



**CRIMINAL JUSTICE
COMMITTEE MEETING**

**Tuesday, April 4, 2006
10:15 a.m. - 11:00 a.m.
404 House Office Building**

**ACTION
PACKET**

Allan G. Bense
Speaker

Dick Kravitz
Chair

COMMITTEE MEETING REPORT

Criminal Justice Committee

4/4/2006 10:15:00AM

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:	7	0	1

Committee meeting was reported out: Tuesday, April 04, 2006 12:06:59PM

COMMITTEE MEETING REPORT

Criminal Justice Committee

4/4/2006 10:15:00AM

Location: 404 HOB

HB 471 CS : Fish and Wildlife

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: 6		Total Nays: 0			

Appearances:

HB 471 CS--SEAPORT FISH AND WILDLIFE BY TROUTMAN

Preston Robertson (Lobbyist) - Proponent

Florida Wildlife Federation
2545 Blairstone Pines Drive
Tallahassee Florida 32301
Phone: 850-656-7113

Committee meeting was reported out: Tuesday, April 04, 2006 12:06:59PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

Bill No. 0471

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WITHDRAWN (Y/N)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(s) Troutman offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

6 Section 1. Present subsections (5) through (28) of section
7 370.01, Florida Statutes, are redesignated as subsections (6)
8 through (29), respectively, and a new subsection (5) is added to
9 that section, to read:

10 370.01 Definitions.--In construing these statutes, where
11 the context does not clearly indicate otherwise, the word,
12 phrase, or term:

13 (5) "Commercial harvester" means any person, firm, or
14 corporation that takes, harvests, or attempts to take or harvest
15 saltwater products for sale, or with intent to sell as evidenced
16 by any of the following:

17 (a) The person, firm, or corporation is operating under or
18 is required to operate under a license or permit or
19 authorization issued pursuant to this chapter;

20 (b) The person, firm, or corporation is using gear that is
21 prohibited for use in the harvest of recreational amounts of any
22 saltwater product being taken or harvested; or

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

23 (c) The person, firm, or corporation is harvesting any
24 saltwater product in an amount that is at least two times the
25 recreational bag limit for the saltwater product being taken or
26 harvested.

27 Section 2. Subsections (1), (2), (4), (5), (6), and (12)
28 of section 370.021, Florida Statutes, are amended to read:

29 370.021 Administration; rules, publications, records;
30 penalties; injunctions.--

31 (1) BASE PENALTIES.--Unless otherwise provided by law, any
32 person, firm, or corporation who violates ~~is convicted for~~
33 ~~violating~~ any provision of this chapter, or any rule of the Fish
34 and Wildlife Conservation Commission relating to the
35 conservation of marine resources, shall be punished:

36 (a) Upon a first conviction, by imprisonment for a period
37 of not more than 60 days or by a fine of not less than \$100 nor
38 more than \$500, or by both such fine and imprisonment.

39 (b) On a second or subsequent conviction within 12 months,
40 by imprisonment for not more than 6 months or by a fine of not
41 less than \$250 nor more than \$1,000, or by both such fine and
42 imprisonment.

43

44 Upon final disposition of any alleged offense for which a
45 citation for any violation of this chapter or the rules of the
46 commission has been issued, the court shall, within 10 days,
47 certify the disposition to the commission.

48 (2) MAJOR VIOLATIONS.--In addition to the penalties
49 provided in paragraphs (1)(a) and (b), the court shall assess
50 additional penalties against any commercial harvester ~~person,~~
51 ~~firm, or corporation~~ convicted of major violations as follows:

52 (a) For a violation involving more than 100 illegal blue
53 crabs, crawfish, or stone crabs, an additional penalty of \$10

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

54 for each illegal blue crab, crawfish, stone crab, or part
55 thereof.

56 (b) For a violation involving the taking or harvesting of
57 shrimp from a nursery or other prohibited area, or any two
58 violations within a 12-month period involving shrimping gear,
59 minimum size (count), or season, an additional penalty of \$10
60 for each pound of illegal shrimp or part thereof.

61 (c) For a violation involving the taking or harvesting of
62 oysters from nonapproved areas or the taking or possession of
63 unculled oysters, an additional penalty of \$10 for each bushel
64 of illegal oysters.

65 (d) For a violation involving the taking or harvesting of
66 clams from nonapproved areas, an additional penalty of \$100 for
67 each 500 count bag of illegal clams.

68 (e) For a violation involving the taking, harvesting, or
69 possession of any of the following species, which are
70 endangered, threatened, or of special concern:

- 71 1. Shortnose sturgeon (*Acipenser brevirostrum*);
- 72 2. Atlantic sturgeon (*Acipenser oxyrinchus*);
- 73 3. Common snook (*Centropomus undecimalis*);
- 74 4. Atlantic loggerhead turtle (*Caretta caretta caretta*);
- 75 5. Atlantic green turtle (*Chelonia mydas mydas*);
- 76 6. Leatherback turtle (*Dermochelys coriacea*);
- 77 7. Atlantic hawksbill turtle (*Eretmochelys imbricata*
78 *imbricata*);
- 79 8. Atlantic ridley turtle (*Lepidochelys kempfi*); or
- 80 9. West Indian manatee (*Trichechus manatus latirostris*),

81
82 an additional penalty of \$100 for each unit of marine life or
83 part thereof.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

84 (f) For a second or subsequent conviction within 24 months
85 for any violation of the same law or rule involving the taking
86 or harvesting of more than 100 pounds of any finfish, an
87 additional penalty of \$5 for each pound of illegal finfish.

88 (g) For any violation involving the taking, harvesting, or
89 possession of more than 1,000 pounds of any illegal finfish, an
90 additional penalty equivalent to the wholesale value of the
91 illegal finfish.

92 (h) Permits issued to any commercial harvester person,
93 ~~firm, or corporation~~ by the commission to take or harvest
94 saltwater products, or any license issued pursuant to s. 370.06
95 or s. 370.07 may be suspended or revoked by the commission,
96 pursuant to the provisions and procedures of s. 120.60, for any
97 major violation prescribed in this subsection:

98 1. Upon a first conviction, for up to 30 calendar days.

99 2. Upon a second conviction which occurs within 12 months
100 after a prior violation, for up to 90 calendar days.

101 3. Upon a third conviction which occurs within 24 months
102 after a prior conviction, for up to 180 calendar days.

103 4. Upon a fourth conviction which occurs within 36 months
104 after a prior conviction, for a period of 6 months to 3 years.

105 (i) Upon the arrest and conviction for a major violation
106 involving stone crabs, the licenseholder must show just cause
107 why his or her license should not be suspended or revoked. For
108 the purposes of this paragraph, a "major violation" means a
109 major violation as prescribed for illegal stone crabs; any
110 single violation involving possession of more than 25 stone
111 crabs during the closed season or possession of 25 or more
112 whole-bodied or egg-bearing stone crabs; any violation for trap
113 molestation, trap robbing, or pulling traps at night; or any
114 combination of violations in any 3-consecutive-year period

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

115 wherein more than 75 illegal stone crabs in the aggregate are
116 involved.

117 (j) Upon the arrest and conviction for a major violation
118 involving crawfish, the licenseholder must show just cause why
119 his or her license should not be suspended or revoked. For the
120 purposes of this paragraph, a "major violation" means a major
121 violation as prescribed for illegal crawfish; any single
122 violation involving possession of more than 25 crawfish during
123 the closed season or possession of more than 25 wrung crawfish
124 tails or more than 25 egg-bearing or stripped crawfish; any
125 violation for trap molestation, trap robbing, or pulling traps
126 at night; or any combination of violations in any 3-consecutive-
127 year period wherein more than 75 illegal crawfish in the
128 aggregate are involved.

129 (k) Upon the arrest and conviction for a major violation
130 involving blue crabs, the licenseholder shall show just cause
131 why his or her saltwater products license should not be
132 suspended or revoked. This paragraph shall not apply to an
133 individual fishing with no more than five traps. For the
134 purposes of this paragraph, a "major violation" means a major
135 violation as prescribed for illegal blue crabs, any single
136 violation wherein 50 or more illegal blue crabs are involved;
137 any violation for trap molestation, trap robbing, or pulling
138 traps at night; or any combination of violations in any 3-
139 consecutive-year period wherein more than 100 illegal blue crabs
140 in the aggregate are involved.

141 (l) Upon the conviction for a major violation involving
142 finfish, the licenseholder must show just cause why his or her
143 saltwater products license should not be suspended or revoked.
144 For the purposes of this paragraph, a major violation is
145 prescribed for the taking and harvesting of illegal finfish, any

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

146 single violation involving the possession of more than 100
147 pounds of illegal finfish, or any combination of violations in
148 any 3-consecutive-year period wherein more than 200 pounds of
149 illegal finfish in the aggregate are involved.

150 (m) For a violation involving the taking or harvesting of
151 any marine life species, as those species are defined by rule of
152 the commission, the harvest of which is prohibited, or the
153 taking or harvesting of such a species out of season, or with an
154 illegal gear or chemical, or any violation involving the
155 possession of 25 or more individual specimens of marine life
156 species, or any combination of violations in any 3-year period
157 involving more than 70 such specimens in the aggregate, the
158 suspension or revocation of the licenseholder's marine life
159 endorsement as provided in paragraph (h).

160
161 The penalty provisions of this subsection apply to commercial
162 harvesters and wholesale and retail products dealers as defined
163 in s. 370.07. Any other person who commits a major violation
164 under this subsection commits a Level Three violation under s.
165 372.83. Notwithstanding the provisions of s. 948.01, no court
166 may suspend, defer, or withhold adjudication of guilt or
167 imposition of sentence for any major violation prescribed in
168 this subsection. The proceeds from the penalties assessed
169 pursuant to this subsection shall be deposited into the Marine
170 Resources Conservation Trust Fund to be used for marine
171 fisheries research or into the commission's Federal Law
172 Enforcement Trust Fund as provided in s. 372.107, as applicable.

173 (4) ADDITIONAL PENALTIES FOR MAJOR VIOLATIONS INVOLVING
174 CERTAIN FINFISH.--

175 (a) It is a major violation pursuant to this section,
176 ~~punishable as provided in paragraph (3)(b),~~ for any person to be

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

177 in possession of any species of trout, snook, or redfish which
178 is three fish in excess of the recreational or commercial daily
179 bag limit.

180 (b) A commercial harvester who violates this subsection
181 shall be punished as provided under paragraph (3)(b). Any other
182 person who violates this subsection commits a Level Three
183 violation under s. 372.83.

184 (5) SALTWATER PRODUCTS; UNLICENSED SELLERS; ILLEGALLY
185 HARVESTED PRODUCTS.--In addition to other penalties authorized
186 in this chapter, any violation of s. 370.06 or s. 370.07, or
187 rules of the commission implementing s. 370.06 or s. 370.07,
188 involving the purchase of saltwater products by a commercial
189 wholesale dealer, retail dealer, or restaurant facility for
190 public consumption from an unlicensed person, firm, or
191 corporation, ~~or the sale of saltwater products by an unlicensed~~
192 ~~person, firm, or corporation~~ or the purchase or sale of any
193 saltwater product known to be taken in violation of s. 16, Art.
194 X of the State Constitution, or rule or statute implementing the
195 provisions thereof, by a commercial wholesale dealer, retail
196 dealer, or restaurant facility, for public consumption, is a
197 major violation, and the commission may assess the following
198 penalties:

199 (a) For a first violation, the commission may assess a
200 civil penalty of up to \$2,500 and may suspend the wholesale or
201 retail dealer's license privileges for up to 90 calendar days.

202 (b) For a second violation occurring within 12 months of a
203 prior violation, the commission may assess a civil penalty of up
204 to \$5,000 and may suspend the wholesale or retail dealer's
205 license privileges for up to 180 calendar days.

206 (c) For a third or subsequent violation occurring within a
207 24-month period, the commission shall assess a civil penalty of

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

208 \$5,000 and shall suspend the wholesale or retail dealer's
209 license privileges for up to 24 months.

210
211 Any proceeds from the civil penalties assessed pursuant to this
212 subsection shall be deposited into the Marine Resources
213 Conservation Trust Fund and shall be used as follows: 40
214 percent for administration and processing purposes and 60
215 percent for law enforcement purposes.

216 (6) PENALTIES FOR UNLICENSED SALE, PURCHASE, OR
217 HARVEST.--It is a major violation and punishable as provided in
218 this subsection for any an unlicensed person, firm, or
219 corporation who is required to be licensed as a commercial
220 harvester or a wholesale or retail saltwater products dealer
221 under this chapter to sell or purchase any saltwater product or
222 to harvest or attempt to harvest any saltwater product with
223 intent to sell the saltwater product.

224 (a) Any person, firm, or corporation who sells or
225 purchases any saltwater product without having purchased the
226 licenses required by this chapter for such sale is subject to
227 ~~additional~~ penalties as follows:

228 1. A first violation is a misdemeanor of the second
229 degree, punishable as provided in s. 775.082 or s. 775.083.

230 2. A second violation is a misdemeanor of the first
231 degree, punishable as provided in s. 775.082 or s. 775.083, and
232 such person may also be assessed a civil penalty of up to \$2,500
233 and is subject to a suspension of all license privileges under
234 this chapter and chapter 372 for a period not exceeding 90 days.

235 3. A third violation is a misdemeanor of the first degree,
236 punishable as provided in s. 775.082 or s. 775.083, with a
237 mandatory minimum term of imprisonment of 6 months, and such
238 person may also be assessed a civil penalty of up to \$5,000 and

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

239 is subject to a suspension of all license privileges under this
240 chapter and chapter 372 for a period not exceeding 6 months.

241 4. A third violation within 1 year after a second
242 violation is a felony of the third degree, punishable as
243 provided in s. 775.082 or s. 775.083, with a mandatory minimum
244 term of imprisonment of 1 year, and such person shall be
245 assessed a civil penalty of \$5,000 and all license privileges
246 under this chapter and chapter 372 shall be permanently revoked.

247 5. A fourth or subsequent violation is a felony of the
248 third degree, punishable as provided in s. 775.082 or s.
249 775.083, with a mandatory minimum term of imprisonment of 1
250 year, and such person shall be assessed a civil penalty of
251 \$5,000 and all license privileges under this chapter and chapter
252 372 shall be permanently revoked.

253 (b) Any person whose license privileges under this chapter
254 have been permanently revoked and who thereafter sells or
255 purchases or who attempts to sell or purchase any saltwater
256 product commits a felony of the third degree, punishable as
257 provided in s. 775.082 or s. 775.083, with a mandatory minimum
258 term of imprisonment of 1 year, and such person shall also be
259 assessed a civil penalty of \$5,000. All property involved in
260 such offense shall be forfeited pursuant to s. 370.061.

261 (c) Any commercial harvester or wholesale or retail
262 saltwater products dealer ~~person~~ whose license privileges under
263 this chapter are under suspension and who during such period of
264 suspension sells or purchases or attempts to sell or purchase
265 any saltwater product shall be assessed the following penalties:

266 1. A first violation, or a second violation occurring more
267 than 12 months after a first violation, is a first degree
268 misdemeanor, punishable as provided in ss. 775.082 and 775.083,
269 and such commercial harvester or wholesale or retail saltwater

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

270 products dealer ~~person~~ may be assessed a civil penalty of up to
271 \$2,500 and an additional suspension of all license privileges
272 under this chapter and chapter 372 for a period not exceeding 90
273 days.

274 2. A second violation occurring within 12 months of a
275 first violation is a third degree felony, punishable as provided
276 in ss. 775.082 and 775.083, with a mandatory minimum term of
277 imprisonment of 1 year, and such commercial harvester or
278 wholesale or retail saltwater products dealer ~~person~~ may be
279 assessed a civil penalty of up to \$5,000 and an additional
280 suspension of all license privileges under this chapter and
281 chapter 372 for a period not exceeding 180 days. All property
282 involved in such offense shall be forfeited pursuant to s.
283 370.061.

284 3. A third violation within 24 months of the second
285 violation or subsequent violation is a third degree felony,
286 punishable as provided in ss. 775.082 and 775.083, with a
287 mandatory minimum term of imprisonment of 1 year, and such
288 commercial harvester or wholesale or retail saltwater products
289 dealer ~~person~~ shall be assessed a mandatory civil penalty of up
290 to \$5,000 and an additional suspension of all license privileges
291 under this chapter and chapter 372 for a period not exceeding 24
292 months. All property involved in such offense shall be forfeited
293 pursuant to s. 370.061.

294 (d) Any commercial harvester ~~person~~ who harvests or
295 attempts to harvest any saltwater product with intent to sell
296 the saltwater product without having purchased a saltwater
297 products license with the requisite endorsements is subject to
298 penalties as follows:

299 1. A first violation is a misdemeanor of the second
300 degree, punishable as provided in s. 775.082 or s. 775.083.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

301 2. A second violation is a misdemeanor of the first
302 degree, punishable as provided in s. 775.082 or s. 775.083, and
303 such commercial harvester person may also be assessed a civil
304 penalty of up to \$2,500 and is subject to a suspension of all
305 license privileges under this chapter and chapter 372 for a
306 period not exceeding 90 days.

307 3. A third violation is a misdemeanor of the first degree,
308 punishable as provided in s. 775.082 or s. 775.083, with a
309 mandatory minimum term of imprisonment of 6 months, and such
310 commercial harvester person may also be assessed a civil penalty
311 of up to \$5,000 and is subject to a suspension of all license
312 privileges under this chapter and chapter 372 for a period not
313 exceeding 6 months.

314 4. A third violation within 1 year after a second
315 violation is a felony of the third degree, punishable as
316 provided in s. 775.082 or s. 775.083, with a mandatory minimum
317 term of imprisonment of 1 year, and such commercial harvester
318 person shall also be assessed a civil penalty of \$5,000 and all
319 license privileges under this chapter and chapter 372 shall be
320 permanently revoked.

321 5. A fourth or subsequent violation is a felony of the
322 third degree, punishable as provided in s. 775.082 or s.
323 775.083, with a mandatory minimum term of imprisonment of 1
324 year, and such commercial harvester person shall also be
325 assessed a mandatory civil penalty of \$5,000 and all license
326 privileges under this chapter and chapter 372 shall be
327 permanently revoked.

328
329 For purposes of this subsection, a violation means any judicial
330 disposition other than acquittal or dismissal.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

331 (12) LICENSES AND ENTITIES SUBJECT TO PENALTIES.--For
332 purposes of imposing license or permit suspensions or
333 revocations authorized by this chapter, the license or permit
334 under which the violation was committed is subject to suspension
335 or revocation by the commission. For purposes of assessing
336 monetary civil or administrative penalties authorized by this
337 chapter, the commercial harvester ~~person, firm, or corporation~~
338 cited and subsequently receiving a judicial disposition of other
339 than dismissal or acquittal in a court of law is subject to the
340 monetary penalty assessment by the commission. However, if the
341 license or permitholder of record is not the commercial
342 harvester ~~person, firm, or corporation~~ receiving the citation
343 and judicial disposition, the license or permit may be suspended
344 or revoked only after the license or permitholder has been
345 notified by the commission that the license or permit has been
346 cited in a major violation and is now subject to suspension or
347 revocation should the license or permit be cited for subsequent
348 major violations.

349 Section 3. Section 370.028, Florida Statutes, is amended
350 to read:

351 370.028 Enforcement of commission rules; penalties for
352 violation of rule.--Rules of the Fish and Wildlife Conservation
353 Commission shall be enforced by any law enforcement officer
354 certified pursuant to s. 943.13. Except as provided under s.
355 372.83, any person who violates or otherwise fails to comply
356 with any rule adopted by the commission shall be punished
357 pursuant to s. 370.021(1).

358 Section 4. Paragraph (d) of subsection (5) of section
359 370.061, Florida Statutes, is amended to read:

360 370.061 Confiscation, seizure, and forfeiture of property
361 and products.--

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

362 (5) CONFISCATION AND SALE OF PERISHABLE SALTWATER
363 PRODUCTS; PROCEDURE.--

364 (d) For purposes of confiscation under this subsection,
365 the term "saltwater products" has the meaning set out in s.
366 370.01(27) ~~s. 370.01(26)~~, except that the term does not include
367 saltwater products harvested under the authority of a
368 recreational license unless the amount of such harvested
369 products exceeds three times the applicable recreational bag
370 limit for trout, snook, or redfish.

371 Section 5. Subsection (8) is added to section 370.063,
372 Florida Statutes, to read:

373 370.063 Special recreational crawfish license.--There is
374 created a special recreational crawfish license, to be issued to
375 qualified persons as provided by this section for the
376 recreational harvest of crawfish (spiny lobster) beginning
377 August 5, 1994.

378 (8) Any person who violates this section commits a Level
379 One violation under s. 372.83.

380 Section 6. Subsection (8) is added to section 370.08,
381 Florida Statutes, to read:

382 370.08 Fishers and equipment; regulation.--

383 (8) PENALTIES.--A commercial harvester who violates this
384 section shall be punished under s. 370.021. Any other person who
385 violates this section commits a Level Two violation under s.
386 372.83.

387 Section 7. Subsection (6) is added to section 370.081,
388 Florida Statutes, to read:

389 370.081 Illegal importation or possession of nonindigenous
390 marine plants and animals; rules and regulations.--

391 (6) Any person who violates this section commits a Level
392 Three violation under s. 372.83.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

393 Section 8. Subsection (4) is added to section 370.1105,
394 Florida Statutes, to read:

395 370.1105 Saltwater finfish; fishing traps regulated.--

396 (4) A commercial harvester who violates this section shall
397 be punished under s. 370.021. Any other person who violates this
398 section commits a Level Two violation under s. 372.83.

399 Section 9. Subsection (3) is added to section 370.1121,
400 Florida Statutes, to read:

401 370.1121 Bonefish; regulation.--

402 (3) A commercial harvester or wholesale or retail
403 saltwater products dealer who violates this section shall be
404 punished under s. 370.021. Any other person who violates this
405 section commits a Level Two violation under s. 372.83.

406 Section 10. Paragraphs (a), (b), (c), and (d) of
407 subsection (2) of section 370.13, Florida Statutes, are amended
408 to read:

409 370.13 Stone crab; regulation.--

410 (2) PENALTIES.--For purposes of this subsection,
411 conviction is any disposition other than acquittal or dismissal,
412 regardless of whether the violation was adjudicated under any
413 state or federal law.

414 (a) It is unlawful to violate commission rules regulating
415 stone crab trap certificates and trap tags. No person may use an
416 expired tag or a stone crab trap tag not issued by the
417 commission or possess or use a stone crab trap in or on state
418 waters or adjacent federal waters without having a trap tag
419 required by the commission firmly attached thereto.

