. 322.28(2)(a)2. The impoundment or  
47 immobilization order may be dismissed in accordance with  
48 paragraph (e), paragraph (f), paragraph (g), or paragraph (h).  
49 At least 48 hours of confinement must be consecutive.

50 (c) For the third ~~or subsequent~~ conviction for an offense  
51 that occurs within a period of 10 years after the date of a

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

52 prior conviction for violation of this section, the court shall  
53 order imprisonment for not less than 30 days. The court must  
54 also, as a condition of probation, order the impoundment or  
55 immobilization of all vehicles owned by the defendant at the  
56 time of impoundment or immobilization, for a period of 90 days  
57 or for the unexpired term of any lease or rental agreement that  
58 expires within 90 days. The impoundment or immobilization shall  
59 ~~must~~ not occur concurrently with the incarceration of the  
60 defendant and shall ~~must~~ occur concurrently with the driver's  
61 license revocation imposed under s. 322.28(2)(a)3. The  
62 impoundment or immobilization order may be dismissed in  
63 accordance with paragraph (e), paragraph (f), paragraph (g), or  
64 paragraph (h). At least 48 hours of confinement must be  
65 consecutive.

66 (d) The court must at the time of sentencing the defendant  
67 issue an order for the impoundment or immobilization of a  
68 vehicle. Within 7 business days after the date that the court  
69 issues the order of impoundment or immobilization, the clerk of  
70 the court must send notice by certified mail, return receipt  
71 requested, to the registered owner of each vehicle, if the  
72 registered owner is a person other than the defendant, and to  
73 each person of record claiming a lien against the vehicle.

74 (e) A person who owns but was not operating the vehicle  
75 when the offense occurred may submit to the court a police  
76 report indicating that the vehicle was stolen at the time of the  
77 offense or documentation of having purchased the vehicle after  
78 the offense was committed from an entity other than the  
79 defendant or the defendant's agent. If the court finds that the  
80 vehicle was stolen or that the sale was not made to circumvent  
81 the order and allow the defendant continued access to the

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

82 vehicle, the order must be dismissed and the owner of the  
83 vehicle will incur no costs. If the court denies the request to  
84 dismiss the order of impoundment or immobilization, the  
85 petitioner may request an evidentiary hearing.

86 (f) A person who owns but was not operating the vehicle  
87 when the offense occurred, and whose vehicle was stolen or who  
88 purchased the vehicle after the offense was committed directly  
89 from the defendant or the defendant's agent, may request an  
90 evidentiary hearing to determine whether the impoundment or  
91 immobilization should occur. If the court finds that either the  
92 vehicle was stolen or the purchase was made without knowledge of  
93 the offense, that the purchaser had no relationship to the  
94 defendant other than through the transaction, and that such  
95 purchase would not circumvent the order and allow the defendant  
96 continued access to the vehicle, the order must be dismissed and  
97 the owner of the vehicle will incur no costs.

98 (g) The court shall also dismiss the order of impoundment  
99 or immobilization of the vehicle if the court finds that the  
100 family of the owner of the vehicle has no other private or  
101 public means of transportation.

102 (h) The court may also dismiss the order of impoundment or  
103 immobilization of any vehicles that are owned by the defendant  
104 but that are operated solely by the employees of the defendant  
105 or any business owned by the defendant.

106 (i) All costs and fees for the impoundment or  
107 immobilization, including the cost of notification, must be paid  
108 by the owner of the vehicle or, if the vehicle is leased or  
109 rented, by the person leasing or renting the vehicle, unless the  
110 impoundment or immobilization order is dismissed. All provisions  
111 of s. 713.78 shall apply.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

112 (j) The person who owns a vehicle that is impounded or  
113 immobilized under this paragraph, or a person who has a lien of  
114 record against such a vehicle and who has not requested a review  
115 of the impoundment pursuant to paragraph (e), paragraph (f), or  
116 paragraph (g), may, within 10 days after the date that person  
117 has knowledge of the location of the vehicle, file a complaint  
118 in the county in which the owner resides to determine whether  
119 the vehicle was wrongfully taken or withheld from the owner or  
120 lienholder. Upon the filing of a complaint, the owner or  
121 lienholder may have the vehicle released by posting with the  
122 court a bond or other adequate security equal to the amount of  
123 the costs and fees for impoundment or immobilization, including  
124 towing or storage, to ensure the payment of such costs and fees  
125 if the owner or lienholder does not prevail. When the bond is  
126 posted and the fee is paid as set forth in s. 28.24, the clerk  
127 of the court shall issue a certificate releasing the vehicle. At  
128 the time of release, after reasonable inspection, the owner or  
129 lienholder must give a receipt to the towing or storage company  
130 indicating any loss or damage to the vehicle or to the contents  
131 of the vehicle.