420 1. In addition to any other penalties provided in s.
421 370.021, for any commercial harvester who violates this
422 paragraph, person, firm, or corporation who violates rule 68B-
423 13.010(2), Florida Administrative Code, or rule 68B-13.011(5),

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

424 ~~(6), (7), (8), or (11), Florida Administrative Code, the~~
425 following administrative penalties apply.

426 ~~a.1.~~ For a first violation, the commission shall assess an
427 administrative penalty of up to \$1,000 and the stone crab
428 endorsement under which the violation was committed may be
429 suspended for the remainder of the current license year.

430 ~~b.2.~~ For a second violation that occurs within 24 months
431 of any previous such violation, the commission shall assess an
432 administrative penalty of up to \$2,000 and the stone crab
433 endorsement under which the violation was committed may be
434 suspended for 12 calendar months.

435 ~~c.3.~~ For a third violation that occurs within 36 months of
436 any previous two such violations, the commission shall assess an
437 administrative penalty of up to \$5,000 and the stone crab
438 endorsement under which the violation was committed may be
439 suspended for 24 calendar months.

440 ~~d.4.~~ A fourth violation that occurs within 48 months of
441 any three previous such violations, shall result in permanent
442 revocation of all of the violator's saltwater fishing
443 privileges, including having the commission proceed against the
444 endorsement holder's saltwater products license in accordance
445 with s. 370.021.

446 2. Any other person who violates the provisions of this
447 paragraph commits a Level Two violation under s. 372.83.

448
449 Any commercial harvester ~~person~~ assessed an administrative
450 penalty under this paragraph shall, within 30 calendar days
451 after notification, pay the administrative penalty to the
452 commission, or request an administrative hearing under ss.
453 120.569 and 120.57. The proceeds of all administrative

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

454 penalties collected under this paragraph shall be deposited in
455 the Marine Resources Conservation Trust Fund.

456 (b) It is unlawful for any commercial harvester person to
457 remove the contents of another harvester's trap or take
458 possession of such without the express written consent of the
459 trap owner available for immediate inspection. Unauthorized
460 possession of another's trap gear or removal of trap contents
461 constitutes theft.

462 1. Any commercial harvester person convicted of theft of
463 or from a trap pursuant to this subsection or s. 370.1107 shall,
464 in addition to the penalties specified in s. 370.021 and the
465 provisions of this section, permanently lose all ~~his or her~~
466 saltwater fishing privileges, including saltwater products
467 licenses, stone crab or incidental take endorsements, and all
468 trap certificates allotted to such commercial harvester ~~him or~~
469 ~~her~~ by the commission. In such cases, trap certificates and
470 endorsements are nontransferable.

471 2. In addition, any commercial harvester person, firm, or
472 ~~corporation~~ convicted of violating the prohibitions referenced
473 in this paragraph shall also be assessed an administrative
474 penalty of up to \$5,000. Immediately upon receiving a citation
475 for a violation involving theft of or from a trap and until
476 adjudicated for such a violation, or, upon receipt of a judicial
477 disposition other than dismissal or acquittal on such a
478 violation, the violator is prohibited from transferring any
479 stone crab or lobster certificates.

480 3. Any other person who violates the provisions of this
481 paragraph commits a Level Two violation under s. 372.83.

482 (c)1. It is unlawful to violate ~~Any person, firm, or~~
483 ~~corporation convicted of violating~~ commission rules that
484 prohibit any of the following: ~~commits a felony of the third~~

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

485 ~~degree, punishable as provided in s. 775.082, s. 775.083, or s.~~
486 ~~775.084.~~

487 ~~a.1.~~ The willful molestation of any stone crab trap, line,
488 or buoy that is the property of any licenseholder, without the
489 permission of that licenseholder.

490 ~~b.2.~~ The bartering, trading, or sale, or conspiring or
491 aiding in such barter, trade, or sale, or supplying, agreeing to
492 supply, aiding in supplying, or giving away stone crab trap tags
493 or certificates unless the action is duly authorized by the
494 commission as provided by commission rules.

495 ~~c.3.~~ The making, altering, forging, counterfeiting, or
496 reproducing of stone crab trap tags.

497 ~~d.4.~~ Possession of forged, counterfeit, or imitation stone
498 crab trap tags.

499 ~~e.5.~~ Engaging in the commercial harvest of stone crabs
500 during the time either of the endorsements is under suspension
501 or revocation.

502 2. Any commercial harvester who violates this paragraph
503 commits a felony of the third degree, punishable as provided in
504 s. 775.082, s. 775.083, or s. 775.084.

505 3. Any other person who violates this paragraph commits a
506 Level Four violation under s. 372.83.

507
508 In addition, any commercial harvester ~~person, firm, or~~
509 ~~corporation~~ convicted of violating this paragraph shall also be
510 assessed an administrative penalty of up to \$5,000, and the
511 incidental take endorsement and/or the stone crab endorsement
512 under which the violation was committed may be suspended for up
513 to 24 calendar months. Immediately upon receiving a citation
514 involving a violation of this paragraph and until adjudicated
515 for such a violation, or if convicted of such a violation, the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

516 person, firm, or corporation committing the violation is
517 prohibited from transferring any stone crab certificates or
518 endorsements.

519 (d) For any commercial harvester ~~person, firm, or~~
520 ~~corporation~~ convicted of fraudulently reporting the actual value
521 of transferred stone crab certificates, the commission may
522 automatically suspend or permanently revoke the seller's or the
523 purchaser's stone crab endorsements. If the endorsement is
524 permanently revoked, the commission shall also permanently
525 deactivate the endorsement holder's stone crab certificate
526 accounts. Whether an endorsement is suspended or revoked, the
527 commission may also levy a fine against the holder of the
528 endorsement of up to twice the appropriate surcharge to be paid
529 based on the fair market value of the transferred certificates.

530 Section 11. Subsection (1) of section 370.135, Florida
531 Statutes, is amended to read:

532 370.135 Blue crab; regulation.--

533 (1)(a) No commercial harvester ~~person, firm, or~~
534 ~~corporation~~ shall transport on the water, fish with or cause to
535 be fished with, set, or place any trap designed for taking blue
536 crabs unless such commercial harvester ~~person, firm, or~~
537 ~~corporation~~ is the holder of a valid saltwater products license
538 issued pursuant to s. 370.06 and the trap has a current state
539 number permanently attached to the buoy. The trap number shall
540 be affixed in legible figures at least 1 inch high on each buoy
541 used. The saltwater products license must be on board the boat,
542 and both the license and the crabs shall be subject to
543 inspection at all times. Only one trap number may be issued for
544 each boat by the commission upon receipt of an application on
545 forms prescribed by it. This subsection shall not apply to an
546 individual fishing with no more than five traps.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

547 **(b)** It is unlawful ~~a felony of the third degree,~~
548 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084,~~
549 for any person willfully to molest any traps, lines, or buoys,
550 as defined herein, belonging to another without the express
551 written consent of the trap owner.

552 1. A commercial harvester who violates this paragraph
553 commits a felony of the third degree, punishable as provided in
554 s. 775.082, s. 775.083, or s. 775.084.

555 2. Any other person who violates this paragraph commits a
556 Level Four violation under s. 372.83.

557
558 Any commercial harvester ~~person~~ receiving a judicial disposition
559 other than dismissal or acquittal on a charge of willful
560 molestation of a trap, in addition to the penalties specified in
561 s. 370.021, shall lose all saltwater fishing privileges for a
562 period of 24 calendar months.

563 **(c)1.** It is unlawful for any person to remove the contents
564 of or take possession of another harvester's trap without the
565 express written consent of the trap owner available for
566 immediate inspection. Unauthorized possession of another's trap
567 gear or removal of trap contents constitutes theft.

568 a. Any commercial harvester ~~person~~ receiving a judicial
569 disposition other than dismissal or acquittal on a charge of
570 theft of or from a trap pursuant to this section or s. 370.1107
571 shall, in addition to the penalties specified in s. 370.021 and
572 the provisions of this section, permanently lose all ~~his or her~~
573 saltwater fishing privileges, including any ~~his or her~~ saltwater
574 products license and blue crab endorsement. In such cases
575 endorsements, landings history, and trap certificates are
576 nontransferable.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

577 b. In addition, any commercial harvester person, firm, or
578 ~~corporation~~ receiving a judicial disposition other than
579 dismissal or acquittal for violating this subsection or s.
580 370.1107 shall also be assessed an administrative penalty of up
581 to \$5,000. Immediately upon receiving a citation for a violation
582 involving theft of or from a trap and until adjudicated for such
583 a violation, or receiving a judicial disposition other than
584 dismissal or acquittal for such a violation, the commercial
585 harvester person, firm, or corporation committing the violation
586 is prohibited from transferring any blue crab endorsements,
587 landings history, or trap certificates.

588 2. A commercial harvester who violates this paragraph
589 shall be punished under s. 370.021. Any other person who
590 violates this paragraph commits a Level Two violation under s.
591 372.83.

592 Section 12. Paragraph (a) of subsection (2) and subsection
593 (4) of section 370.14, Florida Statutes, are amended to read:

594 370.14 Crawfish; regulation.--

595 (2)(a)1. Each commercial harvester person taking or
596 attempting to take crawfish with a trap in commercial quantities
597 or for commercial purposes shall obtain and exhibit a crawfish
598 trap number, as required by the Fish and Wildlife Conservation
599 Commission. The annual fee for a crawfish trap number is \$125.
600 This trap number may be issued by the commission upon the
601 receipt of application by the commercial harvester person when
602 accompanied by the payment of the fee. The design of the
603 applications and of the trap number shall be determined by the
604 commission. Any trap or device used in taking or attempting to
605 take crawfish, other than a trap with the trap number, shall be
606 seized and destroyed by the commission. The proceeds of the fees
607 imposed by this paragraph shall be deposited and used as

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

608 provided in paragraph (b). The commission may adopt rules to
609 carry out the intent of this section.

610 2. Each commercial harvester ~~person~~ taking or attempting
611 to take crawfish in commercial quantities or for commercial
612 purposes by any method, other than with a trap having a crawfish
613 trap number issued by the commission, must pay an annual fee of
614 \$100.

615 (4) (a) It is unlawful ~~a felony of the third degree,~~
616 ~~punishable as provided in s. 775.082 or s. 775.083,~~ for any
617 person willfully to molest any crawfish traps, lines, or buoys
618 belonging to another without permission of the licenseholder.

619 (b) A commercial harvester who violates this subsection
620 commits a felony of the third degree, punishable as provided in
621 s. 775.082 or s. 775.083. Any other person who violates this
622 subsection commits a Level Four violation under s. 372.83.

623 Section 13. Paragraph (c) of subsection (2) of section
624 370.142, Florida Statutes, is amended to read:

625 370.142 Spiny lobster trap certificate program.--

626 (2) TRANSFERABLE TRAP CERTIFICATES; TRAP TAGS; FEES;
627 PENALTIES.--The Fish and Wildlife Conservation Commission shall
628 establish a trap certificate program for the spiny lobster
629 fishery of this state and shall be responsible for its
630 administration and enforcement as follows:

631 (c) Prohibitions; penalties.--

632 1. It is unlawful for a person to possess or use a spiny
633 lobster trap in or on state waters or adjacent federal waters
634 without having affixed thereto the trap tag required by this
635 section. It is unlawful for a person to possess or use any
636 other gear or device designed to attract and enclose or
637 otherwise aid in the taking of spiny lobster by trapping that is

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

638 not a trap as defined by rule of the commission in rule 68B-
639 24.006(2), Florida Administrative Code.

640 2. It is unlawful for a person to possess or use spiny
641 lobster trap tags without having the necessary number of
642 certificates on record as required by this section.

643 3. It is unlawful for any person to willfully molest, take
644 possession of, or remove the contents of another harvester's
645 trap without the express written consent of the trap owner
646 available for immediate inspection. Unauthorized possession of
647 another's trap gear or removal of trap contents constitutes
648 theft.

649 a. A commercial harvester who violates this subparagraph
650 shall be punished under ss. 370.021 and 370.14. Any commercial
651 harvester person receiving a judicial disposition other than
652 dismissal or acquittal on a charge of theft of or from a trap
653 pursuant to this subparagraph or s. 370.1107 shall, in addition
654 to the penalties specified in ss. 370.021 and 370.14 and the
655 provisions of this section, permanently lose all his or her
656 saltwater fishing privileges, including his or her saltwater
657 products license, crawfish endorsement, and all trap
658 certificates allotted to him or her through this program. In
659 such cases, trap certificates and endorsements are
660 nontransferable.

661 b. Any commercial harvester person receiving a judicial
662 disposition other than dismissal or acquittal on a charge of
663 willful molestation of a trap, in addition to the penalties
664 specified in ss. 370.021 and 370.14, shall lose all saltwater
665 fishing privileges for a period of 24 calendar months.

666 c. In addition, any commercial harvester person, firm, or
667 corporation charged with violating this paragraph and receiving
668 a judicial disposition other than dismissal or acquittal for

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

669 violating this subparagraph or s. 370.1107 shall also be
670 assessed an administrative penalty of up to \$5,000.

671
672 Immediately upon receiving a citation for a violation involving
673 theft of or from a trap, or molestation of a trap, and until
674 adjudicated for such a violation or, upon receipt of a judicial
675 disposition other than dismissal or acquittal of such a
676 violation, the person, firm, or corporation committing the
677 violation is prohibited from transferring any crawfish trap
678 certificates and endorsements.

679 4. In addition to any other penalties provided in s.
680 370.021, a commercial harvester, ~~as defined by rule 68B-~~
681 ~~24.002(1), Florida Administrative Code,~~ who violates the
682 provisions of this section, or commission rules the provisions
683 relating to traps of chapter 68B-24, Florida Administrative
684 Code, shall be punished as follows:

685 a. If the first violation is for violation of subparagraph
686 1. or subparagraph 2., the commission shall assess an additional
687 administrative civil penalty of up to \$1,000 and the crawfish
688 trap number issued pursuant to s. 370.14(2) or (6) may be
689 suspended for the remainder of the current license year. For all
690 other first violations, the commission shall assess an
691 additional administrative civil penalty of up to \$500.

692 b. For a second violation of subparagraph 1. or
693 subparagraph 2. which occurs within 24 months of any previous
694 such violation, the commission shall assess an additional
695 administrative civil penalty of up to \$2,000 and the crawfish
696 trap number issued pursuant to s. 370.14(2) or (6) may be
697 suspended for the remainder of the current license year.

698 c. For a third or subsequent violation of subparagraph 1.,
699 subparagraph 2., or subparagraph 3. which occurs within 36

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

700 months of any previous two such violations, the commission shall
701 assess an additional administrative civil penalty of up to
702 \$5,000 and may suspend the crawfish trap number issued pursuant
703 to s. 370.14(2) or (6) for a period of up to 24 months or may
704 revoke the crawfish trap number and, if revoking the crawfish
705 trap number, may also proceed against the licenseholder's
706 saltwater products license in accordance with the provisions of
707 s. 370.021(2) (h).

708 d. Any person assessed an additional administrative civil
709 penalty pursuant to this section shall within 30 calendar days
710 after notification:

711 (I) Pay the administrative civil penalty to the
712 commission; or

713 (II) Request an administrative hearing pursuant to the
714 provisions of s. 120.60.

715 e. The commission shall suspend the crawfish trap number
716 issued pursuant to s. 370.14(2) or (6) for any person failing to
717 comply with the provisions of sub-subparagraph d.

718 5.a. It is unlawful for any person to make, alter, forge,
719 counterfeit, or reproduce a spiny lobster trap tag or
720 certificate.

721 b. It is unlawful for any person to knowingly have in his
722 or her possession a forged, counterfeit, or imitation spiny
723 lobster trap tag or certificate.

724 c. It is unlawful for any person to barter, trade, sell,
725 supply, agree to supply, aid in supplying, or give away a spiny
726 lobster trap tag or certificate or to conspire to barter, trade,
727 sell, supply, aid in supplying, or give away a spiny lobster
728 trap tag or certificate unless such action is duly authorized by
729 the commission as provided in this chapter or in the rules of
730 the commission.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

731 6.a. Any commercial harvester person who violates the
732 provisions of subparagraph 5., or any commercial harvester
733 ~~person~~ who engages in the commercial harvest, trapping, or
734 possession of spiny lobster without a crawfish trap number as
735 required by s. 370.14(2) or (6) or during any period while such
736 crawfish trap number is under suspension or revocation, commits
737 a felony of the third degree, punishable as provided in s.
738 775.082, s. 775.083, or s. 775.084.

739 b. In addition to any penalty imposed pursuant to sub-
740 subparagraph a., the commission shall levy a fine of up to twice
741 the amount of the appropriate surcharge to be paid on the fair
742 market value of the transferred certificates, as provided in
743 subparagraph (a)1., on any commercial harvester person who
744 violates the provisions of sub-subparagraph 5.c.

745 c. Any other person who violates the provisions of
746 subparagraph 5. commits a Level Four violation under s. 372.83.

747 7. Any certificates for which the annual certificate fee
748 is not paid for a period of 3 years shall be considered
749 abandoned and shall revert to the commission. During any period
750 of trap reduction, any certificates reverting to the commission
751 shall become permanently unavailable and be considered in that
752 amount to be reduced during the next license-year period.
753 Otherwise, any certificates that revert to the commission are to
754 be reallocated in such manner as provided by the commission.

755 8. The proceeds of all civil penalties collected pursuant
756 to subparagraph 4. and all fines collected pursuant to sub-
757 subparagraph 6.b. shall be deposited into the Marine Resources
758 Conservation Trust Fund.

759 9. All traps shall be removed from the water during any
760 period of suspension or revocation.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

761 10. Except as otherwise provided, any person who violates
762 this paragraph commits a Level Two violation under s. 372.83.

763 Section 14. Subsections (4), (8), (11), and (12) of
764 section 372.57, Florida Statutes, are amended, and subsections
765 (16) and (17) are added to that section, to read:

766 372.57 Recreational licenses, permits, and authorization
767 numbers; fees established.--

768 (4) RESIDENT HUNTING AND FISHING LICENSES.--The licenses
769 and fees for residents participating in hunting and fishing
770 activities in this state are as follows:

771 (a) Annual freshwater fishing license, \$12.

772 (b) Annual saltwater fishing license, \$12.

773 (c) Annual hunting license to take game, \$11.

774 (d) Annual combination hunting and freshwater fishing
775 license, \$22.

776 (e) Annual combination freshwater fishing and saltwater
777 fishing license, \$24.

778 (f) Annual combination hunting, freshwater fishing, and
779 saltwater fishing license, \$34.

780 (g) Annual license to take fur-bearing animals, \$25.

781 However, a resident with a valid hunting license or a no-cost
782 license who is taking fur-bearing animals for noncommercial
783 purposes using guns or dogs only, and not traps or other
784 devices, is not required to purchase this license. Also, a
785 resident 65 years of age or older is not required to purchase
786 this license.

787 (h) Annual sportsman's license, ~~\$71~~ \$66, except that an
788 annual sportsman's license for a resident 64 years of age or
789 older is \$12. A sportsman's license authorizes the person to
790 whom it is issued to take game and freshwater fish, subject to
791 the state and federal laws, rules, and regulations, including

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

792 rules of the commission, in effect at the time of the taking.
793 Other authorized activities include activities authorized by a
794 management area permit, a muzzle-loading gun season permit, a
795 crossbow season permit, a turkey permit, a Florida waterfowl
796 permit, and an archery permit.

797 (i) Annual gold sportsman's license, \$87 ~~82~~. The gold
798 sportsman's license authorizes the person to whom it is issued
799 to take freshwater fish, saltwater fish, and game, subject to
800 the state and federal laws, rules, and regulations, including
801 rules of the commission, in effect at the time of taking. Other
802 authorized activities include activities authorized by a
803 management area permit, a muzzle-loading gun season permit, a
804 crossbow season permit, a turkey permit, a Florida waterfowl
805 permit, an archery permit, a snook permit, and a crawfish
806 permit.

807 (j) Annual military gold sportsman's license, \$18.50. The
808 gold sportsman's license authorizes the person to whom it is
809 issued to take freshwater fish, saltwater fish, and game,
810 subject to the state and federal laws, rules, and regulations,
811 including rules of the commission, in effect at the time of
812 taking. Other authorized activities include activities
813 authorized by a management area permit, a muzzle-loading gun
814 season permit, a crossbow season permit, a turkey permit, a
815 Florida waterfowl permit, an archery permit, a snook permit, and
816 a crawfish permit. Any resident who is an active or retired
817 member of the United States Armed Forces, the United States
818 Armed Forces Reserve, the National Guard, the United States
819 Coast Guard, or the United States Coast Guard Reserve is
820 eligible to purchase the military gold sportsman's license upon
821 submission of a current military identification card.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

822 (8) SPECIFIED HUNTING, FISHING, AND RECREATIONAL ACTIVITY
823 PERMITS.--In addition to any license required under this
824 chapter, the following permits and fees for specified hunting,
825 fishing, and recreational uses and activities are required:

826 (a) An annual Florida waterfowl permit for a resident or
827 nonresident to take wild ducks or geese within the state or its
828 coastal waters is \$3.

829 (b)1. An annual Florida turkey permit for a resident to
830 take wild turkeys within the state is \$5.

831 2. An annual Florida turkey permit for a nonresident to
832 take wild turkeys within the state is \$100.

833 (c) An annual snook permit for a resident or nonresident
834 to take or possess any snook from any waters of the state is \$2.
835 Revenue generated from the sale of snook permits shall be used
836 exclusively for programs to benefit the snook population.

837 (d) An annual crawfish permit for a resident or
838 nonresident to take or possess any crawfish for recreational
839 purposes from any waters of the state is \$2. Revenue generated
840 from the sale of crawfish permits shall be used exclusively for
841 programs to benefit the crawfish population.

842 (e) A \$5 fee is imposed for each of the following permits:

843 1. An annual archery season permit for a resident or
844 nonresident to hunt within the state during any archery season
845 authorized by the commission.

846 2. An annual crossbow season permit for a resident or
847 nonresident to hunt within the state during any crossbow season
848 authorized by the commission.