132 (k) A defendant, in the court's discretion, may be  
133 required to serve all or any portion of a term of imprisonment  
134 to which the defendant has been sentenced pursuant to this  
135 section in a residential alcoholism treatment program or a  
136 residential drug abuse treatment program. Any time spent in such  
137 a program must be credited by the court toward the term of  
138 imprisonment.

139 (1) For the fourth or subsequent conviction under  
140 subparagraph (2)(b)3., the court shall order imprisonment for  
141 not less than 2 years. There shall be no substitution of this

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

142 minimum mandatory term of imprisonment with treatment  
143 alternatives. However, the court may, with the consent of the  
144 state, order the defendant to serve a minimum mandatory sentence  
145 of 1 year of incarceration followed by a period of probation  
146 during which the defendant must attend and successfully complete  
147 a residential alcohol treatment program, a residential drug  
148 abuse treatment program, or be placed on community control. The  
149 court must also, as a condition of probation, order the  
150 impoundment or immobilization of all vehicles owned by the  
151 defendant at the time of impoundment or immobilization for a  
152 period of 120 days or for the unexpired term of any lease or  
153 rental agreement that expires within 120 days. The impoundment  
154 or immobilization shall not occur concurrently with the  
155 incarceration of the defendant and shall occur concurrently with  
156 the driver's license revocation imposed under s. 322.28. The  
157 impoundment or immobilization order may be dismissed in  
158 accordance with paragraph (e), paragraph (f), paragraph (g), or  
159 paragraph (h). At least 48 hours of confinement must be  
160 consecutive.

161  
162 For the purposes of this section, any conviction for a violation  
163 of s. 327.35; a previous conviction for the violation of former  
164 s. 316.1931, former s. 860.01, or former s. 316.028; or a  
165 previous conviction outside this state for driving under the  
166 influence, driving while intoxicated, driving with an unlawful  
167 blood-alcohol level, driving with an unlawful breath-alcohol  
168 level, or any other similar alcohol-related or drug-related  
169 traffic offense, is also considered a previous conviction for  
170 violation of this section. However, in satisfaction of the fine  
171 imposed pursuant to this section, the court may, upon a finding

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

172 that the defendant is financially unable to pay either all or  
173 part of the fine, order that the defendant participate for a  
174 specified additional period of time in public service or a  
175 community work project in lieu of payment of that portion of the  
176 fine which the court determines the defendant is unable to pay.  
177 In determining such additional sentence, the court shall  
178 consider the amount of the unpaid portion of the fine and the  
179 reasonable value of the services to be ordered; however, the  
180 court may not compute the reasonable value of services at a rate  
181 less than the federal minimum wage at the time of sentencing.

182 (13) (a) Notwithstanding s. 921.241, every judgment of  
183 guilty with respect to any offense governed by this section  
184 shall comply with this subsection. Each judgment shall be in  
185 writing, signed by the judge, and recorded by the clerk of the  
186 circuit court. The judge shall cause to be affixed to every such  
187 written judgment of guilty, in open court and in the presence of  
188 such judge, the fingerprints of the defendant against whom such  
189 judgment is rendered. Such fingerprints shall be affixed beneath  
190 the judge's signature to any such judgment. Beneath such  
191 fingerprints shall be appended a certificate in substantially  
192 the following form:

193  
194 "I hereby certify that the above and foregoing fingerprints are  
195 of the defendant, (name) , and that they were placed thereon by  
196 said defendant in my presence, in open court, this the \_\_\_ day  
197 of (month) (year) ."

198  
199 Such certificate shall be signed by the judge, whose signature  
200 thereto shall be followed by the word "Judge."