849 3. An annual muzzle-loading gun season permit for a
850 resident or nonresident to hunt within the state during any with
851 a muzzle-loading gun season is \$5. Hunting with a muzzle loading

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

852 ~~gun is limited to game seasons in which hunting with a modern~~
853 ~~firearm is not authorized by the commission.~~

854 ~~(f) An annual archery permit for a resident or nonresident~~
855 ~~to hunt within the state with a bow and arrow is \$5. Hunting~~
856 ~~with an archery permit is limited to those game seasons in which~~
857 ~~hunting with a firearm is not authorized by the commission.~~

858 ~~(f)(g)~~ A special use permit for a resident or nonresident
859 to participate in limited entry hunting or fishing activities as
860 authorized by commission rule shall not exceed \$100 per day or
861 \$250 per week. Notwithstanding any other provision of this
862 chapter, there are no exclusions, exceptions, or exemptions from
863 this permit fee. In addition to the permit fee, the commission
864 may charge each special use permit applicant a nonrefundable
865 application fee not to exceed \$10.

866 ~~(g)(h)~~1. A management area permit for a resident or
867 nonresident to hunt on, fish on, or otherwise use for outdoor
868 recreational purposes land owned, leased, or managed by the
869 commission, or by the state for the use and benefit of the
870 commission, shall not exceed \$25 per year.

871 2. Permit fees for short-term use of land that is owned,
872 leased, or managed by the commission may be established by rule
873 of the commission for activities on such lands. Such permits
874 may be in lieu of, or in addition to, the annual management area
875 permit authorized in subparagraph 1.

876 3. Other than for hunting or fishing, the provisions of
877 this paragraph shall not apply on any lands not owned by the
878 commission, unless the commission has obtained the written
879 consent of the owner or primary custodian of such lands.

880 ~~(h)(i)~~1. A recreational user permit is required to hunt
881 on, fish on, or otherwise use for outdoor recreational purposes
882 land leased by the commission from private nongovernmental

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

883 owners, except for those lands located directly north of the
884 Apalachicola National Forest, east of the Ochlocknee River until
885 the point the river meets the dam forming Lake Talquin, and
886 south of the closest federal highway. The fee for a recreational
887 user permit shall be based upon the economic compensation
888 desired by the landowner, game population levels, desired hunter
889 density, and administrative costs. The permit fee shall be set
890 by commission rule on a per-acre basis. The recreational user
891 permit fee, less administrative costs of up to \$25 per permit,
892 shall be remitted to the landowner as provided in the lease
893 agreement for each area.

894 2. One minor dependent, 16 years of age or younger, may
895 hunt under the supervision of the permittee and is exempt from
896 the recreational user permit requirements. The spouse and
897 dependent children of a permittee are exempt from the
898 recreational user permit requirements when engaged in outdoor
899 recreational activities other than hunting and when accompanied
900 by a permittee. Notwithstanding any other provision of this
901 chapter, no other exclusions, exceptions, or exemptions from the
902 recreational user permit fee are authorized.

903 (11) RESIDENT LIFETIME HUNTING LICENSES.--

904 (a) Lifetime hunting licenses are available to residents
905 only, as follows, for:

906 1. Persons 4 years of age or younger, for a fee of \$200.

907 2. Persons 5 years of age or older, but under 13 years of
908 age, for a fee of \$350.

909 3. Persons 13 years of age or older, for a fee of \$500.

910 (b) The following activities are authorized by the
911 purchase of a lifetime hunting license:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

912 1. Taking, or attempting to take or possess, game
913 consistent with the state and federal laws and regulations and
914 rules of the commission in effect at the time of the taking.

915 2. All activities authorized by a muzzle-loading gun
916 season permit, a crossbow season permit, a turkey permit, an
917 archery season permit, a Florida waterfowl permit, and a
918 management area permit, excluding fishing.

919 (12) RESIDENT LIFETIME SPORTSMAN'S LICENSES.--

920 (a) Lifetime sportsman's licenses are available to
921 residents only, as follows, for:

922 1. Persons 4 years of age or younger, for a fee of \$400.

923 2. Persons 5 years of age or older, but under 13 years of
924 age, for a fee of \$700.

925 3. Persons 13 years of age or older, for a fee of \$1,000.

926 (b) The following activities are authorized by the
927 purchase of a lifetime sportsman's license:

928 1. Taking, or attempting to take or possess, freshwater
929 and saltwater fish, and game, consistent with the state and
930 federal laws and regulations and rules of the commission in
931 effect at the time of taking.

932 2. All activities authorized by a management area permit,
933 a muzzle-loading gun season permit, a crossbow season permit, a
934 turkey permit, an archery season permit, a Florida waterfowl
935 permit, a snook permit, and a crawfish permit.

936 (16) PROHIBITED LICENSES OR PERMITS.--A person may not
937 make, forge, or counterfeit a license or permit required under
938 this section, except for those persons authorized by the
939 commission to make or reproduce such a license or permit. A
940 person may not knowingly possess a forgery, counterfeit, or
941 unauthorized reproduction of such a license or permit. A person

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

942 who violates this subsection commits a Level Four violation
943 under s. 372.83.

944 (17) SUSPENDED OR REVOKED LICENSES.--A person may not take
945 game, freshwater fish, saltwater fish, or fur-bearing animals
946 within this state if a license issued to such person as required
947 under this section or a privilege granted to such person under
948 s. 372.562 is suspended or revoked. A person who violates this
949 subsection commits a Level Three violation under s. 372.83.

950 Section 15. Subsection (5) of section 372.5704, Florida
951 Statutes, is amended to read:

952 372.5704 Fish and Wildlife Conservation Commission license
953 program for tarpon; fees; penalties.--

954 (5) Any individual including a taxidermist who possesses a
955 tarpon which does not have a tag securely attached as required
956 by this section commits a Level Two violation under s. 372.83
957 ~~shall be subject to penalties as prescribed in s. 370.021.~~

958 Provided, however, a taxidermist may remove the tag during the
959 process of mounting a tarpon. The removed tag shall remain with
960 the fish during any subsequent storage or shipment.

961 Section 16. Section 372.571, Florida Statutes, is amended
962 to read:

963 372.571 Expiration of licenses and permits.--Each license
964 or permit issued under this chapter must be dated when issued.
965 Each license or permit issued under this chapter remains valid
966 for 12 months after the date of issuance, except for a lifetime
967 license issued pursuant to s. 372.57 which is valid from the
968 date of issuance until the death of the individual to whom the
969 license is issued unless otherwise revoked in accordance with s.
970 372.99, or a 5-year license issued pursuant to s. 372.57 which
971 is valid for 5 consecutive years from the date of purchase
972 unless otherwise revoked in accordance with s. 372.99, or a

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

973 license issued pursuant to s. 372.57(5)(a), (b), (c), or (f) or
974 (8)(f) ~~(8)(g)~~ or (g)(h)2., which is valid for the period
975 specified on the license. A resident lifetime license or a
976 resident 5-year license that has been purchased by a resident of
977 this state and who subsequently resides in another state shall
978 be honored for activities authorized by that license.

979 Section 17. Section 372.5717, Florida Statutes, is amended
980 to read:

981 372.5717 Hunter safety course; requirements; penalty.--

982 (1) This section may be cited as the Senator Joe Carlucci
983 Hunter Safety Act.

984 (2)(a) Except as provided in paragraph (b), a person born
985 on or after June 1, 1975, may not be issued a license to take
986 wild animal life with the use of a firearm, gun, bow, or
987 crossbow in this state without having first successfully
988 completed a hunter safety course as provided in this section,
989 and without having in his or her personal possession a hunter
990 safety certification card, as provided in this section.

991 (b) A person born on or after June 1, 1975, who has not
992 successfully completed a hunter safety course may apply to the
993 commission for a special authorization to hunt under
994 supervision. The special authorization for supervised hunting
995 shall be designated on any license or permit required under this
996 chapter for a person to take game or fur-bearing animals, and
997 shall be valid for not more than 1 year. A special authorization
998 for supervised hunting may not be issued more than once to the
999 person applying for such authorization. A person issued a
1000 license with a special authorization to hunt under supervision
1001 must hunt under the supervision of, and in the presence of, a
1002 person 21 years of age or older who is licensed to hunt pursuant

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1003 to s. 372.57 or who is exempt from licensing requirements or
1004 eligible for a free license pursuant to s. 372.562.

1005 (3) The Fish and Wildlife Conservation Commission shall
1006 institute and coordinate a statewide hunter safety course that
1007 ~~which~~ must be offered in every county and consist of not less
1008 ~~than 12 hours nor~~ more than 16 hours of instruction including,
1009 but not limited to, instruction in the competent and safe
1010 handling of firearms, conservation, and hunting ethics.

1011 (4) The commission shall issue a permanent hunter safety
1012 certification card to each person who successfully completes the
1013 hunter safety course. The commission shall maintain records of
1014 hunter safety certification cards issued and shall establish
1015 procedures for replacing lost or destroyed cards.

1016 (5) A hunter safety certification card issued by a
1017 wildlife agency of another state, or any Canadian province,
1018 which shows that the holder of the card has successfully
1019 completed a hunter safety course approved by the commission is
1020 an acceptable substitute for the hunter safety certification
1021 card issued by the commission.

1022 (6) All persons subject to the requirements of subsection
1023 (2) must have in their personal possession, proof of compliance
1024 with this section, while taking or attempting to take wildlife
1025 with the use of a firearm, gun, bow, or crossbow and must,
1026 unless the requirement to complete a hunter safety course is
1027 deferred pursuant to this section, display a valid hunter safety
1028 certification card ~~to county tax collectors or their subagents~~
1029 in order to purchase a Florida hunting license. After the
1030 issuance of such a license, the license itself shall serve as
1031 proof of compliance with this section. A holder of a lifetime
1032 license whose license does not indicate on the face of the
1033 license that a hunter safety course has been completed must have

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1034 in his or her personal possession a hunter safety certification
1035 card, as provided by this section, while attempting to take wild
1036 animal life with the use of a firearm, gun, bow, or crossbow.

1037 (7) The hunter safety requirements of this section do not
1038 apply to persons for whom licenses are not required under s.
1039 372.562(2).

1040 (8) A person who violates this section shall be cited for
1041 a Level One violation as classified in s. 372.83 and shall be
1042 punished noncriminal infraction, punishable as provided in s.
1043 372.83 s. 372.711.

1044 Section 18. Section 372.573, Florida Statutes, is amended
1045 to read:

1046 372.573 Management area permit revenues.--The commission
1047 shall expend the revenue generated from the sale of the
1048 management area permit as provided for in s. 372.57(8)(g) s.
1049 372.57(8)(h) or that pro rata portion of any license that
1050 includes management area privileges as provided for in s.
1051 372.57(4)(h), (i), and (j) for the lease, management, and
1052 protection of lands for public hunting, fishing, and other
1053 outdoor recreation.

1054 Section 19. Section 372.83, Florida Statutes, is amended
1055 to read:

1056 (Substantial rewording of section. See
1057 s. 372.83, F.S., for present text.)

1058 372.83 Penalties and violations; civil penalties for
1059 noncriminal infractions; criminal penalties; suspension and
1060 forfeiture of licenses and permits.--

1061 (1)(a) LEVEL ONE VIOLATIONS.--A person commits a Level One
1062 violation if he or she violates any of the following provisions:

1063 1. Rules or orders of the commission relating to the
1064 filing of reports or other documents required to be filed by

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1065 persons who hold recreational licenses and permits issued by the
1066 commission.

1067 2. Rules or orders of the commission relating to quota
1068 hunt permits, daily use permits, hunting zone assignments,
1069 camping, alcoholic beverages, vehicles, and check stations
1070 within wildlife management areas or other areas managed by the
1071 commission.

1072 3. Rules or orders of the commission relating to daily use
1073 permits, alcoholic beverages, swimming, possession of firearms,
1074 operation of vehicles, and watercraft speed within fish
1075 management areas managed by the commission.

1076 4. Rules or orders of the commission relating to vessel
1077 size or specifying motor restrictions on specified water bodies.

1078 5. Section 370.063, providing for special recreational
1079 crawfish licenses.

1080 6. Subsections (1) through (15) of s. 372.57, providing
1081 for recreational licenses to hunt, fish, and trap.

1082 7. Section 372.5717, providing hunter safety course
1083 requirements.

1084 8. Section 372.988, prohibiting deer hunting unless
1085 required clothing is worn.

1086 (b) A person who commits a Level One violation commits a
1087 noncriminal infraction and shall be cited to appear before the
1088 county court.

1089 (c)1. The civil penalty for committing a Level One
1090 violation involving the license and permit requirements of s.
1091 372.57 is \$50, plus the cost of the license or permit if the
1092 person cited has not previously committed a Level One violation.

1093 2. The civil penalty for committing a Level One violation
1094 involving the license and permit requirements of s. 372.57 is

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

95 \$250, plus the cost of the license or permit if the person cited
1096 has previously committed a Level One violation.

1097 (d)1. The civil penalty for any other Level One violation
1098 is \$50 if the person cited has not previously committed a Level
1099 One violation.

1100 2. The civil penalty for any other Level One violation is
1101 \$250 if the person cited has previously committed a Level One
1102 violation.

1103 (e) A person cited for a Level One violation shall sign
1104 and accept a citation to appear before the county court. The
1105 issuing officer may indicate on the citation the time and
1106 location of the scheduled hearing and shall indicate the
1107 applicable civil penalty.

1108 (f) A person cited for a Level One violation may pay the
1109 civil penalty by mail or in person within 30 days after receipt
1110 of the citation. If the civil penalty is paid, the person shall
1111 be deemed to have admitted committing the Level One violation
1112 and to have waived his or her right to a hearing before the
1113 county court. Such admission may not be used as evidence in any
1114 other proceedings except to determine the appropriate fine for
1115 any subsequent violations.

1116 (g) A person who refuses to accept a citation, who fails
1117 to pay the civil penalty for a Level One violation, or who fails
1118 to appear before a county court as required commits a
1119 misdemeanor of the second degree, punishable as provided in s.
1120 775.082 or s. 775.083.

1121 (h) A person who elects to appear before the county court
1122 or who is required to appear before the county court shall be
1123 deemed to have waived the limitations on civil penalties
1124 provided under paragraph (c). After a hearing, the county court
25 shall determine if a Level One violation has been committed, and

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1126 if so, may impose a civil penalty of not less than \$50 for a
1127 first-time violation, and not more than \$500 for subsequent
1128 violations. A person found guilty of committing a Level One
1129 violation may appeal that finding to the circuit court. The
1130 commission of a violation must be proved beyond a reasonable
1131 doubt.

1132 (i) A person cited for violating the requirements of s.
1133 372.57 relating to personal possession of a license or permit
1134 may not be convicted if, prior to or at the time of a county
1135 court hearing, the person produces the required license or
1136 permit for verification by the hearing officer or the court
1137 clerk. The license or permit must have been valid at the time
1138 the person was cited. The clerk or hearing officer may assess a
1139 \$5 fee for costs under this paragraph.

1140 (2) (a) LEVEL TWO VIOLATIONS.--A person commits a Level Two
1141 violation if he or she violates any of the following provisions:

1142 1. Rules or orders of the commission relating to season or
1143 time periods for the taking of wildlife, freshwater fish, or
1144 saltwater fish.

1145 2. Rules or orders of the commission establishing bag,
1146 possession, or size limits or restricting methods of taking
1147 wildlife, freshwater fish, or saltwater fish.

1148 3. Rules or orders of the commission prohibiting access or
1149 otherwise relating to access to wildlife management areas or
1150 other areas managed by the commission.

1151 4. Rules or orders of the commission relating to the
1152 feeding of wildlife, freshwater fish, or saltwater fish.

1153 5. Rules or orders of the commission relating to landing
1154 requirements for freshwater fish or saltwater fish.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1155 6. Rules or orders of the commission relating to
1156 restricted hunting areas, critical wildlife areas, or bird
1157 sanctuaries.

1158 7. Rules or orders of the commission relating to tagging
1159 requirements for game and fur-bearing animals.

1160 8. Rules or orders of the commission relating to the use
1161 of dogs for the taking of game.

1162 9. Rules or orders of the commission which are not
1163 otherwise classified.

1164 10. All prohibitions in chapter 370 which are not
1165 otherwise classified.

1166 11. Section 370.028, prohibiting the violation of or
1167 noncompliance with commission rules.

1168 12. Subsection 370.021(6) prohibiting the sale, purchase,
1169 harvest, or attempted harvest of any saltwater product with
1170 intent to sell.

1171 13. Section 370.08, prohibiting the obstruction of
1172 waterways with net gear.

1173 14. Section 370.1105, prohibiting the unlawful use of
1174 finfish traps.

1175 15. Section 370.1121, prohibiting the unlawful taking of
1176 bonefish.

1177 16. Paragraphs 370.13(2)(a) and (b), prohibiting the
1178 possession or use of stone crab traps without trap tags and
1179 theft of trap contents or gear.

1180 17. Paragraph 370.135(2)(c), prohibiting the theft of blue
1181 crab trap contents or trap gear.

1182 18. Paragraph 370.142(2)(c), prohibiting the possession
1183 or use of spiny lobster traps without trap tags or certificates
1184 and theft of trap contents or trap gear.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1185 19. Section 372.5704, prohibiting the possession of tarpon
1186 without purchasing a tarpon tag.

1187 20. Section 372.667, prohibiting the feeding or enticement
1188 of alligators or crocodiles.

1189 21. Section 372.705, prohibiting the intentional
1190 harassment of hunters, fishers, or trappers.

1191 (b)1. A person who commits a Level Two violation but who
1192 has not been convicted of a Level Two or higher violation within
1193 the past 3 years commits a misdemeanor of the second degree,
1194 punishable as provided in s. 775.082 or s. 775.083.

1195 2. Unless the stricter penalties in subparagraph 3. or
1196 subparagraph 4. apply, a person who commits a Level Two
1197 violation within 3 years after a previous conviction for a Level
1198 Two or higher violation commits a misdemeanor of the first
1199 degree, punishable as provided in s. 775.082 or s. 775.083, with
1200 a minimum mandatory fine of \$250.

1201 3. Unless the stricter penalties in subparagraph 4. apply,
1202 a person who commits a Level Two violation within 5 years after
1203 two previous convictions for a Level Two or higher violation,
1204 commits a misdemeanor of the first degree, punishable as
1205 provided in s. 775.082 or s. 775.083, with a minimum mandatory
1206 fine of \$500 and a suspension of any recreational license or
1207 permit issued under s. 372.57 for 1 year. Such suspension shall
1208 include the suspension of the privilege to obtain such license
1209 or permit and the suspension of the ability to exercise any
1210 privilege granted under any exemption in s. 372.562.

1211 4. A person who commits a Level Two violation within 10
1212 years after three previous convictions for a Level Two or higher
1213 violation commits a misdemeanor of the first degree, punishable
1214 as provided in s. 775.082 or s. 775.083, with a minimum
1215 mandatory fine of \$750 and a suspension of any recreational

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

16 license or permit issued under s. 372.57 for 3 years. Such
1217 suspension shall include the suspension of the privilege to
1218 obtain such license or permit and the suspension of the ability
1219 to exercise any privilege granted under any exemption in s.
1220 372.562.

1221 (3) (a) LEVEL THREE VIOLATIONS.--A person commits a Level
1222 Three violation if he or she violates any of the following
1223 provisions:

1224 1. Rules or orders of the commission prohibiting the sale
1225 of saltwater fish.

1226 2. Subsection 370.021(2), establishing major violations.

1227 3. Subsection 370.021(4), prohibiting the possession of
1228 certain finfish in excess of recreational or commercial daily
1229 bag limits.

1230 4. Section 370.081, prohibiting the illegal importation or
1231 possession of exotic marine plants or animals.

1232 5. Section 372.26, prohibiting the importation of
1233 freshwater fish.

1234 6. Section 372.265, prohibiting the importation of
1235 nonindigenous species of the animal kingdom without a permit
1236 issued by the commission.

1237 7. Subsection 372.57(17), prohibiting the taking of game,
1238 freshwater fish, or saltwater fish while a required license is
1239 suspended or revoked.

1240 8. Section 372.662, prohibiting the illegal sale or
1241 possession of alligators.

1242 9. Section 372.99(1), (3), and (6), prohibiting the
1243 illegal taking and possession of deer and wild turkey.

1244 10. Section 372.9903, prohibiting the possession and
1245 transportation of commercial quantities of freshwater game fish.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1246 (b)1. A person who commits a Level Three violation but who
1247 has not been convicted of a Level Three or higher violation
1248 within the past 10 years, commits a misdemeanor of the first
1249 degree, punishable as provided in s. 775.082 or s. 775.083.

1250 2. A person who commits a Level Three violation within 10
1251 years after a previous conviction for a Level Three or higher
1252 violation, commits a misdemeanor of the first degree, punishable
1253 as provided in s. 775.082 or s. 775.083, with a minimum
1254 mandatory fine of \$750 and a suspension of any recreational
1255 license or permit issued under s. 372.57 for the remainder of
1256 the period for which the license or permit was issued up to 3
1257 years. If the recreational license or permit being suspended
1258 was an annual license or permit, any privileges under s. 372.57
1259 may not be acquired for a 3-year period following the date of
1260 the violation.

1261 3. A person who commits a violation of s. 372.57(17) shall
1262 receive a mandatory fine of \$1,000. Any privileges under s.
1263 372.57 may not be acquired for a 5-year period following the
1264 date of the violation.

1265 (4) (a) LEVEL FOUR VIOLATIONS.--A person commits a Level
1266 Four violation if he or she violates any of the following
1267 provisions:

1268 1. Paragraph 370.13(2)(c), prohibiting the willful
1269 molestation of stone crab gear; the illegal trade, sale, or
1270 supply of stone crab trap tags or certificates; the unlawful
1271 reproduction or possession of stone crab trap tags or
1272 certificates; or the unlawful harvest of stone crabs.

1273 2. Section 370.135, prohibiting the willful molestation of
1274 blue crab gear.

1275 3. Subsection 370.14(4), prohibiting the willful
1276 molestation of crawfish gear.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1277 4. Subparagraph 370.142(2)(c)5., prohibiting the unlawful
1278 reproduction of spiny lobster trap tags or certificates.

1279 5. Subsection 372.57(16), prohibiting the making, forging,
1280 counterfeiting, or reproduction of a recreational license or
1281 possession of same without authorization from the commission.

1282 6. Subsection 372.99(5), prohibiting the sale of
1283 illegally-taken deer or wild turkey.

1284 7. Section 372.99022, prohibiting the molestation or theft
1285 of freshwater gear.

1286 (b) A person who commits a Level Four violation commits a
1287 felony of the third degree, punishable as provided in s. 775.082
1288 or s. 775.083.

1289 (5) VIOLATIONS OF CHAPTER.--Except as provided in this
1290 chapter:

1291 (a) A person who commits a violation of any provision of
1292 this chapter commits, for the first offense, a misdemeanor of
1293 the second degree, punishable as provided in s. 775.082 or s.
1294 775.083.

1295 (b) A person who is convicted of a second or subsequent
1296 violation of any provision of this chapter commits a misdemeanor
1297 of the first degree, punishable as provided in s. 775.082 or s.
1298 775.083.

1299 (6) SUSPENSION OR FORFEITURE OF LICENSE.--The court may
1300 order the suspension or forfeiture of any license or permit
1301 issued under this chapter to a person who is found guilty of
1302 committing a violation of this chapter.

1303 (7) CONVICTION DEFINED.--As used in this section, the term
1304 "conviction" means any judicial disposition other than acquittal
1305 or dismissal.

1306 Section 20. Section 372.935, Florida Statutes, is created
1307 to read:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1308 372.935 Captive wildlife; penalties for violations.--

1309 (1) (a) NONCRIMINAL INFRACTIONS.--A person commits a
1310 noncriminal infraction if he or she violates any of the
1311 following provisions:

1312 1. Rules or orders of the commission requiring a no-cost
1313 permit to possess captive wildlife for personal use.

1314 2. Rules or orders of the commission requiring that
1315 persons who are licensed to possess captive wildlife file
1316 reports or other documents.

1317 (b) A person cited for committing a noncriminal infraction
1318 under this section shall be cited to appear before the county
1319 court. The civil penalty for a person found guilty of
1320 committing a noncriminal violation under this section is \$50,
1321 and the provisions of s. 372.83(1)(e)-(i) apply under this
1322 subsection.

1323 (2) MISDEMEANORS.--A person commits a misdemeanor of the
1324 second degree, punishable as provided in s. 775.082 or s.
1325 775.083, for violating any of the following provisions:

1326 (a) Rules or orders of the commission which require the
1327 payment of a fee for a person to obtain a permit to possess
1328 captive wildlife.

1329 (b) Rules or orders of the commission which require the
1330 maintenance of records relating to captive wildlife.

1331 (c) Rules or orders of the commission relating to captive
1332 wildlife which are not specified in subsection (1).

1333 (d) Section 372.86, prohibiting the possession or
1334 exhibition of poisonous or venomous reptiles without a license
1335 or permit.

1336 (e) Section 372.88, prohibiting the exhibition of
1337 poisonous or venomous reptiles without posting a bond.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1338 (f) Section 372.89, prohibiting the possession or
1339 exhibition of poisonous or venomous reptiles in an unsafe
1340 manner.

1341 (g) Section 372.90, prohibiting the transportation of
1342 poisonous or venomous reptiles in an unsafe manner.

1343 (h) Section 372.901, prohibiting the penning or caging of
1344 poisonous or venomous reptiles in an unsafe manner.

1345 (i) Section 372.91, prohibiting certain persons from
1346 opening containers housing poisonous or venomous reptiles.

1347 (j) Section 372.921, prohibiting the exhibition or sale of
1348 wildlife.

1349 (k) Section 372.922, prohibiting the personal possession
1350 of wildlife.

1351 Section 21. Section 372.26, Florida Statutes, is amended
1352 to read:

1353 372.26 Imported fish.--

1354 (1) No person shall import into the state or place in any
1355 of the fresh waters of the state any freshwater fish of any
1356 species without having first obtained a permit from the Fish and
1357 Wildlife Conservation Commission. The commission is authorized
1358 to issue or deny such a permit upon the completion of studies of
1359 the species made by it to determine any detrimental effect the
1360 species might have on the ecology of the state.

1361 (2) A person who violates this section commits a Level
1362 Three violation under s. 372.83 ~~Persons in violation of this~~
1363 ~~section shall be guilty of a misdemeanor of the first degree,~~
1364 ~~punishable as provided in s. 775.082 or s. 775.083.~~

1365 Section 22. Section 372.265, Florida Statutes, is amended
1366 to read:

1367 372.265 Regulation of foreign animals.--

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1368 (1) It is unlawful to import for sale or use, or to
1369 release within this state, any species of the animal kingdom not
1370 indigenous to Florida without having obtained a permit to do so
1371 from the Fish and Wildlife Conservation Commission.

1372 (2) The Fish and Wildlife Conservation Commission is
1373 authorized to issue or deny such a permit upon the completion of
1374 studies of the species made by it to determine any detrimental
1375 effect the species might have on the ecology of the state.

1376 (3) A person ~~Persons~~ in violation of this section commits
1377 a Level Three violation under s. 372.83 ~~shall be guilty of a~~
1378 ~~misdemeanor of the first degree, punishable as provided in s.~~
1379 ~~775.082 or s. 775.083.~~

1380 Section 23. Subsection (2) of section 372.661, Florida
1381 Statutes, is amended to read:

1382 372.661 Private hunting preserve license fees;
1383 exception.--

1384 (2) A commercial hunting preserve license, which shall
1385 exempt patrons of licensed preserves from the license and permit
1386 requirements of s. 372.57(4)(c), (d), (f), (h), (i), and (j);
1387 (5)(f) and (g); (8)(a), (b), and (e), ~~and (f)~~; (9)(a)2.; (11);
1388 and (12) while hunting on the licensed preserve property, shall
1389 be \$500. Such commercial hunting preserve license shall be
1390 available only to those private hunting preserves licensed
1391 pursuant to this section which are operated exclusively for
1392 commercial purposes, which are open to the public, and for which
1393 a uniform fee is charged to patrons for hunting privileges.

1394 Section 24. Section 372.662, Florida Statutes, is amended
1395 to read:

1396 372.662 Unlawful sale, possession, or transporting of
1397 alligators or alligator skins.--Whenever the sale, possession,
1398 or transporting of alligators or alligator skins is prohibited

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1399 by any law of this state, or by the rules, regulations, or
1400 orders of the Fish and Wildlife Conservation Commission adopted
1401 pursuant to s. 9, Art. IV of the State Constitution, the sale,
1402 possession, or transporting of alligators or alligator skins is
1403 a Level Three violation under s. 372.83 ~~misdemeanor of the first~~
1404 ~~degree, punishable as provided in s. 775.082 or s. 775.083.~~

1405 Section 25. Section 372.667, Florida Statutes, is amended
1406 to read:

1407 372.667 Feeding or enticement of alligators or crocodiles
1408 unlawful; penalty.--

1409 (1) No person shall intentionally feed, or entice with
1410 feed, any wild American alligator (*Alligator mississippiensis*)
1411 or American crocodile (*Crocodylus acutus*). However, the
1412 provisions of this section shall not apply to:

1413 (a) Those persons feeding alligators or crocodiles
1414 maintained in protected captivity for educational, scientific,
1415 commercial, or recreational purposes.

1416 (b) Fish and Wildlife Conservation Commission personnel,
1417 persons licensed or otherwise authorized by the commission, or
1418 county or municipal animal control personnel when relocating
1419 alligators or crocodiles by baiting or enticement.

1420 (2) For the purposes of this section, the term "maintained
1421 in protected captivity" means held in captivity under a permit
1422 issued by the Fish and Wildlife Conservation Commission pursuant
1423 to s. 372.921 or s. 372.922.

1424 (3) Any person who violates this section commits a Level
1425 Two violation under s. 372.83 ~~is guilty of a misdemeanor of the~~
1426 ~~second degree, punishable as provided in s. 775.082 or s.~~
1427 ~~775.083.~~

1428 Section 26. Section 372.705, Florida Statutes, is amended
1429 to read:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1430 372.705 Harassment of hunters, trappers, or fishers.--

1431 (1) A person may not intentionally, within a publicly or
1432 privately owned wildlife management or fish management area or
1433 on any state-owned water body:

1434 (a) Interfere with or attempt to prevent the lawful taking
1435 of fish, game, or nongame animals by another.

1436 (b) Attempt to disturb fish, game, or nongame animals or
1437 attempt to affect their behavior with the intent to prevent
1438 their lawful taking by another.

1439 (2) Any person who violates this section commits a Level
1440 Two violation under s. 372.83 subsection (1) is guilty of a
1441 misdemeanor of the second degree, punishable as provided in s.
1442 775.082 or s. 775.083.

1443 Section 27. Section 372.988, Florida Statutes, is amended
1444 to read:

1445 372.988 Required clothing for persons hunting deer.--It is
1446 a Level One violation under s. 372.83 ~~unlawful~~ for any person to
1447 hunt deer, or for any person to accompany another person hunting
1448 deer, during the open season for the taking of deer on public
1449 lands unless each person shall wear a total of at least 500
1450 square inches of daylight fluorescent orange material as an
1451 outer garment. Such clothing shall be worn above the waistline
1452 and may include a head covering. The provisions of this section
1453 shall not apply to any person hunting deer with a bow and arrow
1454 during seasons restricted to hunting with a bow and arrow.

1455 Section 28. Subsection (1) of section 372.99022, Florida
1456 Statutes, is amended to read:

1457 372.99022 Illegal molestation of or theft from freshwater
1458 fishing gear.--

1459 (1)(a) Any person, firm, or corporation that willfully
1460 molests any authorized and lawfully permitted freshwater fishing

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1461 gear belonging to another without the express written consent of
1462 the owner commits a Level Four violation under s. 372.83 felony
1463 ~~of the third degree, punishable as provided in s. 775.082, s.~~
1464 ~~775.083, or s. 775.084.~~ Any written consent must be available
1465 for immediate inspection.

1466 (b) Any person, firm, or corporation that willfully
1467 removes the contents of any authorized and lawfully permitted
1468 freshwater fishing gear belonging to another without the express
1469 written consent of the owner commits a Level Four violation
1470 under s. 372.83 felony of the third degree, punishable as
1471 ~~provided in s. 775.082, s. 775.083, or s. 775.084.~~ Any written
1472 consent must be available for immediate inspection.

1473
1474 A person, firm, or corporation that receives a citation for a
1475 violation of this subsection is prohibited, immediately upon
1476 receipt of such citation and until adjudicated or convicted of a
1477 felony under this subsection, from transferring any
1478 endorsements.

1479 Section 29. Section 372.99, Florida Statutes, is amended
1480 to read:

1481 372.99 Illegal taking and possession of deer and wild
1482 turkey; evidence; penalty.--

1483 (1) Whoever takes or kills any deer or wild turkey, or
1484 possesses a freshly killed deer or wild turkey, during the
1485 closed season prescribed by law or by the rules and regulations
1486 of the Fish and Wildlife Conservation Commission, or whoever
1487 takes or attempts to take any deer or wild turkey by the use of
1488 gun and light in or out of closed season, commits a Level Three
1489 violation under s. 372.83 is guilty of a misdemeanor of the
1490 ~~first degree, punishable as provided in s. 775.082 or s.~~
1491 ~~775.083,~~ and shall forfeit any license or permit issued to her

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1492 or him under the provisions of this chapter. No license shall be
1493 issued to such person for a period of 3 years following any such
1494 violation on the first offense. Any person guilty of a second
1495 or subsequent violation shall be permanently ineligible for
1496 issuance of a license or permit thereafter.

1497 (2) The display or use of a light in a place where deer
1498 might be found and in a manner capable of disclosing the
1499 presence of deer, together with the possession of firearms or
1500 other weapons customarily used for the taking of deer, between 1
1501 hour after sunset and 1 hour before sunrise, shall be prima
1502 facie evidence of an intent to violate the provisions of
1503 subsection (1). This subsection does not apply to an owner or
1504 her or his employee when patrolling or inspecting the land of
1505 the owner, provided the employee has satisfactory proof of
1506 employment on her or his person.

1507 (3) Whoever takes or kills any doe deer; fawn or baby
1508 deer; or deer, whether male or female, which does not have one
1509 or more antlers at least 5 inches in length, except as provided
1510 by law or the rules of the Fish and Wildlife Conservation
1511 Commission, during the open season prescribed by the rules of
1512 the commission, commits a Level Three violation under 372.83 ~~is~~
1513 ~~guilty of a misdemeanor of the first degree, punishable as~~
1514 ~~provided in s. 775.082 or s. 775.083,~~ and may be required to
1515 forfeit any license or permit issued to such person for a period
1516 of 3 years following any such violation on the first offense.
1517 Any person guilty of a second or subsequent violation shall be
1518 permanently ineligible for issuance of a license or permit
1519 thereafter.

1520 (4) Any person who cultivates agricultural crops may apply
1521 to the Fish and Wildlife Conservation Commission for a permit to
1522 take or kill deer on land which that person is currently

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1523 cultivating. When said person can show, to the satisfaction of
1524 the Fish and Wildlife Conservation Commission, that such taking
1525 or killing of deer is justified because of damage to the
1526 person's crops caused by deer, the Fish and Wildlife
1527 Conservation Commission may issue a limited permit to the
1528 applicant to take or kill deer without being in violation of
1529 subsection (1) or subsection (3).

1530 (5) Whoever possesses for sale or sells deer or wild
1531 turkey taken in violation of this chapter or the rules and
1532 regulations of the commission commits a Level Four violation
1533 under s. 372.83 is guilty of a felony of the third degree,
1534 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1535 (6) Any person who enters upon private property and shines
1536 lights upon such property, without the express permission of the
1537 owner of the property and with the intent to take deer by
1538 utilizing such shining lights, commits a Level Three violation
1539 under s. 372.83 shall be guilty of a misdemeanor of the second
1540 degree, punishable as provided in s. 775.082 or s. 775.083.

1541 Section 30. Subsection (1) of section 372.9903, Florida
1542 Statutes, is amended to read:

1543 372.9903 Illegal possession or transportation of
1544 freshwater game fish in commercial quantities; penalty.--

1545 (1) Whoever possesses, moves, or transports any black
1546 bass, bream, speckled perch, or other freshwater game fish in
1547 commercial quantities in violation of law or the rules of the
1548 Fish and Wildlife Conservation Commission commits a Level Three
1549 violation under s. 372.83 shall be guilty of a misdemeanor of
1550 the first degree, punishable as provided in s. 775.082 or s.
1551 775.083.

1552 Section 31. Section 372.831, Florida Statutes, is created
1553 to read:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1554 372.831 Wildlife Violators Compact Act.--The Wildlife
1555 Violators Compact is created and entered into with all other
1556 jurisdictions legally joining therein in the form substantially
1557 as follows:

1558
1559 ARTICLE I

1560 Findings and Purpose

1561
1562 (1) The participating states find that:

1563 (a) Wildlife resources are managed in trust by the
1564 respective states for the benefit of all residents and visitors.

1565 (b) The protection of the wildlife resources of a state is
1566 materially affected by the degree of compliance with state
1567 statutes, laws, regulations, ordinances, and administrative
1568 rules relating to the management of such resources.

1569 (c) The preservation, protection, management, and
1570 restoration of wildlife contributes immeasurably to the
1571 aesthetic, recreational, and economic aspects of such natural
1572 resources.

1573 (d) Wildlife resources are valuable without regard to
1574 political boundaries; therefore, every person should be required
1575 to comply with wildlife preservation, protection, management,
1576 and restoration laws, ordinances, and administrative rules and
1577 regulations of the participating states as a condition precedent
1578 to the continuance or issuance of any license to hunt, fish,
1579 trap, or possess wildlife.

1580 (e) Violation of wildlife laws interferes with the
1581 management of wildlife resources and may endanger the safety of
1582 persons and property.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1583 (f) The mobility of many wildlife law violators
1584 necessitates the maintenance of channels of communication among
1585 the various states.

1586 (g) In most instances, a person who is cited for a
1587 wildlife violation in a state other than his or her home state
1588 is:

1589 1. Required to post collateral or a bond to secure
1590 appearance for a trial at a later date;

1591 2. Taken into custody until the collateral or bond is
1592 posted; or

1593 3. Taken directly to court for an immediate appearance.

1594 (h) The purpose of the enforcement practices set forth in
1595 paragraph (g) is to ensure compliance with the terms of a
1596 wildlife citation by the cited person who, if permitted to
1597 continue on his or her way after receiving the citation, could
1598 return to his or her home state and disregard his or her duty
1599 under the terms of the citation.

1600 (i) In most instances, a person receiving a wildlife
1601 citation in his or her home state is permitted to accept the
1602 citation from the officer at the scene of the violation and
1603 immediately continue on his or her way after agreeing or being
1604 instructed to comply with the terms of the citation.

1605 (j) The practices described in paragraph (g) cause
1606 unnecessary inconvenience and, at times, a hardship for the
1607 person who is unable at the time to post collateral, furnish a
1608 bond, stand trial, or pay a fine, and thus is compelled to
1609 remain in custody until some alternative arrangement is made.

1610 (k) The enforcement practices described in paragraph (g)
1611 consume an undue amount of time of law enforcement agencies.

1612 (2) It is the policy of the participating states to:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1613 (a) Promote compliance with the statutes, laws,
1614 ordinances, regulations, and administrative rules relating to
1615 the management of wildlife resources in their respective states.

1616 (b) Recognize a suspension of the wildlife license
1617 privileges of any person whose license privileges have been
1618 suspended by a participating state and treat such suspension as
1619 if it had occurred in each respective state.

1620 (c) Allow a violator, except as provided in subsection (2)
1621 of Article III, to accept a wildlife citation and, without
1622 delay, proceed on his or her way, whether or not the violator is
1623 a resident of the state in which the citation was issued, if the
1624 violator's home state is party to this compact.

1625 (d) Report to the appropriate participating state, as
1626 provided in the compact manual, any conviction recorded against
1627 any person whose home state was not the issuing state.

1628 (e) Allow the home state to recognize and treat
1629 convictions recorded against its residents, which convictions
1630 occurred in a participating state, as though they had occurred
1631 in the home state.

1632 (f) Extend cooperation to its fullest extent among the
1633 participating states for enforcing compliance with the terms of
1634 a wildlife citation issued in one participating state to a
1635 resident of another participating state.

1636 (g) Maximize the effective use of law enforcement
1637 personnel and information.

1638 (h) Assist court systems in the efficient disposition of
1639 wildlife violations.

1640 (3) The purpose of this compact is to:

1641 (a) Provide a means through which participating states may
1642 join in a reciprocal program to effectuate the policies
1643 enumerated in subsection (2) in a uniform and orderly manner.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1644 (b) Provide for the fair and impartial treatment of
1645 wildlife violators operating within participating states in
1646 recognition of the violator's right to due process and the
1647 sovereign status of a participating state.

1648
1649 ARTICLE II

1650 Definitions

1651
1652 As used in this compact, the term:

1653 (1) "Citation" means any summons, complaint, summons and
1654 complaint, ticket, penalty assessment, or other official
1655 document issued to a person by a wildlife officer or other peace
1656 officer for a wildlife violation which contains an order
1657 requiring the person to respond.

1658 (2) "Collateral" means any cash or other security
1659 deposited to secure an appearance for trial in connection with
1660 the issuance by a wildlife officer or other peace officer of a
1661 citation for a wildlife violation.

1662 (3) "Compliance" with respect to a citation means the act
1663 of answering a citation through an appearance in a court or
1664 tribunal, or through the payment of fines, costs, and
1665 surcharges, if any.

1666 (4) "Conviction" means a conviction, including any court
1667 conviction, for any offense related to the preservation,
1668 protection, management, or restoration of wildlife which is
1669 prohibited by state statute, law, regulation, ordinance, or
1670 administrative rule that results in suspension or revocation of
1671 a license. The term also includes the forfeiture of any bail,
1672 bond, or other security deposited to secure appearance by a
1673 person charged with having committed any such offense, the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1674 payment of a penalty assessment, a plea of nolo contendere, or
1675 the imposition of a deferred or suspended sentence by the court.

1676 (5) "Court" means a court of law, including magistrate's
1677 court and the justice of the peace court.

1678 (6) "Home state" means the state of primary residence of a
1679 person.

1680 (7) "Issuing state" means the participating state that
1681 issues a wildlife citation to the violator.

1682 (8) "License" means any license, permit, or other public
1683 document that conveys to the person to whom it was issued the
1684 privilege of pursuing, possessing, or taking any wildlife
1685 regulated by statute, law, regulation, ordinance, or
1686 administrative rule of a participating state; any privilege to
1687 obtain such license, permit, or other public document; or any
1688 statutory exemption from the requirement to obtain such license,
1689 permit, or other public document. However, when applied to
1690 licenses issued by the State of Florida, only those licenses
1691 issued or privileges authorized pursuant to s. 372.561, s.
1692 372.562, or s. 372.57 shall be considered licenses.

1693 (9) "Licensing authority" means the department or division
1694 within each participating state which is authorized by law to
1695 issue or approve licenses or permits to hunt, fish, trap, or
1696 possess wildlife.

1697 (10) "Participating state" means any state that enacts
1698 legislation to become a member of this wildlife compact.

1699 (11) "Personal recognizance" means an agreement by a
1700 person made at the time of issuance of the wildlife citation
1701 that such person will comply with the terms of the citation.

1702 (12) "State" means any state, territory, or possession of
1703 the United States, the District of Columbia, the Commonwealth of
1704 Puerto Rico, the Provinces of Canada, and other countries.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1736 primary residence is in a participating state in the same manner
1737 as though the person were a resident of the issuing state and
1738 shall not require such person to post collateral to secure
1739 appearance, subject to the exceptions noted in subsection (2),
1740 if the officer receives the recognizance of such person that he
1741 will comply with the terms of the citation.

1742 (2) Personal recognizance is acceptable if not prohibited
1743 by local law; by policy, procedure, or regulation of the issuing
1744 agency; or by the compact manual and if the violator provides
1745 adequate proof of identification to the wildlife officer.

1746 (3) Upon conviction or failure of a person to comply with
1747 the terms of a wildlife citation, the appropriate official shall
1748 report the conviction or failure to comply to the licensing
1749 authority of the participating state in which the wildlife
1750 citation was issued. The report shall be made in accordance with
1751 procedures specified by the issuing state and must contain
1752 information as specified in the compact manual as minimum
1753 requirements for effective processing by the home state.

1754 (4) Upon receipt of the report of conviction or
1755 noncompliance pursuant to subsection (3), the licensing
1756 authority of the issuing state shall transmit to the licensing
1757 authority of the home state of the violator the information in
1758 the form and content prescribed in the compact manual.

1760 ARTICLE IV

1761 Procedure for Home State

1762
1763 (1) Upon receipt of a report from the licensing authority
1764 of the issuing state reporting the failure of a violator to
1765 comply with the terms of a citation, the licensing authority of
1766 the home state shall notify the violator and shall initiate a

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1767 suspension action in accordance with the home state's suspension
1768 procedures and shall suspend the violator's license privileges
1769 until satisfactory evidence of compliance with the terms of the
1770 wildlife citation has been furnished by the issuing state to the
1771 home state licensing authority. Due-process safeguards shall be
1772 accorded.