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

201        (b) Any such written judgment of guilty, or a certified  
202 copy thereof, shall be admissible in evidence in the courts of  
203 this state as prima facie evidence that the fingerprints  
204 appearing thereon and certified by the judge are the  
205 fingerprints of the defendant against whom such judgment of  
206 guilty was rendered.

207        (c) At the time the defendant's fingerprints are taken,  
208 the judge shall also cause the defendant's social security  
209 number to be taken. The defendant's social security number shall  
210 be affixed to every written judgment of guilty, in open court,  
211 in the presence of such judge, and at the time the judgment is  
212 rendered. If the defendant is unable or unwilling to provide his  
213 or her social security number, the reason for its absence shall  
214 be indicated on the written judgment.

215        Section 2. Paragraphs (a) and (c) of subsection (6) of  
216 section 327.35, Florida Statutes, is amended, paragraphs (j) and  
217 (k) are added to that subsection, and subsection (11) is added  
218 to that section, to read:

219        327.35 Boating under the influence; penalties; "designated  
220 drivers".--

221        (6) With respect to any person convicted of a violation of  
222 subsection (1), regardless of any other penalty imposed:

223        (a) For the first conviction, the court shall place the  
224 defendant on probation ~~for a period not to exceed 1 year~~ and, as  
225 a condition of such probation, shall order the defendant to  
226 participate in public service or a community work project for a  
227 minimum of 50 hours. The court must also, as a condition of  
228 probation, order the impoundment or immobilization of the vessel  
229 that was operated by or in the actual control of the defendant  
230 or any one vehicle registered in the defendant's name at the

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

231 time of impoundment or immobilization, for a period of 10 days  
232 or for the unexpired term of any lease or rental agreement that  
233 expires within 10 days. The impoundment or immobilization must  
234 not occur concurrently with the incarceration of the defendant.  
235 The impoundment or immobilization order may be dismissed in  
236 accordance with paragraph (e) or paragraph (f). ~~The total period~~  
237 ~~of probation and incarceration may not exceed 1 year.~~

238 (c) For the third ~~or subsequent~~ conviction for an offense  
239 that occurs within a period of 10 years after the date of a  
240 prior conviction for violation of this section, the court shall  
241 order imprisonment for not less than 30 days. The court must  
242 also, as a condition of probation, order the impoundment or  
243 immobilization of the vessel that was operated by or in the  
244 actual control of the defendant or any one vehicle registered in  
245 the defendant's name at the time of impoundment or  
246 immobilization, for a period of 90 days or for the unexpired  
247 term of any lease or rental agreement that expires within 90  
248 days. The impoundment or immobilization shall ~~must~~ not occur  
249 concurrently with the incarceration of the defendant. The  
250 impoundment or immobilization order may be dismissed in  
251 accordance with paragraph (e) or paragraph (f). At least 48  
252 hours of confinement must be consecutive.

253 (j) For the fourth or subsequent conviction under  
254 subparagraph (2)(b)3., the court shall order imprisonment for  
255 not less than 2 years. There shall be no substitution of this  
256 minimum mandatory term of imprisonment with treatment  
257 alternatives. However, the court may, with the consent of the  
258 state, order the defendant to serve a minimum mandatory sentence  
259 of 1 year of incarceration followed by a period of probation  
260 during which the defendant must attend and successfully complete

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

261 a residential alcohol treatment program, a residential drug  
262 abuse treatment program or be placed on community control. The  
263 court must also, as a condition of probation, order the  
264 impoundment or immobilization of the vessel that was operated by  
265 or in the actual control of the defendant or any one vehicle  
266 registered in the defendant's name at the time of impoundment or  
267 immobilization for a period of 120 days or for the unexpired  
268 term of any lease or rental agreement that expires within 120  
269 days. The impoundment or immobilization shall not occur  
270 concurrently with the incarceration of the defendant. The  
271 impoundment or immobilization order may be dismissed in  
272 accordance with paragraph (e) or paragraph (f). At least 48  
273 hours of confinement must be consecutive.