1773 (2) Upon receipt of a report of conviction from the
1774 licensing authority of the issuing state, the licensing
1775 authority of the home state shall enter such conviction in its
1776 records and shall treat such conviction as though it occurred in
1777 the home state for purposes of the suspension of license
1778 privileges.

1779 (3) The licensing authority of the home state shall
1780 maintain a record of actions taken and shall make reports to
1781 issuing states as provided in the compact manual.

1782
1783 ARTICLE V

1784 Reciprocal Recognition of Suspension

1785
1786 (1) Each participating state may recognize the suspension
1787 of license privileges of any person by any other participating
1788 state as though the violation resulting in the suspension had
1789 occurred in that state and would have been the basis for
1790 suspension of license privileges in that state.

1791 (2) Each participating state shall communicate suspension
1792 information to other participating states in the form and
1793 content contained in the compact manual.

1794
1795 ARTICLE VI

1796 Applicability of Other Laws

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1798 Except as expressly required by provisions of this compact, this
1799 compact does not affect the right of any participating state to
1800 apply any of its laws relating to license privileges to any
1801 person or circumstance or to invalidate or prevent any agreement
1802 or other cooperative arrangement between a participating state
1803 and a nonparticipating state concerning the enforcement of
1804 wildlife laws.

1805
1806 ARTICLE VII

1807 Compact Administrator Procedures

1808
1809 (1) For the purpose of administering the provisions of
1810 this compact and to serve as a governing body for the resolution
1811 of all matters relating to the operation of this compact, a
1812 board of compact administrators is established. The board shall
1813 be composed of one representative from each of the participating
1814 states to be known as the compact administrator. The compact
1815 administrator shall be appointed by the head of the licensing
1816 authority of each participating state and shall serve and be
1817 subject to removal in accordance with the laws of the state he
1818 or she represents. A compact administrator may provide for the
1819 discharge of his or her duties and the performance of his or her
1820 functions as a board member by an alternate. An alternate is not
1821 entitled to serve unless written notification of his or her
1822 identity has been given to the board.

1823 (2) Each member of the board of compact administrators
1824 shall be entitled to one vote. No action of the board shall be
1825 binding unless taken at a meeting at which a majority of the
1826 total number of the board's votes are cast in favor thereof.
1827 Action by the board shall be only at a meeting at which a
1828 majority of the participating states are represented.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1829 (3) The board shall elect annually from its membership a
1830 chairman and vice chairman.

1831 (4) The board shall adopt bylaws not inconsistent with the
1832 provisions of this compact or the laws of a participating state
1833 for the conduct of its business and shall have the power to
1834 amend and rescind its bylaws.

1835 (5) The board may accept for any of its purposes and
1836 functions under this compact any and all donations and grants of
1837 moneys, equipment, supplies, materials, and services,
1838 conditional or otherwise, from any state, the United States, or
1839 any governmental agency, and may receive, use, and dispose of
1840 the same.

1841 (6) The board may contract with, or accept services or
1842 personnel from, any governmental or intergovernmental agency,
1843 individual, firm, corporation, or private nonprofit organization
1844 or institution.

1845 (7) The board shall formulate all necessary procedures and
1846 develop uniform forms and documents for administering the
1847 provisions of this compact. All procedures and forms adopted
1848 pursuant to board action shall be contained in a compact manual.

1850 ARTICLE VIII

1851 Entry into Compact and Withdrawal

1852
1853 (1) This compact shall become effective at such time as it
1854 is adopted in substantially similar form by two or more states.

1855 (2) (a) Entry into the compact shall be made by resolution
1856 of ratification executed by the authorized officials of the
1857 applying state and submitted to the chairman of the board.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1858 (b) The resolution shall substantially be in the form and
1859 content as provided in the compact manual and must include the
1860 following:

1861 1. A citation of the authority from which the state is
1862 empowered to become a party to this compact;

1863 2. An agreement of compliance with the terms and
1864 provisions of this compact; and

1865 3. An agreement that compact entry is with all states
1866 participating in the compact and with all additional states
1867 legally becoming a party to the compact.

1868 (c) The effective date of entry shall be specified by the
1869 applying state, but may not be less than 60 days after notice
1870 has been given by the chairman of the board of the compact
1871 administrators or by the secretariat of the board to each
1872 participating state that the resolution from the applying state
1873 has been received.

1874 (3) A participating state may withdraw from participation
1875 in this compact by official written notice to each participating
1876 state, but withdrawal shall not become effective until 90 days
1877 after the notice of withdrawal is given. The notice must be
1878 directed to the compact administrator of each member state. The
1879 withdrawal of any state does not affect the validity of this
1880 compact as to the remaining participating states.

1881
1882 ARTICLE IX

1883 Amendments to the Compact

1884
1885 (1) This compact may be amended from time to time.
1886 Amendments shall be presented in resolution form to the chairman
1887 of the board of compact administrators and shall be initiated by
1888 one or more participating states.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1889 (2) Adoption of an amendment shall require endorsement by
1890 all participating states and shall become effective 30 days
1891 after the date of the last endorsement.

1892
1893 ARTICLE X

1894 Construction and Severability
1895

1896 This compact shall be liberally construed so as to effectuate
1897 the purposes stated herein. The provisions of this compact are
1898 severable and if any phrase, clause, sentence, or provision of
1899 this compact is declared to be contrary to the constitution of
1900 any participating state or of the United States, or if the
1901 applicability thereof to any government, agency, individual, or
1902 circumstance is held invalid, the validity of the remainder of
1903 this compact shall not be affected thereby. If this compact is
1904 held contrary to the constitution of any participating state,
1905 the compact shall remain in full force and effect as to the
1906 remaining states and in full force and effect as to the
1907 participating state affected as to all severable matters.

1908 Section 32. Section 372.8311, Florida Statutes, is created
1909 to read:

1910 372.8311 Compact licensing and enforcement authority;
1911 administrative review.--

1912 (1) For purposes of this chapter and the interstate
1913 Wildlife Violators Compact, the Fish and Wildlife Conservation
1914 Commission is the licensing authority for the State of Florida
1915 and the commission shall enforce the interstate Wildlife
1916 Violators Compact and shall do all things within the
1917 commission's jurisdiction which are necessary to effectuate the
1918 purposes and the intent of the compact. The commission may
1919 execute a resolution of ratification to formalize the State of

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1920 Florida's entry into the compact. Upon adoption of the Wildlife
1921 Violators Compact, the commission may adopt rules to administer
1922 the provisions of the compact.

1923 (2) Any act done or omitted pursuant to, or in enforcing,
1924 the provisions of this compact are subject to review in
1925 accordance with chapter 120, Florida Statutes. Notwithstanding
1926 any other provision of this section, actions taken by another
1927 state or its courts shall not be reviewable.

1928 Section 33. Sections 372.711 and 372.912, Florida
1929 Statutes, are repealed.

1930 Section 34. This act shall take effect October 1, 2006.

1931

1932 ===== T I T L E A M E N D M E N T =====

1933 Remove the entire title and insert:

1934 A bill to be entitled

1935 An act relating to fish and wildlife; amending s. 370.01,
1936 F.S.; defining the term "commercial harvester"; amending
1937 s. 370.021, F.S.; providing for base penalties; conforming
1938 penalty provisions for commercial harvesters; providing
1939 penalties for persons other than commercial harvesters;
1940 amending s. 370.028, F.S.; conforming penalty provisions;
1941 amending s. 370.061, F.S.; correcting a cross-reference;
1942 amending ss. 370.063, 370.08, 370.081, 370.1105, 370.1121,
1943 370.13, 370.135, 370.14, and 370.142, F.S.; conforming
1944 penalty provisions for commercial harvesters; providing
1945 penalties for persons other than commercial harvesters;
1946 amending s. 372.57, F.S.; specifying seasonal recreational
1947 activities for which a license or permit is required;
1948 increasing fees for certain licenses to conform; providing
1949 a fee for a crossbow season permit; providing for crossbow
1950 season permits; providing penalties for the production,

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1951 possession, and use of fraudulent fishing and hunting
1952 licenses; providing penalties for the taking of game and
1953 fish with a suspended or revoked license; amending s.
1954 372.5704, F.S.; conforming penalty provisions; amending
1955 ss. 372.571 and 372.573, F.S.; correcting cross-
1956 references; amending s. 372.5717, F.S.; authorizing the
1957 Fish and Wildlife Conservation Commission to defer the
1958 hunter safety education course requirement for a specified
1959 time period and for a specified number of times; providing
1960 for a special authorization and conditions to hunt using a
1961 hunter safety education deferral; deleting the mandatory
1962 minimum number of instructional hours for persons required
1963 to take the hunter safety education course; providing an
1964 exemption for the display of hunter safety education
1965 certificates; providing penalties; amending s. 372.83,
1966 F.S.; revising the penalties for violations of rules,
1967 orders, and regulations of the Fish and Wildlife
1968 Conservation Commission; creating penalties for
1969 recreational violations of certain saltwater fishing
1970 regulations established in ch. 370, F.S.; providing for
1971 court appearances in certain circumstances; providing for
1972 Level One, Level Two, Level Three, and Level Four
1973 offenses; providing for enhanced penalties for multiple
1974 violations; providing for suspension and revocation of
1975 licenses and permits, including exemptions from licensing
1976 and permit requirements; defining the term "conviction"
1977 for purposes of penalty provisions; creating s. 372.935,
1978 F.S.; providing penalties for violations involving captive
1979 wildlife and poisonous or venomous reptiles; specifying
1980 violations that constitute noncriminal infractions or
1981 second-degree misdemeanors; amending ss. 372.26, 372.265,

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

1982 372.661, 372.662, 372.667, 372.705, 372.988, 372.99022,
1983 372.99, and 372.9903, F.S.; conforming penalty provisions;
1984 creating s. 372.831, F.S.; creating the Wildlife Violators
1985 Compact; providing findings and purposes; providing
1986 definitions; providing procedures for states issuing
1987 citations for wildlife violations; providing requirements
1988 for the home state of a violator; providing for reciprocal
1989 recognition of a license suspension; providing procedures
1990 for administering the compact; providing for entry into
1991 and withdrawal from the compact; providing for
1992 construction of the compact and for severability; creating
1993 s. 372.832, F.S.; providing for enforcement of the compact
1994 by the Fish and Wildlife Conservation Commission;
1995 providing that a suspension under the compact is subject
1996 to limited review under ch. 120, F.S.; providing that
1997 actions taken by another state or its courts are not
1998 reviewable; repealing s. 372.711, F.S., relating to
1999 noncriminal infractions; repealing s. 372.912, F.S.,
2000 relating to organized poisonous reptile hunts; providing
2001 an effective date.



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(s) Hasner offered the following:

3
4 **Amendment to Strike-all Amendment (1) by Representative**
5 **Troutman (with title amendment)**

6 Between lines 1306-1350 insert:

7 Section 372.935 is created to read:

8 372.935. Captive wildlife penalties.

9 (1) LEVEL ONE--Unless otherwise provided by law, the
10 following classifications and penalties apply:

11 (a)A person commits a Level One violation if she or he
12 violates any of the following provisions:

13 1. Rules or orders of the commission requiring free permits
14 or other authorizations to possess captive wildlife.

15 2. Rules or orders of the Commission relating to the filing
16 of reports or other documents required of persons who are
17 licensed to possess captive wildlife.

18 3. Rules or orders of the commission requiring permits to
19 possess captive wildlife that a fee is charged for, when the
20 person being charged was issued the permit and the permit has
21 expired less than 1 year prior to the violation.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

22 (b) Any person cited for committing any offense classified
23 as a Level One violation commits a noncriminal infraction,
24 punishable as provided in this section.

25 (c) Any person cited for committing a noncriminal
26 infraction specified in paragraph (a) shall be cited to appear
27 before the county court. The civil penalty for any noncriminal
28 infraction is \$ 50 if the person cited has not previously been
29 found guilty of any level one violation and \$250 if the person
30 cited has previously been found guilty of any level one
31 violation, except as otherwise provided in this subsection; any
32 person cited for failing to have a required permit or license
33 shall pay an additional civil penalty in the amount of the
34 license fee required.

35 (d) Any person cited for an infraction under this
36 subsection may:

37 1. Post a bond, which shall be equal in amount to the
38 applicable civil penalty; or

39 2. Sign and accept a citation indicating a promise to appear
40 before the county court. The officer may indicate on the
41 citation the time and location of the scheduled hearing and
42 shall indicate the applicable civil penalty.

43 (e) Any person charged with a noncriminal infraction under
44 this subsection may:

45 1. Pay the civil penalty, either by mail or in person,
46 within 30 days after the date of receiving the citation; or

47 2. If the person has posted bond, forfeit bond by not
48 appearing at the designated time and location.

49 (f) If the person cited follows either of the procedures in
50 sub-paragraphs (e)1. or 2., he or she shall be deemed to have
51 admitted the infraction and to have waived his or her right to a
52 hearing on the issue of commission of the infraction. Such
53 admission shall not be used as evidence in any other proceedings

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES
Amendment No. 1a (for drafter's use only)

54 except to determine the appropriate fine for any subsequent
55 violations.

56 (g) Any person who willfully refuses to post a bond or
57 accept and sign a summons is guilty of a misdemeanor of the
58 second degree, punishable as provided in s. 775.082 or s.
59 775.083. Any person who fails to pay the civil penalty specified
60 in this subsection within 30 days after being cited for a
61 noncriminal infraction or to appear before the court pursuant to
62 this subsection is guilty of a misdemeanor of the second degree,
63 punishable as provided in s. 775.082 or s. 775.083.

64 (h) Any person electing to appear before the county court
65 or who is required so to appear shall be deemed to have waived
66 the limitations on the civil penalty specified in paragraph (c).
67 The court, after a hearing, shall make a determination as to
68 whether an infraction has been committed. If the commission of
69 an infraction has been proven, the court may impose a civil
70 penalty not less than those amounts in paragraph (c) and not to
71 exceed \$ 500.

72 (i) At a hearing under this chapter, the commission of a
73 charged infraction must be proved beyond a reasonable doubt.

74 (j) If a person is found by the hearing official to have
75 committed an infraction, she or he may appeal that finding to
76 the circuit court.

77 (2) LEVEL TWO. - Unless otherwise provided by law, the
78 following classifications and penalties apply:

79 (a) A person commits a Level Two violation if he or she
80 violates any of the following provisions:

81 1. Unless stated in subsection (1), rules or orders of the
82 Commission that require a person to pay a fee to obtain a permit
83 to possess captive wildlife or that require the maintenance of
84 records relating to captive wildlife.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES
Amendment No. 1a (for drafter's use only)

85 2. Rules or orders of the Commission relating to captive
86 wildlife not specified in subsections (1) or (3).

87 3. Rules or orders of the Commission which require housing
88 of wildlife in a safe manner when a violation results in an
89 escape of wildlife other than Class I wildlife.

90 4. Section 372.86, relating to possessing or exhibiting
91 reptiles.

92 5. Section 372.87, relating to licensing of reptiles.

93 6. Section 372.88, relating to bonding requirements for
94 exhibits.

95 7. Section 372.89, relating to housing requirements.

96 8. Section 372.90, relating to transportation.

97 9. Section 372.901, relating to inspection.

98 10. Section 372.91, relating to limitation of access to
99 reptiles.

100 11. Section 372.921, relating to exhibition or sale of
101 wildlife.

102 12. Section 372.922, relating to personal possession of
103 wildlife.

104 (b) A person who commits any offense classified as a Level
105 Two violation, who has not been convicted of a violation that is
106 classified as Level Two or above within the past three years, is
107 guilty of a misdemeanor of the second degree, punishable as
108 provided in s. 775.082 or s. 775.083.

109 (c) Unless otherwise stated in this paragraph, a person
110 who commits any offense classified as a Level Two violation
111 within a three year period of any previous conviction of any
112 offense classified as level two violation or higher is guilty of
113 a misdemeanor of the first degree, punishable as provided in s.
114 775.082 or s. 775.083 with a minimum mandatory fine of \$250.

115 (d) Unless otherwise stated in this paragraph, a person who
116 commits any offense classified as a level two violation within a

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

117 five year period of any two previous convictions of offenses
118 that are classified as level two violations or above is guilty
119 of a misdemeanor of the first degree, punishable as provided in
120 s. 775.082 or s. 775.083 with a minimum mandatory fine of \$500
121 and a suspension of all licenses issued under this chapter
122 related to captive wildlife for 1 year.

123 (e) A person who commits any offense classified as a Level
124 Two violation within a ten year period of any three previous
125 convictions of offenses classified as level two violations or
126 above is guilty of a misdemeanor of the first degree, punishable
127 as provided in s. 775.082 or s. 775.083 with a minimum mandatory
128 fine of \$750 and a suspension of all licenses issued under this
129 chapter related to captive wildlife for 3 years.

130 (3) LEVEL THREE - Unless otherwise provided by law, the
131 following classifications and penalties apply.

132 (a) A person is guilty of Level Three violation if he or she
133 violates any of the following provisions:

134 1. Rules or orders of the Commission which require housing
135 of wildlife in a safe manner when a violation results in an
136 escape of Class I wildlife.

137 2. Rules or orders of the Commission related to captive
138 wildlife when the violation results in serious bodily injury to
139 another person by captive wildlife which consists of a physical
140 condition that creates a substantial risk of death, serious
141 personal disfigurement, or protracted loss or impairment of the
142 function of any bodily member or organ.

143 3. Rules or orders of the Commission relating to the use of
144 gasoline or to other chemical or gaseous substances on wildlife.

145 4. Rules or orders of the Commission prohibiting the
146 release of wildlife for which only conditional possession is
147 allowed.

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

148 5. Rules or orders of the Commission prohibiting knowingly
149 entering false information on an application for a license or
150 permit when the license or permit is to possess wildlife in
151 captivity.

152 6. Section 372.265, relating to illegal importation or
153 introduction of foreign wildlife.

154 (b) 1. A person who commits any offense classified as a
155 Level Three violation, who has not been convicted of a violation
156 that is classified as Level Three or above within the past ten
157 years, is guilty of a misdemeanor of the first degree,
158 punishable as provided in s. 775.082 or s. 775.083.

159 2. A person who commits any offense classified as a Level
160 Three violation within a ten year period of any previous
161 conviction of any offense classified as level three violation or
162 above is guilty of a misdemeanor of the first degree, punishable
163 as provided in s. 775.082 or s. 775.083 with a minimum mandatory
164 fine of \$750 and a suspension of all licenses issued under this
165 chapter relating to captive wildlife for 3 years.

166 (4) LEVEL FOUR - Unless otherwise provided by law, the
167 following classifications and penalties apply.

168 (a) A person is guilty of Level Four violation if he or she
169 violates any of the following provisions:

170 1. Section 370.081, relating to the illegal importation and
171 possession of nonindigenous marine plants and animals.

172 2. Section 370.92, relating to release of reptiles of
173 concern.

174 3. Rules or orders of the Commission relating to the
175 importation, possession, or release of fish and wildlife for
176 which possession is prohibited.

177 (b) A person who commits any offense classified as a level
178 four violation is guilty of a felony of the third degree,
179 punishable as provided in s. 775.082 or s. 775.083 with a

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

180 permanent revocation of all licenses or permits to possess
181 captive wildlife issued under this chapter.

182 (5) Unless otherwise provided in this chapter, a person who
183 violates any provision of this section is guilty, for the first
184 offense, of a misdemeanor of the second degree, punishable as
185 provided in s. 775.082 or s. 775.083, and is guilty, for the
186 second offense or any subsequent offense, of a misdemeanor of
187 the first degree, punishable as provided in s. 775.082 or s.
188 775.083.

189 (6) The court may order the suspension or revocation of any
190 license or permit issued to a person to possess captive wildlife
191 pursuant to this chapter, if that person commits a criminal
192 offense specified in this section or a noncriminal infraction
193 specified in this section.

194 (7) For any purpose of this section, conviction means any
195 judicial disposition other than acquittal or dismissal.

196 (8) Nothing herein shall limit the commission from
197 suspending or revoking any license to possess wildlife in
198 captivity by administrative action in accordance with Chapter
199 120, Florida Statutes. For purposes of administrative action, a
200 conviction of a criminal offense shall mean any judicial
201 disposition other than acquittal or dismissal.

COMMITTEE MEETING REPORT

Criminal Justice Committee

4/4/2006 10:15:00AM

Location: 404 HOB

HB 1147 : Crimes Against Homeless Persons

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: 7		Total Nays: 0			

Committee meeting was reported out: Tuesday, April 04, 2006 12:06:59PM

COMMITTEE MEETING REPORT

Criminal Justice Committee

4/4/2006 10:15:00AM

Location: 404 HOB

HB 1225 : Reckless Driving

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: 6		Total Nays: 0			

Committee meeting was reported out: Tuesday, April 04, 2006 12:06:59PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

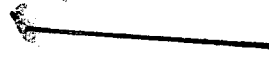
Amendment No. 1 (for drafter's use only)

Bill No. 1225

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
 2 Representative(s) Glorioso offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

3
 4
 5
 6
 7 Section 1. Subsection (1) of section 316.192, Florida
 8 Statutes, is amended to read:

316.192 Reckless driving.--

9
 10 (1) Any person who drives any vehicle at a speed or in a
 11 manner which demonstrates a ~~in~~ willful or wanton disregard for
 12 the safety of persons or property is guilty of reckless driving.

Section 2. This act shall take effect July 1, 2006.

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

Remove the entire title and insert:

A bill to be entitled

17
 18
 19 An act relating to reckless driving; amending s. 316.192,
 20 F.S.; revising the acts that constitute reckless driving;
 21 providing an effective date.