274 (k) A person who owns but was not operating the vessel  
275 when an offense under this section occurred may request an  
276 evidentiary hearing to determine whether the impoundment or  
277 immobilization should occur. If the court finds that the owner  
278 was unaware of the defendant's prior conviction and sentence  
279 under paragraph (a), paragraph (b), paragraph (c), or paragraph  
280 (j) or if the court finds that there are other mitigating  
281 circumstances that should allow the owner of the vessel to  
282 secure the release of the vessel to the owner's possession, the  
283 court may do so by dismissing the order of impoundment or  
284 immobilization with or without cost to the vessel owner.

285  
286 For the purposes of this section, any conviction for a violation  
287 of s. 316.193, a previous conviction for the violation of former  
288 s. 316.1931, former s. 860.01, or former s. 316.028, or a  
289 previous conviction outside this state for driving under the  
290 influence, driving while intoxicated, driving with an unlawful

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

291 blood-alcohol level, driving with an unlawful breath-alcohol  
292 level, or any other similar alcohol-related or drug-related  
293 traffic offense, is also considered a previous conviction for  
294 violation of this section.

295 (11) (a) Notwithstanding s. 921.241, every judgment of  
296 guilty with respect to any offense governed by this section  
297 shall comply with this subsection. Each judgment shall be in  
298 writing, signed by the judge, and recorded by the clerk of the  
299 circuit court. The judge shall cause to be affixed to every such  
300 written judgment of guilty, in open court and in the presence of  
301 such judge, the fingerprints of the defendant against whom such  
302 judgment is rendered. Such fingerprints shall be affixed beneath  
303 the judge's signature to any such judgment. Beneath such  
304 fingerprints shall be appended a certificate in substantially  
305 the following form:

306  
307 "I hereby certify that the above and foregoing fingerprints are  
308 of the defendant, (name) , and that they were placed thereon by  
309 said defendant in my presence, in open court, this the \_\_\_ day  
310 of (month) (year) ."

311  
312 Such certificate shall be signed by the judge, whose signature  
313 thereto shall be followed by the word "Judge."

314 (b) Any such written judgment of guilty, or a certified  
315 copy thereof, shall be admissible in evidence in the courts of  
316 this state as prima facie evidence that the fingerprints  
317 appearing thereon and certified by the judge are the  
318 fingerprints of the defendant against whom such judgment of  
319 guilty was rendered.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

320       (c) At the time the defendant's fingerprints are taken,  
321 the judge shall also cause the defendant's social security  
322 number to be taken. The defendant's social security number shall  
323 be affixed to every written judgment of guilty, in open court,  
324 in the presence of such judge, and at the time the judgment is  
325 rendered. If the defendant is unable or unwilling to provide his  
326 or her social security number, the reason for its absence shall  
327 be indicated on the written judgment.

328       Section 3. This act shall take effect October 1, 2006, and  
329 shall apply to offenses committed on or after that date.

330  
331 ===== T I T L E   A M E N D M E N T =====

332       Remove the entire title and insert:

333  
334       An act relating to driving and boating under the  
335 influence; amending s. 316.193, F.S.; providing for  
336 applicability of sanctions; requiring a specified period  
337 of imprisonment for a fourth or subsequent conviction of  
338 driving under the influence; prohibiting substitution of  
339 treatment alternatives in certain circumstances; requiring  
340 impoundment or immobilization of all vehicles owned by the  
341 defendant for a specified period; providing for dismissal  
342 of an impoundment order; amending s. 327.35, F.S.;

343       requiring a specified period of imprisonment for a fourth  
344 or subsequent conviction of boating under the influence;  
345 prohibiting substitution of treatment alternatives in  
346 certain circumstances; requiring impoundment or  
347 immobilization of the vessel operated by or in the actual  
348 control of the defendant or any one vehicle registered in  
349 the defendant's name at the time of impoundment or

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

350 immobilization for a specified period; providing for  
351 dismissal of an order of impoundment or immobilization  
352 under certain circumstances upon request of an owner who  
353 was not operating the vessel; providing for dismissal of  
354 an impoundment order; providing applicability; providing  
355 an effective date.  
356

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# COMMITTEE MEETING REPORT

## Criminal Justice Committee

1/25/2006 9:30:00AM

Location: 404 HOB

HB 339 : Sexual Predators

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				
<b>Total Yeas: 6</b>		<b>Total Nays: 0</b>			