COMMITTEE MEETING REPORT

Criminal Justice Committee

4/4/2006 10:15:00AM

Location: 404 HOB

HR 1627 : Unanimity of Jury Recommendations in Death Penalty Cases

	Yea	Nay	No Vote	Absentee	
				Yea	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: 6		Total Nays: 0			

Appearances:

HB 1627--Unanimity of Jury Recommendations in Death Penalty Cases

Larry Spalding (Lobbyist) - Opponent

American Civil Liberties Union

314 West Jefferson Street

Tallahassee Florida 32301

Phone: 850-425-1050

HB 1627--Unanimity of Jury Recommendations in Death Penalty Cases

Robert Trammell (Lobbyist) (State Employee) - Opponent

Fla. Public Defender

Post Office Box 1799

Tallahassee Florida 32302

Phone: 510-2187

HB 1627--Unanimity of Jury Recommendations in Death Penalty Cases

Buddy Jacobs (Lobbyist) - Information Only

Florida Prosecuting Attorney Association

P.O. Box 1110

Fernandina Beach Florida

Phone: 904-261-3693

HB 1627--Unanimity of Jury Recommendations in Death Penalty Cases

Steven Meadows - Proponent

FPA

P.O. Box 1040

Panama City Florida 32401

Phone: 850-785-2498

Committee meeting was reported out: Tuesday, April 04, 2006 12:06:59PM

COMMITTEE MEETING REPORT

Criminal Justice Committee

4/4/2006 10:15:00AM

Location: 404 HOB

HB 7065 : Clandestine Laboratory Contamination

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: 6		Total Nays: 0			

Committee meeting was reported out: Tuesday, April 04, 2006 12:06:59PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

Bill No. **HB 7065**

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: Criminal Justice Committee
2 Representative(s) Garcia offered the following:

3
4 **Amendment (with directory and title amendments)**

5 Remove line(s) 344 and insert:

6 from the department that clandestine laboratory

000000

COMMITTEE MEETING REPORT

Criminal Justice Committee

4/4/2006 10:15:00AM

Location: 404 HOB

HB 7199 : Forensic Treatment and Training

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: 6		Total Nays: 0			

Committee meeting was reported out: Tuesday, April 04, 2006 12:06:59PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 7199

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 Galvano offered the following:

Amendment

5 Remove everything after the enacting clause and insert:
 6 Section 1. Section 916.105, Florida Statutes, is amended
 7 to read:

8 916.105 Legislative intent.--

9 (1) It is the intent of the Legislature that the
 10 Department of Children and Family Services and the Agency for
 11 Persons with Disabilities, as appropriate, establish, locate,
 12 and maintain separate and secure forensic facilities and
 13 programs for the treatment or training of defendants who have
 14 been ~~are~~ charged with a felony and who have been found to be
 15 incompetent to proceed due to their mental illness, mental
 16 retardation, or autism, or who have been acquitted of a felony
 17 ~~felonies~~ by reason of insanity, and who, while still under the
 18 jurisdiction of the committing court, are committed to the
 19 department or agency under the provisions of this chapter. Such
 20 ~~The separate, secure~~ facilities shall be sufficient to
 21 accommodate the number of defendants committed under the
 22 conditions noted above. 7 Except for those defendants found by

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

23 the department or agency to be appropriate for treatment or
24 training in a civil ~~treatment~~ facility or program pursuant to
25 subsection (3), forensic. ~~Such secure~~ facilities shall be
26 designed and administered so that ingress and egress, together
27 with other requirements of this chapter, may be strictly
28 controlled by staff responsible for security in order to protect
29 the defendant, facility personnel, other clients, and citizens
30 in adjacent communities.

31 (2) It is ~~further~~ the intent of the Legislature that
32 treatment or training programs for defendants who are found to
33 have mental illness, mental retardation, or autism ~~are found to~~
34 ~~be mentally ill, retarded, or autistic~~ and are involuntarily
35 committed to the department or agency, and who are still under
36 the jurisdiction of the committing court, be provided in ~~such a~~
37 manner, subject to security requirements and other mandates of
38 this chapter, as to ensure the rights of the defendants as
39 provided in this chapter.

40 (3) It is the intent of the Legislature that evaluation
41 and services to defendants who have mental illness, mental
42 retardation, or autism ~~are mentally ill, retarded, or autistic~~
43 be provided in community settings, in community residential
44 facilities, or in civil, ~~nonforensic~~ facilities, whenever this
45 is a feasible alternative to treatment or training in a state
46 forensic facility.

47 (4) It is the intent of the Legislature to minimize and
48 achieve an ongoing reduction in the use of restraint and
49 seclusion in forensic facilities serving persons with
50 developmental disabilities.

51 Section 2. Section 916.106, Florida Statutes, is amended
52 to read:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

53 1916.106 Definitions.--For the purposes of this chapter,
54 the term:

55 (1) "Agency" means the Agency for Persons with
56 Disabilities. The agency is responsible for training forensic
57 clients who are developmentally disabled due to mental
58 retardation or autism and have been determined incompetent to
59 proceed.

60 (2) ~~(1)~~ "Autism" has the same meaning as in s. 393.063.
61 ~~means a pervasive, neurologically based developmental disability~~
62 ~~of extended duration which causes severe learning,~~
63 ~~communication, and behavior disorders, with the age of onset of~~
64 ~~autism occurring during infancy or childhood. Individuals with~~
65 ~~autism exhibit impairment in reciprocal social interaction,~~
66 ~~impairment in verbal and nonverbal communication and imaginative~~
67 ~~ability, and a markedly restricted repertoire of activities and~~
68 ~~interests.~~

69 (3) ~~(2)~~ "Chemical weapon" means any shell, cartridge, bomb,
70 gun, or other device capable of emitting chloroacetophenone
71 (CN), chlorobenzalmalonitrile (CS) or any derivatives thereof
72 in any form, or any other agent with lacrimatory properties, and
73 shall include products such as that commonly known as "mace."

74 (4) ~~(3)~~ "Civil facility" means:

75 (a) A mental health facility established within the
76 department or by contract with the department to serve
77 individuals committed pursuant to chapter 394 and those
78 defendants committed pursuant to this chapter who do not require
79 the security provided in a forensic facility; or-

80 (b) An intermediate care facility for the developmentally
81 disabled, a foster care facility, a group home facility, or a
82 supported living setting, as defined in s. 393.063, designated

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

83 by the agency to serve those defendants who do not require the
84 security provided in a forensic facility.

85 (5)-(4) "Court" means the circuit court.

86 (6) "Defendant" means an adult, or a juvenile who is
87 prosecuted as an adult, who has been arraigned and charged with
88 a felony offense under the laws of this state.

89 (7)-(5) "Department" means the Department of Children and
90 Family Services. The department is responsible for the treatment
91 of forensic clients who have been determined incompetent to
92 proceed due to mental illness or who have been acquitted of a
93 felony by reason of insanity.

94 (8)-(6) "Express and informed consent" or "consent" means
95 consent given voluntarily in writing after a conscientious and
96 sufficient explanation and disclosure of the purpose of the
97 proposed treatment, the common side effects of the treatment, if
98 any, the expected duration of the treatment, and any alternative
99 treatment available.

100 (9)-(7) "Forensic client" or "client" means any defendant
101 who has been is mentally ill, retarded, or autistic and who is
102 committed to the department or agency pursuant to s. 916.13, s.
103 916.15, or s. 916.302. this chapter and:

104 ~~(a) Who has been determined to need treatment for a mental~~
105 ~~illness or training for retardation or autism;~~

106 ~~(b) Who has been found incompetent to proceed on a felony~~
107 ~~offense or has been acquitted of a felony offense by reason of~~
108 ~~insanity;~~

109 ~~(c) Who has been determined by the department to:~~

110 ~~1. Be dangerous to himself or herself or others; or~~

111 ~~2. Present a clear and present potential to escape; and~~

112 ~~(d) Who is an adult or a juvenile prosecuted as an adult.~~

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

13 ~~(10)~~(8) "Forensic facility" means a separate and secure
114 facility established within the department or agency to serve
115 forensic clients. A Such separate and secure facility means a
116 facilities shall be security-grade building for the purpose of
117 separately housing persons who have mental illness from persons
118 with retardation or autism and separately housing persons who
119 have been involuntarily committed pursuant to this chapter from
120 nonforensic residents buildings located on grounds distinct in
121 location from other facilities for persons who are mentally ill.
122 ~~The Florida State Hospital shall not be required to maintain~~
123 ~~separate facilities for mentally ill, retarded, or autistic~~
124 ~~defendants who are found incompetent to proceed or who are~~
125 ~~acquitted of a criminal offense by reason of insanity.~~

126 ~~(11)~~(9) "Incompetent to proceed" means unable to proceed
127 at any material stage of a criminal proceeding, which shall
128 include trial of the case, pretrial hearings involving questions
129 of fact on which the defendant might be expected to testify,
130 entry of a plea, proceedings for violation of probation or
131 violation of community control, sentencing, and hearings on
132 issues regarding a defendant's failure to comply with court
133 orders or conditions or other matters in which the mental
134 competence of the defendant is necessary for a just resolution
135 of the issues being considered.

136 ~~(12)~~(10) "Institutional security personnel" means the
137 staff of forensic facilities ~~members~~ who meet or exceed the
138 requirements of s. 943.13 and who are responsible for providing
139 security, protecting ~~for protection of~~ clients and personnel,
140 enforcing ~~for the enforcement of~~ rules, preventing and
141 investigating ~~for prevention and investigation of~~ unauthorized
142 activities, and ~~for~~ safeguarding the interests of citizens in
43 the surrounding communities.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

144 (13)~~(11)~~ "Mental illness" means an impairment of the
145 emotional processes that exercise conscious control of one's
146 actions, or of the ability to perceive or understand reality,
147 which impairment substantially interferes with a defendant's
148 ability to meet the ordinary demands of living. For the purposes
149 of this chapter, the term does not apply to defendants with only
150 mental retardation or autism who are solely retarded or
151 autistic, and does not include intoxication or conditions
152 manifested only by antisocial behavior or substance abuse
153 impairment.

154 (14) "Restraint" means a physical device, method, or drug
155 used to control dangerous behavior.

156 (a) A physical restraint is any manual method or physical
157 or mechanical device, material, or equipment attached or
158 adjacent to a person's body so that he or she cannot easily
159 remove the restraint and which restricts freedom of movement or
160 normal access to one's body.

161 (b) A drug used as a restraint is a medication used to
162 control the person's behavior or to restrict his or her freedom
163 of movement and not part of the standard treatment regimen of an
164 individual with a diagnosed mental illness who is a client of
165 the department. Physically holding a person during a procedure
166 to forcibly administer psychotropic medication is a physical
167 restraint.

168 (c) Restraint does not include physical devices, such as
169 orthopedically prescribed appliances, surgical dressings and
170 bandages, supportive body bands, or other physical holding when
171 necessary for routine physical examinations and tests; for
172 purposes of orthopedic, surgical, or other similar medical
173 treatment; when used to provide support for the achievement of

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

74 functional body position or proper balance; or when used to
175 protect a person from falling out of bed.

176 ~~(15)(12)~~ "Retardation" has the same meaning as in s.
177 393.063. means significantly subaverage general intellectual
178 functioning existing concurrently with deficits in adaptive
179 behavior and manifested during the period from conception to age
180 18. "Significantly subaverage general intellectual functioning,"
181 for the purpose of this definition, means performance which is
182 two or more standard deviations from the mean score on a
183 standardized intelligence test specified in the rules of the
184 department. "Adaptive behavior," for the purpose of this
185 definition, means the effectiveness or degree with which an
186 individual meets the standards of personal independence and
187 social responsibility expected of the individual's age, cultural
188 group, and community.

89 (16) "Seclusion" means the physical segregation of a
190 person in any fashion or the involuntary isolation of a person
191 in a room or area from which the person is prevented from
192 leaving. The prevention may be by physical barrier or by a staff
193 member who is acting in a manner, or who is physically situated,
194 so as to prevent the person from leaving the room or area. For
195 purposes of this chapter, the term does not mean isolation due
196 to a person's medical condition or symptoms, the confinement in
197 a forensic facility to a bedroom or area during normal hours of
198 sleep when there is not an active order for seclusion, or during
199 an emergency such as a riot or hostage situation when clients
200 may be temporarily placed in their rooms for their own safety.

201 ~~(17)(13)~~ "Social service professional," ~~for the purposes~~
202 ~~of part III,~~ means a person whose minimum qualifications include
203 a bachelor's degree and at least 2 years of social work,
04 clinical practice, special education, habilitation, or

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

205 equivalent experience working directly with persons with
206 retardation, autism, or other developmental disabilities.

207 Section 3. Section 916.107, Florida Statutes, is amended
208 to read:

209 916.107 Rights of forensic clients.--

210 (1) RIGHT TO INDIVIDUAL DIGNITY.--

211 (a) The policy of the state is that the individual dignity
212 of the client shall be respected at all times and upon all
213 occasions, including any occasion when the forensic client is
214 detained, transported, or treated. Clients with mental illness,
215 retardation, or autism ~~Defendants who are mentally ill,~~
216 ~~retarded, or autistic~~ and who are charged with committing
217 felonies shall receive appropriate treatment or training. In a
218 criminal case involving a client ~~defendant~~ who has been
219 adjudicated incompetent to proceed or not guilty by reason of
220 insanity, a jail may be used as an emergency facility for up to
221 15 days following ~~from~~ the date the department or agency
222 receives a completed copy of the court commitment order
223 containing all ~~the~~ documentation required by the applicable
224 ~~Rules 3.212 and 3.217,~~ Florida Rules of Criminal Procedure. For
225 a forensic client ~~defendant who is mentally ill, retarded, or~~
226 ~~autistic,~~ who is held in a jail awaiting admission to a facility
227 of the department or agency, ~~and who has been adjudicated~~
228 ~~incompetent to proceed or not guilty by reason of insanity,~~
229 evaluation and treatment or training may ~~shall~~ be provided in
230 the jail by the local community mental health provider ~~public~~
231 ~~receiving facility~~ for mental health services, ~~or~~ by the
232 developmental disabilities ~~services~~ program for persons with
233 retardation or autism, the client's physician or psychologist,
234 or any other appropriate program until the client is transferred
235 to a civil or forensic facility ~~the custody of the department.~~

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

36 (b) Forensic clients ~~Mentally ill, retarded, or autistic~~
237 ~~defendants who are committed to the department pursuant to this~~
238 ~~chapter and~~ who are initially placed in, or subsequently
239 transferred to, a civil facility as described in part I of
240 chapter 394 or to a residential facility as described in chapter
241 393 shall have the same rights as other persons committed to
242 these facilities for as long as they remain there.

243 (2) RIGHT TO TREATMENT.--

244 (a) The policy of the state is that neither the department
245 nor the agency shall ~~not~~ deny treatment or training to any
246 client and that no services shall be delayed ~~at a facility~~
247 because the forensic client is indigent pursuant to s. 27.52 and
248 presently unable to pay. However, every reasonable effort to
249 collect appropriate reimbursement for the cost of providing
250 services to clients able to pay for the services, including
51 reimbursement from insurance or other third-party payments,
252 shall be made by facilities providing services pursuant to this
253 chapter and in accordance with the provisions of s. 402.33.

254 (b) Each forensic client shall be given, at the time of
255 admission and at regular intervals thereafter, a physical
256 examination, which shall include screening for communicable
257 disease by a health practitioner authorized by law to give such
258 screenings and examinations.

259 (c) Every forensic client ~~committed pursuant to this act~~
260 shall be afforded the opportunity to participate in activities
261 designed to enhance self-image and the beneficial effects of
262 other treatments or training, as determined by the facility.

263 (d) Not more than 30 days after admission, each client
264 shall have and receive, in writing, an individualized treatment
265 or training plan which the client has had an opportunity to
66 assist in preparing.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

267 (3) RIGHT TO EXPRESS AND INFORMED CONSENT.--

268 (a) A forensic client ~~committed to the department pursuant~~
269 ~~to this act~~ shall be asked to give express and informed written
270 consent for treatment. If a client ~~in a forensic facility~~
271 refuses such treatment as is deemed necessary and essential by
272 the client's multidisciplinary treatment team ~~at the forensic~~
273 ~~facility~~ for the appropriate care of the client ~~and the safety~~
274 ~~of the client or others~~, such treatment may be provided under
275 the following circumstances:

276 1. In an emergency situation in which there is immediate
277 danger to the safety of the client or others, such treatment may
278 be provided upon the written order of a physician for a period
279 not to exceed 48 hours, excluding weekends and legal holidays.
280 If, after the 48-hour period, the client has not given express
281 and informed consent to the treatment initially refused, the
282 administrator or designee of the civil or forensic facility
283 shall, within 48 hours, excluding weekends and legal holidays,
284 petition the committing court or the circuit court serving the
285 county in which the facility is located, at the option of the
286 facility administrator or designee, for an order authorizing the
287 continued treatment of the client. In the interim, the need for
288 treatment shall be reviewed every 48 hours and may be continued
289 without the consent of the client upon the continued written
290 order of a physician who has determined that the emergency
291 situation continues to present a danger to the safety of the
292 client or others.

293 2. In a situation other than an emergency situation, the
294 administrator or designee of the ~~forensic~~ facility shall
295 petition the court for an order authorizing necessary and
296 essential ~~the~~ treatment for ~~to~~ the client. The order shall allow
297 such treatment for a period not to exceed 90 days following from

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

98 the date of the entry of the order. Unless the court is notified
299 in writing that the client has provided express and informed
300 consent in writing or that the client has been discharged by the
301 committing court, the administrator or designee shall, prior to
302 the expiration of the initial 90-day order, petition the court
303 for an order authorizing the continuation of treatment for
304 another 90-day period. This procedure shall be repeated until
305 the client provides consent or is discharged by the committing
306 court.

307 3. At the hearing on the issue of whether the court should
308 enter an order authorizing treatment for which a client was
309 unable to or has refused to give express and informed consent,
310 the court shall determine by clear and convincing evidence that
311 the client has mental illness, retardation, or autism ~~is~~
312 ~~mentally ill, retarded, or autistic as defined in this chapter,~~
313 that the treatment not consented to is essential to the care of
314 the client, and that the treatment not consented to is not
315 experimental and does not present an unreasonable risk of
316 serious, hazardous, or irreversible side effects. In arriving at
317 the substitute judgment decision, the court must consider at
318 least the following factors:

- 319 a. The client's expressed preference regarding treatment;
320 b. The probability of adverse side effects;
321 c. The prognosis without treatment; and
322 d. The prognosis with treatment.

323
324 The hearing shall be as convenient to the client as may be
325 consistent with orderly procedure and shall be conducted in
326 physical settings not likely to be injurious to the client's
327 condition. The court may appoint a general or special magistrate
28 to preside at the hearing. The client or the client's guardian,

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

329 and the representative, shall be provided with a copy of the
330 petition and the date, time, and location of the hearing. The
331 client has the right to have an attorney represent him or her at
332 the hearing, and, if the client is indigent, the court shall
333 appoint the office of the public defender to represent the
334 client at the hearing. The client may testify or not, as he or
335 she chooses, and has the right to cross-examine witnesses and
336 may present his or her own witnesses.

337 (b) In addition to the provisions of paragraph (a), in the
338 case of surgical procedures requiring the use of a general
339 anesthetic or electroconvulsive treatment or nonpsychiatric
340 medical procedures, and prior to performing the procedure,
341 written permission shall be obtained from the client, if the
342 client is legally competent, from the parent or guardian of a
343 minor client, or from the guardian of an incompetent client. The
344 administrator or designee of the forensic facility or a
345 designated representative may, with the concurrence of the
346 client's attending physician, authorize emergency surgical or
347 nonpsychiatric medical treatment if such treatment is deemed
348 lifesaving or for a situation threatening serious bodily harm to
349 the client and permission of the client or the client's guardian
350 could not cannot be obtained before provision of the needed
351 treatment.

352 (4) QUALITY OF TREATMENT.--

353 (a) Each forensic client ~~committed pursuant to this chapter~~
354 shall receive treatment or training suited to the client's
355 needs, which shall be administered skillfully, safely, and
356 humanely with full respect for the client's dignity and personal
357 integrity. Each client shall receive such medical, vocational,
358 social, educational, and rehabilitative services as the client's
359 condition requires to bring about a return to court for

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

60 disposition of charges or a return to the community. In order to
361 achieve this goal, the department and the agency shall
362 coordinate their services with each other, the Department of
363 Corrections, is directed to coordinate the services of the
364 Mental Health Program Office and the Developmental Disabilities
365 Program Office with all other programs of the department and
366 other appropriate state agencies.

367 (b) Forensic clients shall be free from the unnecessary
368 use of restraint or seclusion. Restraints shall be employed only
369 in emergencies or to protect the client or others from imminent
370 injury. Restraints may not be employed as punishment or for the
371 convenience of staff.

372 (5) COMMUNICATION, ABUSE REPORTING, AND VISITS.--

373 (a) Each forensic client ~~committed pursuant to the~~
374 ~~provisions of this chapter~~ has the right to communicate freely
375 and privately with persons outside the facility unless it is
376 determined that such communication is likely to be harmful to
377 the client or others. Clients shall have the right to contact
378 and to receive communication from their attorneys at any
379 reasonable time.

380 (a)(b) Each forensic client ~~committed under the provisions~~
381 ~~of this chapter~~ shall be allowed to receive, send, and mail
382 sealed, unopened correspondence; and no client's incoming or
383 outgoing correspondence shall be opened, delayed, held, or
384 censored by the facility unless there is reason to believe that
385 it contains items or substances that ~~which~~ may be harmful to the
386 client or others, in which case the administrator or designee
387 may direct reasonable examination of such mail and may regulate
388 the disposition of such items or substances. For purposes of
389 this paragraph, the term "correspondence" does shall not include
90 parcels or packages. Forensic facilities may ~~are authorized to~~

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

391 promulgate reasonable institutional policies to provide for the
392 inspection of parcels or packages and for the removal of
393 contraband items for health or security reasons prior to the
394 contents being given to a client.

395 ~~(b)-(e)~~ If a client's right to communicate is restricted by
396 the administrator, written notice of such restriction and the
397 duration of the restriction shall be served on the client or his
398 or her legal guardian or representatives, and such restriction
399 shall be recorded on the client's clinical record with the
400 reasons therefor. The restriction of a client's right to
401 communicate shall be reviewed at least every 7 days.

402 ~~(c)-(d)~~ Each forensic facility shall establish reasonable
403 institutional policies governing visitors, visiting hours, and
404 the use of telephones by clients in the least restrictive manner
405 possible.

406 ~~(d)-(e)~~ Each forensic client ~~committed pursuant to this~~
407 ~~chapter~~ shall have ready access to a telephone in order to
408 report an alleged abuse. The facility or program staff shall
409 orally and in writing inform each client of the procedure for
410 reporting abuse and shall present the information in a language
411 the client understands. A written copy of that procedure,
412 including the telephone number of the central abuse hotline and
413 reporting forms, shall be posted in plain view.

414 ~~(e)-(f)~~ The department's or agency's forensic facilities
415 shall develop policies providing a procedure for reporting
416 abuse. Facility staff shall be required, as a condition of
417 employment, to become familiar with the procedures for the
418 reporting of abuse.