### Appearances:

HB 339--Sexual Predators

Larry Wood (State Employee) - Proponent

Palm Beach County Sheriff's Office

3228 Gun Club Road

West Palm Beach Florida 33406

Phone: 561-688-4142

Committee meeting was reported out: Wednesday, January 25, 2006 3:26:37PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

Bill No. 0339

COUNCIL/COMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	<input checked="" type="checkbox"/>	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	—	

**ADOPTED**

1 Council/Committee hearing bill: Criminal Justice Committee  
 2 Representative Brandenburg offered the following:

3

4 **Amendment**

5 Remove lines 23-26 and insert:

6 person's permanent address, or for a person whose permanent  
 7 residence is not in this state, a place where the person is  
 8 employed, practices a vocation, or is enrolled as a student for  
 9 any period of time in this state; ~~or a place where the person~~

# COMMITTEE MEETING REPORT

## Criminal Justice Committee

1/25/2006 9:30:00AM

Location: 404 HOB

HB 399 : Criminal Offenses

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				
<b>Total Yeas: 6</b>		<b>Total Nays: 0</b>			

Committee meeting was reported out: Wednesday, January 25, 2006 3:26:37PM

# COMMITTEE MEETING REPORT

## Criminal Justice Committee

1/25/2006 9:30:00AM

Location: 404 HOB

PCB CRJU 06-02 : Stolen Property

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				
<b>Total Yeas: 6</b>		<b>Total Nays: 0</b>			

### Appearances:

PCB CRJU 06-02--Stolen Property

Frank Messersmith (Lobbyist) - Proponent

2901 Lake Bradford

Tallahassee Florida

Phone: 850-576-5858

Committee meeting was reported out: Wednesday, January 25, 2006 3:26:37PM

# COMMITTEE MEETING REPORT

## Criminal Justice Committee

1/25/2006 9:30:00AM

Location: 404 HOB

### Workshop

#### PCB CRJU 06-03--Criminal Background Screening

##### Appearances:

Camp Bulloch - Information Only

PCB CRJU 06-03--Criminal Background Screening for Contractual School Personnel

*ABC - North Florida*

P.O. Box 4276

Tallahassee Florida 32315

Phone:850-504-9200

David Williams - Information Only

PCB CRJU 06-03--Criminal Background Screening for Contractual School Personnel

*ABC of Florida*

701 W. Adams Street

Jacksonville Florida 32259

Phone:904-353-6500

Electra Bustle - Proponent

PCB CRJU 06-03--Criminal Background Screening for Contractual School Personnel

*FDLE*

Tallahassee Florida 410-7004

James Perry - Information Only

PCB CRJU 06-03--Criminal Background Screening for Contractual School Personnel

*Center for Fine Arts Education*

Tallahassee Florida 32301

Phone:850-878-6844

Joy Frank - Proponent

PCB CRJU 06-03--Criminal Background Screening for Contractual School Personnel

*Fla. Assoc. of District School Superintendants*

208 S. Monroe Street

Tallahassee Florida 32301

Phone:222-2280

Richard Watson - Proponent

PCB CRJU 06-03--Criminal Background Screening for Contractual School Personnel

*Florida Surety Association*

P.O. Box 10038

Tallahassee Florida 32322

Phone:850-222-0000

#### HB 61 CS:

##### Appearances:

Committee meeting was reported out: Wednesday, January 25, 2006 3:26:37PM

# COMMITTEE MEETING REPORT

## Criminal Justice Committee

1/25/2006 9:30:00AM

**Location:** 404 HOB

David Rothman - Information Only

HB 61 CS--Postsentencing Testing of DNA Evidence

*The Florida Bar*

651 E. Jefferson Street

Tallahassee Florida 32399

Phone:561-5662

Jennifer Greenberg - Proponent

HB 61 CS--Postsentencing Testing of DNA Evidence

*Florida Innocence Initiative*

1720 S. Gadsden Street

Tallahassee Florida 32301

Phone:850-561-6768

Kenneth Nunn (State Employee) - Proponent

HB 61 CS--Postsentencing Testing of DNA Evidence

College of Law

Gainesville Florida 32611

Phone:352-273-0660

Nancy Daniels (State Employee) - Proponent

HB 61 CS--Postsentencing Testing of DNA Evidence

*Fl. Public Defender Association, Inc.*

Leon County Courthouse/301 S. Monroe Street

Tallahassee Florida 32301

Phone:850-606-1010

Suzanne H. Livingston (State Employee) - Information Only

HB 61 CS--Postsentencing Testing of DNA Evidence

*FDLE*

2331 Phillips Road

Tallahassee Florida 32308

Phone:850-410-8340

Wilton Dedge - Proponent

HB 61 CS--Postsentencing Testing of DNA Evidence

*Self*

4600 Camberly Street

Cocoa Florida 32927

Phone:321-302-6908

Committee meeting was reported out: Wednesday, January 25, 2006 3:26:37PM



# COMMITTEE MEETING REPORT

## Criminal Justice Committee

1/25/2006 9:30:00AM

**Location:** 404 HOB

### Summary:

#### Criminal Justice Committee

*Wednesday January 25, 2006 09:30 am*

PCB CRJU 06-03--Criminal Background Screening      Workshopped

HB 61 CS      Workshopped

HB 271      Favorable With Committee Substitute      Yeas: 7      Nays: 0

HB 297      Favorable With Committee Substitute      Yeas: 6      Nays: 0

HB 339      Favorable With Committee Substitute      Yeas: 6      Nays: 0

HB 399      Favorable      Yeas: 6      Nays: 0

PCB CRJU 06-02      Favorable      Yeas: 6      Nays: 0

Committee meeting was reported out: Wednesday, January 25, 2006 3:26:37PM

PCB CR34 40-03  
Handout

Clinical Programs

6441 East Colonial Drive  
Orlando, FL 32807-3650  
voice (321) 206-5750

[www.barry.edu/law](http://www.barry.edu/law)

January 18, 2006

Dear Legislators:

As a child advocate, I was pleased that the Florida Legislature passed the Jessica Lunsford Act. In many ways, it is a good law. The law is designed to protect Florida's children from sexual predators and offenders. In 82 pages the law includes many laudable protections for Florida's children including increased penalties for sex offenders and the tightening of the monitoring of convicted sex offenders. Unfortunately, in one small portion of the Act, the law establishes an elaborate and extensive protocol that requires the fingerprinting and criminal background checks of persons that provide goods, materials or services to schools.

The protocol established by the law is enormously expensive to administer for the Florida's school districts and the businesses that provide the necessary goods and services to our schools. The millions of dollars that will be spent to administer the fingerprinting and criminal background checks that are required by the Act will drain the school districts of financial and personal resources that are needed to build classrooms, buy books and protect children.

Practically speaking, the fingerprinting and "Level 2" background checks required by the Act is unworkable. As written, the law requires the school districts to initiate the fingerprinting of what could be millions of employees of firms that do business with schools and perform criminal background checks of those persons to determine if they have ever committed a crime of "moral turpitude," regardless of whether the crime demonstrates a proclivity towards harming children.

Employees of businesses that serve schools in several districts may be subjected to multiple fingerprinting and background checks because the FDLE has no reasonable means to allow the various school districts to share the huge database without frequently purging its contents.

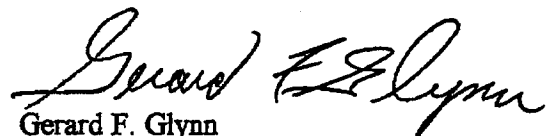
There is a much better way to protect our school children from sexual predators. Instead of implementing the elaborate protocol required by the statute, the Legislature should utilize the state and national databases of sexual offenders and predators that already exist.

This can be easily accomplished by amending a small portion of the Act to require businesses that provide goods, materials or services to schools to certify on an annual basis that their employees have been checked against the state and national sexual and offender databases and by imposing criminal penalties on those businesses that fail to comply with the Act. Under the Act as presently written, no such penalty exists.

January 18, 2006  
Page 2

Changing the law in this fashion will eliminate the costly and unworkable protocol that is required by the Act and put some real teeth into compliance, all for the better protection of our school children. Such an amendment is presently being proposed by Associated Builders and Contractors of Florida. It is a common sense amendment that will save millions of precious education dollars and provide better protection for our children from those who have a demonstrated proclivity to do them harm.

Our children need protection, but we also need the funds to build more schools. There has to be a reasonable balance.



Gerard F. Glynn  
Associate Professor  
Barry University School of Law