419 (6) CARE AND CUSTODY OF PERSONAL EFFECTS OF CLIENTS.--A
420 forensic client's right to possession of clothing and personal
421 effects shall be respected. The department or agency by rule, or

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

22 the administrator of any forensic facility by written
423 institutional policy, may declare certain items to be hazardous
424 to the health or welfare of clients or others or to the
425 operation of the facility. Such items may be restricted from
426 introduction into the facility or may be restricted from being
427 in a client's possession. The administrator or designee may take
428 temporary custody of such effects when required for medical and
429 safety reasons. Custody of such personal effects shall be
430 recorded in the client's clinical record.

431 (7) VOTING IN PUBLIC ELECTIONS.--A forensic client
432 ~~committed pursuant to this chapter~~ who is eligible to vote
433 according to the laws of the state has the right to vote in the
434 primary and general elections. The department and agency shall
435 establish rules to enable clients to obtain voter registration
436 forms, applications for absentee ballots, and absentee ballots.

37 (8) CLINICAL RECORD; CONFIDENTIALITY.--A clinical record
438 for each forensic client shall be maintained. The record shall
439 include data pertaining to admission and such other information
440 as may be required under rules of the department or the agency.
441 Unless waived by express and informed consent of the client or
442 the client's legal guardian or, if the client is deceased, by
443 the client's personal representative or by that family member
444 who stands next in line of intestate succession or except as
445 otherwise provided in this subsection, the clinical record is
446 confidential and exempt from the provisions of s. 119.07(1) and
447 s. 24(a), Art. I of the State Constitution.

448 (a) Such clinical record may be released:

449 1. To such persons and agencies as are designated by the
450 client or the client's legal guardian.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

451 2. To persons authorized by order of court and to the
452 client's counsel when the records are needed by the counsel for
453 adequate representation.

454 3. To a qualified researcher, as defined by rule; a staff
455 member of the facility; or an employee of the department or
456 agency when the administrator of the facility, or secretary or
457 director of the department or agency, deems it necessary for
458 treatment of the client, maintenance of adequate records,
459 compilation of treatment data, or evaluation of programs.

460 4. For statistical and research purposes if the
461 information is abstracted in such a way as to protect the
462 identity of individuals.

463 5. If a client receiving services ~~pursuant to this chapter~~
464 has declared an intention to harm other persons. ~~When such a~~
465 ~~declaration has been made~~, the administrator shall authorize the
466 release of sufficient information to provide adequate warning to
467 the person threatened with harm by the client, and to the
468 committing court, the state attorney, and the attorney
469 representing the client.

470 6. To the parent or next of kin of a client mentally ill,
471 ~~retarded, or autistic person~~ who is committed to, or is being
472 served by, a facility or program when such information is
473 limited to that person's service plan and current physical and
474 mental condition. Release of such information shall be in
475 accordance with the code of ethics of the profession involved
476 and must comply with all state and federal laws and regulations
477 pertaining to the release of personal health information.

478 (b) Notwithstanding other provisions of this subsection,
479 the department or agency may request or receive from or provide
480 to any of the following entities client information to

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

81 facilitate treatment, habilitation, rehabilitation, and
482 continuity of care of any forensic client:

483 1. The Social Security Administration and the United
484 States Department of Veterans Affairs;

485 2. Law enforcement agencies, state attorneys, defense
486 attorneys, and judges in regard to the client's status;

487 3. Jail personnel in the jail in ~~to~~ which a client may be
488 housed ~~returned~~; and

489 4. Community agencies and others expected to provide
490 followup care to the client upon the client's return to the
491 community.

492 (c) The department or agency may provide notice to any
493 client's next of kin or first representative regarding any
494 serious medical illness or the death of the client.

495 (d)1. Any law enforcement agency, facility, or other
96 governmental agency that receives information pursuant to this
497 subsection shall maintain the confidentiality of such
498 information except as otherwise provided herein.

499 2. Any agency or private practitioner who acts in good
500 faith in releasing information pursuant to this subsection is
501 not subject to civil or criminal liability for such release.

502 (9) HABEAS CORPUS.--

503 (a) At any time, and without notice, a forensic client
504 detained by a facility, or a relative, friend, guardian,
505 representative, or attorney on behalf of such client, may
506 petition for a writ of habeas corpus to question the cause and
507 legality of such detention and request that the committing court
508 issue a writ for release. Each client ~~committed pursuant to this~~
509 ~~chapter~~ shall receive a written notice of the right to petition
510 for a writ of habeas corpus.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

511 (b) A client or his or her legal guardian or
512 representatives or attorney may file a petition in the circuit
513 court in the county where the client is committed alleging that
514 the client is being unjustly denied a right or privilege granted
515 herein or that a procedure authorized herein is being abused.
516 Upon the filing of such a petition, the circuit court shall have
517 the authority to conduct a judicial inquiry and to issue any
518 appropriate order to correct an abuse of the provisions of this
519 chapter.

520 (10) TRANSPORTATION.--

521 (a) The sheriff shall consult with the governing board of
522 the county as to the most appropriate and cost-effective means
523 of transportation for forensic clients who have been committed
524 for treatment or training. Such consultation shall include, but
525 is not limited to, consideration of the cost to the county of
526 transportation performed by sheriff's ~~department~~ personnel as
527 opposed to transportation performed by other means and, if
528 sheriff's ~~department~~ personnel are to be used for
529 transportation, the effect such use will have, if any, on
530 service delivery levels of the sheriff's road patrol. After such
531 consultation with the governing board of the county, the sheriff
532 shall determine the most appropriate and cost-effective means of
533 transportation for forensic clients committed for treatment or
534 training.

535 (b) The governing board of each county is authorized to
536 contract with private transport companies for the transportation
537 of such clients to and from a facility.

538 (c) Any company that transports a client pursuant to this
539 section is considered an independent contractor and is solely
540 liable for the safe and dignified transportation of the client.
541 Any transport company that contracts with the governing board of

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

42 a county for the transport of clients as provided for in this
543 section shall be insured and provide no less than \$100,000 in
544 liability insurance with respect to the transportation of the
545 clients.

546 (d) Any company that contracts with a governing board of a
547 county to transport clients shall comply with the applicable
548 rules of the department or agency to ensure the safety and
549 dignity of the clients.

550 (11) LIABILITY FOR VIOLATIONS.--Any person who violates or
551 abuses any rights or privileges of a forensic client in the
552 custody of the department or agency that are provided under this
553 chapter shall be by this act is liable for damages as determined
554 by law. Any person who acts in good faith in complying with the
555 provisions of this chapter act is immune from civil or criminal
556 liability for his or her actions in connection with the
557 admission, diagnosis, treatment, training, or discharge of a
558 client to or from a facility. However, this subsection does not
559 relieve any person from liability if he or she is negligent.

560 Section 4. Subsections (1), (2), (3), (4), and (5) of
561 section 916.1075, Florida Statutes, are amended to read:

562 916.1075 Sexual misconduct prohibited; reporting required;
563 penalties.--

564 (1) As used in this section, the term:

565 (a) "Covered person" means an employee," ~~includes any paid~~
566 ~~staff member,~~ volunteer, or intern of the department or agency;
567 any person under contract with the department or agency; and any
568 person providing care or support to a forensic client on behalf
569 of the department, the agency, or their ~~its~~ providers.

570 (b) "Sexual activity" means:

571 1. Fondling the genital area, groin, inner thighs,
572 buttocks, or breasts of a person.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

573 2. The oral, anal, or vaginal penetration by or union with
574 the sexual organ of another or the anal or vaginal penetration
575 of another by any other object.

576 3. Intentionally touching in a lewd or lascivious manner
577 the breasts, genitals, the genital area, or buttocks, or the
578 clothing covering them, of a person, or forcing or enticing a
579 person to touch the perpetrator.

580 4. Intentionally masturbating in the presence of another
581 person.

582 5. Intentionally exposing the genitals in a lewd or
583 lascivious manner in the presence of another person.

584 6. Intentionally committing any other sexual act that does
585 not involve actual physical or sexual contact with the victim,
586 including, but not limited to, sadomasochistic abuse, sexual
587 bestiality, or the simulation of any act involving sexual
588 activity in the presence of a victim.

589 (c) "Sexual misconduct" means any sexual activity between
590 a covered person ~~an employee~~ and a forensic client in the
591 custody of the department or agency, regardless of the consent
592 of the client. The term does not include an act done for a bona
593 fide medical purpose or an internal search conducted in the
594 lawful performance of duty by a covered person ~~an employee~~.

595 (2) A covered person ~~An employee~~ who engages in sexual
596 misconduct with a forensic client who resides in a civil or
597 forensic facility commits a felony of the second degree,
598 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
599 Such person ~~An employee~~ may be found guilty of violating this
600 subsection without having committed the crime of sexual battery.

601 (3) The consent of a forensic ~~the~~ client to sexual
602 activity is not a defense to prosecution under this section.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

603 (4) This section does not apply to a covered person an
604 ~~employee~~ who:

605 (a) Is legally married to the client; or

606 (b) Has no reason to believe that the person with whom the
607 covered person ~~employee~~ engaged in sexual misconduct is a client
608 receiving services as described in subsection (2).

609 (5) A covered person ~~An employee~~ who witnesses sexual
610 misconduct, or who otherwise knows or has reasonable cause to
611 suspect that a person has engaged in sexual misconduct, shall
612 immediately report the incident to the department's central
613 abuse hotline and to the appropriate local law enforcement
614 agency. The covered person ~~Such employee~~ shall also prepare,
615 date, and sign an independent report that specifically describes
616 the nature of the sexual misconduct, the location and time of
617 the incident, and the persons involved. For an allegation
618 pertaining to a forensic client committed to the department or
619 agency, the covered person ~~employee~~ shall deliver the report
620 directly to the department's or agency's inspector general, as
621 appropriate, or to the supervisor or program director, who shall
622 provide copies to the department's or agency's ~~is responsible~~
623 ~~for providing copies to the department's~~ inspector general. ~~The~~
624 ~~inspector general shall immediately conduct an appropriate~~
625 ~~administrative investigation, and, if there is probable cause to~~
626 ~~believe that sexual misconduct has occurred, the inspector~~
627 ~~general shall notify the state attorney in the circuit in which~~
628 ~~the incident occurred.~~

629 Section 5. Section 916.1081, Florida Statutes, is amended
630 to read:

631 916.1081 Escape from program; penalty.--

632 (1) A forensic client who is ~~A defendant~~ involuntarily
633 committed to the department or agency, who is in the custody of

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

634 ~~the department or agency, and under the provisions of this~~
635 ~~chapter~~ who escapes or attempts to escape from a civil or
636 forensic facility ~~or program~~ commits a felony of the second
637 degree, punishable as provided in s. 775.082, s. 775.083, or s.
638 775.084.

639 (2) A person who is involuntarily committed to the
640 department or the agency, who is in the custody of the
641 Department of Corrections, and who escapes or attempts to escape
642 from a facility or program commits a felony of the second
643 degree, punishable as provided in s. 775.082, s. 775.083, or s.
644 775.084. Any punishment of imprisonment imposed under this
645 subsection shall run consecutive to any former sentence imposed
646 upon the person.

647 Section 6. Subsection (1) and paragraph (b) of subsection
648 (2) of section 916.1085, Florida Statutes, are amended to read:

649 916.1085 Introduction or removal of certain articles
650 unlawful; penalty.--

651 (1)(a) Except as authorized by law or as specifically
652 authorized by the person in charge of a facility, it is unlawful
653 to introduce into or upon the grounds of any facility under the
654 supervision or control of the department or agency, or to take
655 or attempt to take or send therefrom, any of the following
656 articles, which are ~~hereby~~ declared to be contraband for the
657 purposes of this section:

658 1. Any intoxicating beverage or beverage which causes or
659 may cause an intoxicating effect;

660 2. Any controlled substance as defined in chapter 893;

661 3. Any firearm or deadly weapon; or

662 4. Any other item as determined by the department or the
663 agency, and as designated by ~~departmental~~ rule or ~~by the~~
664 ~~administrator of any facility, and designated by written~~

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

665 institutional policies, to be hazardous to the welfare of
666 clients ~~patients~~ or the operation of the facility.

667 (b) It is unlawful to transmit to, attempt to transmit to,
668 or cause or attempt to cause to be transmitted to or received by
669 any client of any facility under the supervision or control of
670 the department or agency any article or thing declared by this
671 section to be contraband, at any place that ~~which~~ is outside of
672 the grounds of such facility, except as authorized by law or as
673 specifically authorized by the person in charge of such
674 facility.

675 (2)

676 (b) These provisions shall be enforced by institutional
677 security personnel ~~as defined in s. 916.106(10)~~ or by a law
678 enforcement officer as defined in s. 943.10.

679 Section 7. Section 916.1091, Florida Statutes, is amended
680 to read:

681 916.1091 Duties, functions, and powers of institutional
682 security personnel.--In case of emergency, and when necessary to
683 provide protection and security to any client, to the personnel,
684 equipment, buildings, or grounds of a department or agency
685 facility, or to citizens in the surrounding community,
686 institutional security personnel may, when authorized by the
687 administrator of the facility or her or his designee when the
688 administrator is not present, use a chemical weapon against a
689 patient housed in a forensic facility. However, such weapon
690 shall be used only to the extent necessary to provide ~~such~~
691 protection and security. Under no circumstances shall any ~~such~~
692 officer carry a chemical weapon on her or his person except
693 during the period of the emergency for which its use was
694 authorized. All chemical weapons shall be placed in secure

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

695 storage when their use is not authorized as provided in this
696 section.

697 Section 8. Section 916.1093, Florida Statutes, is amended
698 to read:

699 916.1093 Operation and administration; rules.--

700 (1) The department or agency may ~~is authorized to~~ enter
701 into contracts and do such things as may be necessary and
702 incidental to assure compliance with and to carry out the
703 provisions of this chapter in accordance with the stated
704 legislative intent.

705 (2) The department and agency are authorized ~~has authority~~
706 to adopt rules pursuant to ss. 120.536(1) and 120.54 to
707 implement the provisions of this chapter. Such rules must
708 address the use of restraint and seclusion in forensic
709 facilities and must be consistent with recognized best
710 practices; prohibit inherently dangerous restraint or seclusion
711 procedures; establish limitations on the use and duration of
712 restraint and seclusion; establish measures to ensure the safety
713 of clients and staff during an incident of restraint or
714 seclusion; establish procedures for staff to follow before,
715 during, and after incidents of restraint or seclusion; establish
716 professional qualifications of and training for staff who may
717 order or be engaged in the use of restraint or seclusion;
718 provide data-reporting and data-collection procedures relating
719 to the use of restraint and seclusion; and provide for the
720 documentation of the use of restraint or seclusion in the
721 client's facility record.

722 Section 9. Subsection (1) of section 916.111, Florida
723 Statutes, is amended to read:

724 916.111 Training of mental health experts.--The evaluation
725 of defendants for competency to proceed or for sanity at the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

726 time of the commission of the offense shall be conducted in such
727 a way as to ensure uniform application of the criteria
728 enumerated in Rules 3.210 and 3.216, Florida Rules of Criminal
729 Procedure. The department shall develop, and may contract with
730 accredited institutions:

731 (1) To provide:

732 (a) A plan for training ~~community~~ mental health
733 professionals to perform forensic evaluations and to standardize
734 the criteria and procedures to be used in these evaluations;

735 (b) Clinical protocols and procedures based upon the
736 criteria of Rules 3.210 and 3.216, Florida Rules of Criminal
737 Procedure; and

738 (c) Training for ~~community~~ mental health professionals in
739 the application of these protocols and procedures in performing
740 forensic evaluations and providing reports to the courts; and

741 Section 10. Section 916.115, Florida Statutes, is amended
742 to read:

743 916.115 Appointment of experts.--

744 ~~(1) (a) Annually, the department shall provide the courts~~
745 ~~with a list of mental health professionals who have completed~~
746 ~~approved training as experts.~~

747 ~~(b)~~ The court shall ~~may~~ appoint no more than three experts
748 to determine ~~issues~~ of the mental condition of a defendant in a
749 criminal case, including ~~the issues~~ of competency to proceed,
750 insanity, and involuntary hospitalization or placement, and
751 treatment. The experts ~~An expert~~ may evaluate the defendant in
752 jail or in another appropriate local facility or in a facility
753 of the Department of Corrections.

754 ~~(a) (e)~~ To the extent possible, the ~~an~~ appointed experts
755 ~~expert~~ shall have completed forensic evaluator training approved

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

756 by the department and each shall be either a psychiatrist,
757 licensed psychologist, or physician.

758 (b) The department shall maintain and annually provide the
759 courts with a list of available mental health professionals who
760 have completed the approved training as experts.

761 ~~(2) Expert witnesses appointed by the court to evaluate~~
762 ~~the mental condition of a defendant in a criminal case shall be~~
763 ~~allowed reasonable fees for services rendered as evaluators of~~
764 ~~competence or sanity and as witnesses.~~

765 ~~(a)1.~~ The court shall pay for any expert that it appoints
766 by court order, upon motion of counsel for the defendant or the
767 state or upon its own motion. If the defense or the state
768 retains an expert and waives the confidentiality of the expert's
769 report, the court may pay for no more than two additional
770 experts appointed by court order. If an expert appointed by the
771 court upon motion of counsel for the defendant specifically to
772 evaluate the competence of the defendant to proceed also
773 addresses in his or her evaluation issues related to sanity as
774 an affirmative defense, the court shall pay only for that
775 portion of the expert's fees relating to the evaluation on
776 competency to proceed, and the balance of the fees shall be
777 chargeable to the defense.

778 ~~(a)2.~~ Pursuant to s. 29.006, the office of the public
779 defender shall pay for any expert retained by the office.

780 ~~(b)3.~~ Pursuant to s. 29.005, the office of the state
781 attorney shall pay for any expert retained by the office and-
782 ~~Notwithstanding subparagraph 1., the office of the state~~
783 ~~attorney shall pay~~ for any expert whom the office retains and
784 whom the office moves the court to appoint in order to ensure
785 that the expert has access to the defendant.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

786 ~~(c)4.~~ An expert retained by the defendant who is
787 represented by private counsel appointed under s. 27.5303 shall
788 be paid by the Justice Administrative Commission.

789 ~~(d)5.~~ An expert retained by a defendant who is indigent
790 for costs as determined by the court and who is represented by
791 private counsel, other than private counsel appointed under s.
792 27.5303, on a fee or pro bono basis, or who is representing
793 himself or herself, shall be paid by the Justice Administrative
794 Commission from funds specifically appropriated for these
795 expenses.

796 ~~(e)(b)~~ State employees shall be reimbursed for ~~paid~~
797 expenses pursuant to s. 112.061.

798 ~~(f)(e)~~ The fees shall be taxed as costs in the case.

799 ~~(g)(d)~~ In order for an expert to be paid for the services
800 rendered, the expert's report and testimony must explicitly
801 address each of the factors and follow the procedures set out in
802 this chapter and in the Florida Rules of Criminal Procedure.

803 Section 11. Subsections (1), (2), and (3) of section
804 916.12, Florida Statutes, are amended to read:

805 916.12 Mental competence to proceed.--

806 (1) A defendant is incompetent to proceed within the
807 meaning of this chapter if the defendant does not have
808 sufficient present ability to consult with her or his lawyer
809 with a reasonable degree of rational understanding or if the
810 defendant has no rational, as well as factual, understanding of
811 the proceedings against her or him.

812 (2) Mental health experts appointed pursuant to s. 916.115
813 ~~An expert~~ shall first determine whether the defendant has a
814 mental illness ~~person is mentally ill~~ and, if so, consider the
815 factors related to the issue of whether the defendant meets the
816 criteria for competence to proceed as described in subsection

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

817 ~~(1) that is, whether the defendant has sufficient present~~
818 ~~ability to consult with counsel with a reasonable degree of~~
819 ~~rational understanding and whether the defendant has a rational,~~
820 ~~as well as factual, understanding of the pending proceedings. A~~
821 defendant must be evaluated by no fewer than two experts before
822 the court commits the defendant or takes other action authorized
823 by this chapter or the Florida Rules of Criminal Procedure,
824 except if one expert finds that the defendant is incompetent to
825 proceed and the parties stipulate to that finding, the court may
826 commit the defendant or take other action authorized by this
827 chapter or the rules without further evaluation or hearing, or
828 the court may appoint no more than two additional experts to
829 evaluate the defendant. Notwithstanding any stipulation by the
830 state and the defendant, the court may require a hearing with
831 testimony from the expert or experts before ordering the
832 commitment of a defendant.

833 (3) In considering the issue of competence to proceed, an
834 examining expert shall first consider and specifically include
835 in his or her report the defendant's capacity to:

836 (a) Appreciate the charges or allegations against the
837 defendant.†

838 (b) Appreciate the range and nature of possible penalties,
839 if applicable, that may be imposed in the proceedings against
840 the defendant.†

841 (c) Understand the adversarial nature of the legal
842 process.†

843 (d) Disclose to counsel facts pertinent to the proceedings
844 at issue.†

845 (e) Manifest appropriate courtroom behavior.† and

846 (f) Testify relevantly.†

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

847 ~~(g) and include in his or her report~~ Any other factor
848 deemed relevant by the expert.

849 Section 12. Section 916.13, Florida Statutes, is amended
850 to read:

851 916.13 Involuntary commitment of defendant adjudicated
852 incompetent.--

853 (1) Every defendant who is charged with a felony and who
854 is adjudicated incompetent to proceed, ~~pursuant to the~~
855 ~~applicable Florida Rules of Criminal Procedure,~~ may be
856 involuntarily committed for treatment upon a finding by the
857 court of clear and convincing evidence that:

858 (a) The defendant has a mental illness ~~is mentally ill~~ and
859 because of the mental illness:

860 1. The defendant is manifestly incapable of surviving
861 alone or with the help of willing and responsible family or
862 friends, including available alternative services, and, without
863 treatment, the defendant is likely to suffer from neglect or
864 refuse to care for herself or himself and such neglect or
865 refusal poses a real and present threat of substantial harm to
866 the defendant's well-being; or and

867 2. There is a substantial likelihood that in the near
868 future the defendant will inflict serious bodily harm on herself
869 or himself or another person, as evidenced by recent behavior
870 causing, attempting, or threatening such harm;

871 (b) All available, less restrictive treatment
872 alternatives, including treatment in community residential
873 facilities or community inpatient or outpatient settings, which
874 would offer an opportunity for improvement of the defendant's
875 condition have been judged to be inappropriate; and

876 (c) There is a substantial probability that the mental
877 illness causing the defendant's incompetence will respond to

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

878 treatment and the defendant will regain competency to proceed in
879 the reasonably foreseeable future.

880 (2) A defendant who has been charged with a felony and who
881 has been adjudicated incompetent to proceed due to mental
882 illness, and who meets the criteria for involuntary commitment
883 to the department under the provisions of this chapter, may be
884 committed to the department, and the department shall retain and
885 treat the defendant. No later than 6 months after the date of
886 admission and ~~or~~ at the end of any period of extended
887 commitment, or at any time the administrator or designee shall
888 have determined that the defendant has regained competency to
889 proceed or no longer meets the criteria for continued
890 commitment, the administrator or designee shall file a report
891 with the court pursuant to the applicable Florida Rules of
892 Criminal Procedure.

893 Section 13. Section 916.145, Florida Statutes, is amended
894 to read:

895 916.145 ~~Adjudication of incompetency due to mental~~
896 ~~illness~~; Dismissal of charges.--The charges against any
897 defendant adjudicated incompetent to proceed due to the
898 defendant's mental illness shall be dismissed without prejudice
899 to the state if the defendant remains incompetent to proceed 5
900 years after such determination, unless the court in its order
901 specifies its reasons for believing that the defendant will
902 become competent to proceed within the foreseeable future and
903 specifies the time within which the defendant is expected to
904 become competent to proceed. The charges against the defendant
905 are dismissed without prejudice to the state to refile the
906 charges should the defendant be declared competent to proceed in
907 the future.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

08 Section 14. Section 916.15, Florida Statutes, is amended
909 to read:

910 916.15 Involuntary commitment of defendant adjudicated not
911 guilty by reason of insanity.--

912 (1) The determination of whether a defendant is not guilty
913 by reason of insanity shall be determined in accordance with
914 Rule 3.217, Florida Rules of Criminal Procedure.

915 (2)~~(1)~~ A defendant who is acquitted of criminal charges
916 because of a finding of not guilty by reason of insanity may be
917 involuntarily committed pursuant to such finding if the
918 defendant has a mental illness ~~is mentally ill~~ and, because of
919 the illness, is manifestly dangerous to himself or herself or
920 others.

921 (3)~~(2)~~ Every defendant acquitted of criminal charges by
922 reason of insanity and found to meet the criteria for
923 involuntary commitment may be committed and treated in
924 accordance with the provisions of this section and the
925 applicable Florida Rules of Criminal Procedure. The department
926 shall admit a defendant so adjudicated to an appropriate
927 facility or program for treatment and shall retain and treat
928 such defendant. No later than 6 months after the date of
929 admission, prior to the end of any period of extended
930 commitment, or at any time the administrator or designee shall
931 have determined that the defendant no longer meets the criteria
932 for continued commitment placement, the administrator or
933 designee shall file a report with the court pursuant to the
934 applicable Florida Rules of Criminal Procedure.

935 (4)~~(3)~~ In all proceedings under this section ~~subsection~~,
936 both the defendant and the state shall have the right to a
937 hearing before the committing court. Evidence at such hearing
938 may be presented by the hospital administrator or the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

939 administrator's designee as well as by the state and the
940 defendant. The defendant shall have the right to counsel at any
941 such hearing. In the event that a defendant is determined to be
942 indigent pursuant to s. 27.52, the public defender shall
943 represent the defendant. The parties shall have access to the
944 defendant's records at the treating facilities and may interview
945 or depose personnel who have had contact with the defendant at
946 the treating facilities.

947 Section 15. Section 916.16, Florida Statutes, is amended
948 to read:

949 916.16 Jurisdiction of committing court.--

950 (1) The committing court shall retain jurisdiction over in
951 ~~the case of~~ any defendant involuntarily committed due to a
952 determination of incompetency hospitalized as incompetent to
953 proceed due to mental illness or ~~because of~~ a finding of not
954 guilty by reason of insanity pursuant to this chapter. The No
955 ~~such~~ defendant may not be released except by order of the
956 committing court. An ~~The~~ administrative hearing examiner does
957 not shall have ~~no~~ jurisdiction to determine issues of continuing
958 commitment hospitalization or release of any defendant
959 involuntarily committed admitted pursuant to this chapter.

960 (2) The committing court shall retain jurisdiction in the
961 case of any defendant placed on conditional release pursuant to
962 s. 916.17. ~~No~~ Such defendant may not be released from the
963 conditions of release except by order of the committing court.

964 Section 16. Section 916.17, Florida Statutes, is amended
965 to read:

966 916.17 Conditional release.--

967 (1) Except for an inmate currently serving a prison
968 sentence, ~~The committing court may order a conditional release~~
969 ~~of any defendant who has been found to be incompetent to proceed~~

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

970 ~~or not guilty by reason of insanity, based on an approved plan~~
971 ~~for providing appropriate outpatient care and treatment. the~~
972 committing court may order a conditional release of any
973 defendant in lieu of an involuntary commitment to a facility
974 pursuant to s. 916.13 or s. 916.15 based upon an approved plan
975 for providing appropriate outpatient care and treatment. Upon a
976 recommendation that outpatient treatment of the defendant is
977 appropriate, a written plan for outpatient treatment, including
978 recommendations from qualified professionals, must be filed with
979 the court, with copies to all parties. Such a plan may also be
980 submitted by the defendant and filed with the court with copies
981 to all parties. The plan shall include:

982 (a) Special provisions for residential care or adequate
983 supervision of the defendant.

984 (b) Provisions for outpatient mental health services.

985 (c) If appropriate, recommendations for auxiliary services
986 such as vocational training, educational services, or special
987 medical care.

988
989 In its order of conditional release, the court shall specify the
990 conditions of release based upon the release plan and shall
991 direct the appropriate agencies or persons to submit periodic
992 reports to the court regarding the defendant's compliance with
993 the conditions of the release and progress in treatment, with
994 copies to all parties.

995 (2) Upon the filing of an affidavit or statement under
996 oath by any person that the defendant has failed to comply with
997 the conditions of release, that the defendant's condition has
998 deteriorated to the point that inpatient care is required, or
999 that the release conditions should be modified, the court shall
000 hold a hearing within 7 days after receipt of the affidavit or

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

1001 statement under oath. After the hearing, the court may modify
1002 the release conditions. The court may also order that the
1003 defendant be returned to the department if it is found, after
1004 the appointment and report of experts, that the person meets the
1005 criteria for involuntary commitment under s. 916.13 or s. 916.15
1006 ~~treatment.~~

1007 (3) If at any time it is determined after a hearing that
1008 the defendant who has been conditionally released under
1009 subsection (1) no longer requires court-supervised followup
1010 care, the court shall terminate its jurisdiction in the cause
1011 and discharge the defendant.

1012 Section 17. Section 916.301, Florida Statutes, is amended
1013 to read:

1014 916.301 Appointment of experts.--

1015 (1) All evaluations ordered by the court under this part
1016 must be conducted by qualified experts who have expertise in
1017 evaluating persons with retardation or autism. The agency
1018 ~~department~~ shall maintain and provide the courts annually with a
1019 list of available retardation and autism professionals who are
1020 appropriately licensed and qualified to perform evaluations of
1021 defendants alleged to be incompetent to proceed due to
1022 retardation or autism. The courts may use professionals from
1023 this list when appointing experts and ordering evaluations under
1024 this part ~~for defendants suspected of being retarded or~~
1025 ~~autistic.~~

1026 (2) If a defendant's suspected mental condition is
1027 retardation or autism, the court shall appoint the following:
1028 ~~two experts, one of whom must be the developmental services~~
1029 ~~program of the department, each of whom will evaluate whether~~
1030 ~~the defendant meets the definition of retardation or autism and,~~
1031 ~~if so, whether the defendant is competent to proceed.~~

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

32 ~~(a)(3)~~ At least one, or at the request of any party, two
1033 experts ~~the court may appoint one additional expert to evaluate~~
1034 ~~the defendant. The expert appointed by the court will evaluate~~
1035 whether the defendant meets the definition of retardation or
1036 autism and, if so, whether the defendant is competent to
1037 proceed.

1038 ~~(b)(4)~~ The developmental services program shall select A
1039 psychologist selected by the agency who is licensed or
1040 authorized by law to practice in this state, with experience in
1041 evaluating persons suspected of having retardation or autism,
1042 and a social service professional, with experience in working
1043 with persons with retardation or autism ~~to evaluate the~~
1044 ~~defendant.~~

1045 1.(a) The psychologist shall evaluate whether the
1046 defendant meets the definition of retardation or autism and, if
47 so, whether the defendant is incompetent to proceed due to
1048 retardation or autism.

1049 2.(b) The social service professional shall provide a
1050 social and developmental history of the defendant.

1051 ~~(5)~~ ~~All evaluations ordered by the court must be from~~
1052 ~~qualified experts with experience in evaluating persons with~~
1053 ~~retardation or autism.~~

1054 ~~(3)(6)~~ The panel of experts may examine the defendant in
1055 jail, in another appropriate local facility, in a facility of
1056 the Department of Corrections, or on an outpatient basis.

1057 ~~(4)(7)~~ Experts ~~Expert witnesses~~ appointed by the court to
1058 evaluate the mental condition of a defendant in a criminal case
1059 shall be allowed reasonable fees for services rendered as
1060 evaluators and as witnesses, which shall be paid by the court.
1061 State employees shall be paid expenses pursuant to s. 112.061.
62 The fees shall be taxed as costs in the case. In order for the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

1063 experts to be paid for the services rendered, the reports and
1064 testimony must explicitly address each of the factors and follow
1065 the procedures set out in this chapter and in the Florida Rules
1066 of Criminal Procedure.

1067 Section 18. Subsections (1), (2), and (3) of section
1068 916.3012, Florida Statutes, are amended to read:

1069 916.3012 Mental competence to proceed.--

1070 (1) A defendant whose suspected mental condition is
1071 retardation or autism is incompetent to proceed within the
1072 meaning of this chapter if the defendant does not have
1073 sufficient present ability to consult with the defendant's
1074 lawyer with a reasonable degree of rational understanding or if
1075 the defendant has no rational, as well as factual, understanding
1076 of the proceedings against the defendant.

1077 (2) ~~The Experts in retardation or autism appointed~~
1078 pursuant to s. 916.301 shall first consider whether the
1079 defendant meets the definition of retardation or autism and, if
1080 so, consider the factors related to the issue of whether the
1081 defendant meets the criteria for competence to proceed as
1082 described in subsection (1); that is, whether the defendant has
1083 ~~sufficient present ability to consult with counsel with a~~
1084 ~~reasonable degree of rational understanding and whether the~~
1085 ~~defendant has a rational, as well as factual, understanding of~~
1086 ~~the pending proceedings.~~

1087 (3) In considering the issue of competence to proceed, the
1088 examining experts shall first consider and specifically include
1089 in their report the defendant's capacity to:

1090 (a) Appreciate the charges or allegations against the
1091 defendant.†

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

92 (b) Appreciate the range and nature of possible penalties,
1093 if applicable, that may be imposed in the proceedings against
1094 the defendant.†

1095 (c) Understand the adversarial nature of the legal
1096 process.†

1097 (d) Disclose to counsel facts pertinent to the proceedings
1098 at issue.†

1099 (e) Manifest appropriate courtroom behavior.† and

1100 (f) Testify relevantly.†

1101 (g) ~~and include in their report~~ Any other factor deemed
1102 relevant by the experts.

1103 Section 19. Section 916.302, Florida Statutes, is amended
1104 to read:

1105 916.302 Involuntary commitment of defendant determined to
1106 be incompetent to proceed ~~due to retardation or autism.--~~

1107 (1) CRITERIA.--Every defendant who is charged with a
1108 felony and who is adjudicated ~~found to be~~ incompetent to proceed
1109 due to retardation or autism, ~~pursuant to this chapter and the~~
1110 ~~applicable Florida Rules of Criminal Procedure~~, may be
1111 involuntarily committed for training upon a finding by the court
1112 of clear and convincing evidence that:

1113 (a) The defendant has retardation or autism ~~is retarded or~~
1114 ~~autistic~~;

1115 (b) There is a substantial likelihood that in the near
1116 future the defendant will inflict serious bodily harm on himself
1117 or herself or another person, as evidenced by recent behavior
1118 causing, attempting, or threatening such harm;

1119 (c) All available, less restrictive alternatives,
1120 including services provided in community residential facilities
1121 or other community settings, which would offer an opportunity

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

1122 for improvement of the condition have been judged to be
1123 inappropriate; and

1124 (d) There is a substantial probability that the
1125 retardation or autism causing the defendant's incompetence will
1126 respond to training and the defendant will regain competency to
1127 proceed in the reasonably foreseeable future.

1128 (2) ADMISSION TO A FACILITY.--

1129 (a) A defendant who has been charged with a felony and who
1130 is found to be incompetent to proceed due to retardation or
1131 autism, and who meets the criteria for involuntary commitment to
1132 the agency department under the provisions of this chapter,
1133 shall be committed to the agency department, and the agency
1134 department shall retain and provide appropriate training for
1135 serve the defendant. No later than 6 months after the date of
1136 admission or at the end of any period of extended commitment or
1137 at any time the administrator or designee shall have determined
1138 that the defendant has regained competency to proceed or no
1139 longer meets the criteria for continued commitment, the
1140 administrator or designee shall file a report with the court
1141 pursuant to this chapter and the applicable Florida Rules of
1142 Criminal Procedure.

1143 (b) A defendant determined to be incompetent to proceed
1144 due to retardation or autism may be ordered by a circuit court
1145 into a forensic secure facility designated by the agency
1146 department for ~~retarded or autistic~~ defendants who have mental
1147 retardation or autism.

1148 (c) The agency department may transfer a defendant from a
1149 designated forensic secure facility to another designated
1150 forensic secure facility and must notify the court of the
1151 transfer within 30 days after the transfer is completed.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

52 (d) The agency department may not transfer a defendant
1153 from a designated forensic secure facility to a civil nonsecure
1154 facility without first notifying the court, and all parties, 30
1155 days before the proposed transfer. If the court objects to the
1156 proposed transfer ~~to a nonsecure facility~~, it must send its
1157 written objection to the agency department. The agency
1158 ~~department~~ may transfer the defendant unless it receives the
1159 written objection from the court within 30 days after the
1160 court's receipt of the notice of the proposed transfer.

1161 (3) PLACEMENT OF DUALY DIAGNOSED DEFENDANTS.--

1162 (a) If a defendant has is both mental retardation or
1163 autism retarded or autistic and has a mental illness mentally
1164 ill, evaluations must address which condition is primarily
1165 affecting the defendant's competency to proceed. Referral of the
1166 defendant should be made to a civil or forensic the facility or
67 program most appropriate to address the symptoms that which are
1168 the cause of the defendant's incompetence.

1169 (b) Transfer from one civil or forensic facility or
1170 program to another civil or forensic facility or program may
1171 occur when, in the department's and agency's judgment, it is in
1172 the defendant's best treatment or training interests. The
1173 department and agency shall submit an evaluation and
1174 justification for the transfer to the court. The court may
1175 consult with an outside expert if necessary. Transfer will
1176 require an amended order from the committing court.

1177 Section 20. Section 916.3025, Florida Statutes, is amended
1178 to read:

1179 916.3025 Jurisdiction of committing court.--

1180 (1) The committing court shall retain jurisdiction in the
1181 case of any defendant found to be incompetent to proceed due to
82 retardation or autism and ordered into a forensic secure

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

1183 facility designated by the agency department for ~~retarded or~~
1184 ~~autistic~~ defendants who have mental retardation or autism. A No
1185 defendant may not be released except by the order of the
1186 committing court. An administrative hearing examiner does not
1187 have jurisdiction to determine issues of continuing commitment
1188 or release of any defendant involuntarily committed pursuant to
1189 this chapter.

1190 (2) The committing court shall retain jurisdiction in the
1191 case of any defendant placed on conditional release pursuant to
1192 s. 916.304. No Such defendant may not be released from the
1193 conditions of release except by order of the committing court.

1194 (3) The committing court shall consider a the petition to
1195 involuntarily admit a defendant whose charges have been
1196 dismissed to residential services provided by the agency
1197 ~~department's developmental services program a person whose~~
1198 ~~charges have been dismissed,~~ and, when applicable, to continue
1199 secure placement of such person as provided in s. 916.303. The
1200 committing court shall retain jurisdiction over such person so
1201 long as he or she remains in secure placement or is on
1202 conditional release as provided in s. 916.304. However, upon
1203 request the court may transfer continuing jurisdiction to the
1204 court in the circuit where the defendant resides. The defendant
1205 may not be released from an order for secure placement except by
1206 order of the court.

1207 Section 21. Section 916.303, Florida Statutes, is amended
1208 to read:

1209 916.303 Determination of incompetency due to retardation
1210 or autism; dismissal of charges.--

1211 (1) The charges against any defendant found to be
1212 incompetent to proceed due to retardation or autism shall be
1213 dismissed without prejudice to the state if the defendant

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

14 remains incompetent to proceed within a reasonable time after
1215 such determination, not to exceed 2 years, unless the court in
1216 its order specifies its reasons for believing that the defendant
1217 will become competent to proceed within the foreseeable future
1218 and specifies the time within which the defendant is expected to
1219 become competent to proceed. The charges may be refiled by the
1220 state if against the defendant are dismissed without prejudice
1221 to the state to refile the charges should the defendant is be
1222 declared competent to proceed in the future.

1223 (2)(a) If the charges are dismissed and if the defendant
1224 is considered to lack sufficient capacity to give express and
1225 informed consent to a voluntary application for services and
1226 lacks the basic survival and self-care skills to provide for his
1227 or her well-being or is likely to physically injure himself or
1228 herself or others if allowed to remain at liberty, the agency
1229 department, the state attorney, or the defendant's attorney
1230 shall may apply to the committing court to involuntarily admit
1231 the defendant to residential services pursuant to s. 393.11.

1232 (3)(b) If the defendant is considered to need involuntary
1233 residential services for reasons described in subsection (2)
1234 under s. 393.11 and, further, there is a substantial likelihood
1235 that the defendant will injure another person or continues to
1236 present a danger of escape, and all available less restrictive
1237 alternatives, including services in community residential
1238 facilities or other community settings, which would offer an
1239 opportunity for improvement of the condition have been judged to
1240 be inappropriate, ~~then the~~ agency person or entity filing the
1241 petition under s. 393.11, the state attorney, or the defendant's
1242 counsel may request, ~~the petitioning commission, or the~~
1243 ~~department may also petition~~ the committing court to continue
1244 the defendant's placement in a secure facility ~~or program~~

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

1245 pursuant to this part section. Any placement so continued under
1246 this subsection must be defendant involuntarily admitted under
1247 ~~this paragraph shall have his or her status~~ reviewed by the
1248 court at least annually at a hearing. The annual review and
1249 hearing shall determine whether the defendant continues to meet
1250 the criteria described in this subsection ~~for involuntary~~
1251 ~~residential services~~ and, if so, whether the defendant still
1252 requires involuntary placement in a secure facility ~~or program~~
1253 ~~because the court finds that the defendant is likely to~~
1254 ~~physically injure others as specified in s. 393.11~~ and whether
1255 the defendant is receiving adequate care, treatment,
1256 habilitation, and rehabilitation, including psychotropic
1257 medication and behavioral programming. Notice of the annual
1258 review and review hearing shall be given to the state attorney
1259 and ~~to~~ the defendant's attorney. In no instance may a
1260 defendant's placement in a secure facility ~~or program~~ exceed the
1261 maximum sentence for the crime for which the defendant was
1262 charged.

1263 Section 22. Section 916.304, Florida Statutes, is amended
1264 to read:

1265 916.304 Conditional release.--

1266 (1) Except for an inmate currently serving a prison
1267 sentence, the committing court may order a conditional release
1268 of any defendant who has been found to be incompetent to proceed
1269 due to retardation or autism, based on an approved plan for
1270 providing ~~continuing~~ community-based training. The committing
1271 criminal court may order a conditional release of any defendant
1272 to a civil facility in lieu of an involuntary commitment to a
1273 forensic facility pursuant to s. 916.302. Upon a recommendation
1274 that community-based training for the defendant is appropriate,
1275 a written plan for community-based training, including

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

76 recommendations from qualified professionals, may be filed with
1277 the court, with copies to all parties. Such a plan may also be
1278 submitted by the defendant and filed with the court, with copies
1279 to all parties. The plan must ~~shall~~ include:

1280 (a) Special provisions for residential care and adequate
1281 supervision of the defendant, including recommended location of
1282 placement.

1283 (b) Recommendations for auxiliary services such as
1284 vocational training, psychological training, educational
1285 services, leisure services, and special medical care.

1286
1287 In its order of conditional release, the court shall specify the
1288 conditions of release based upon the release plan and shall
1289 direct the appropriate agencies or persons to submit periodic
1290 reports to the courts regarding the defendant's compliance with
91 the conditions of the release and progress in training, with
1292 copies to all parties.

1293 (2) Upon the filing of an affidavit or statement under
1294 oath by any person that the defendant has failed to comply with
1295 the conditions of release, that the defendant's condition has
1296 deteriorated, or that the release conditions should be modified,
1297 the court shall hold a hearing within 7 days after receipt of
1298 the affidavit or statement under oath. With notice to the court
1299 and all parties, the agency may detain a defendant in a forensic
1300 facility until the hearing occurs. After the hearing, the court
1301 may modify the release conditions. The court may also order that
1302 the defendant be placed into more appropriate programs for
1303 further training or may order the defendant to be committed
1304 returned to a forensic facility involuntary residential services
1305 ~~of the department~~ if it is found, after the appointment and
06 report of experts, that the defendant meets the criteria for

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

1307 placement in a forensic facility involuntary residential
1308 services.

1309 (3) If at any time it is determined after a hearing that
1310 the defendant conditionally released under subsection (1) no
1311 longer requires court-supervised followup care, the court shall
1312 terminate its jurisdiction in the cause and discharge the
1313 defendant.

1314 Section 23. Subsection (1) of section 921.137, Florida
1315 Statutes, is amended to read:

1316 921.137 Imposition of the death sentence upon a mentally
1317 retarded defendant with mental retardation prohibited.--

1318 (1) As used in this section, the term "mental retardation"
1319 means significantly subaverage general intellectual functioning
1320 existing concurrently with deficits in adaptive behavior and
1321 manifested during the period from conception to age 18. The term
1322 "significantly subaverage general intellectual functioning," for
1323 the purpose of this section, means performance that is two or
1324 more standard deviations from the mean score on a standardized
1325 intelligence test specified in the rules of the Agency for
1326 Persons with Disabilities ~~Department of Children and Family~~
1327 ~~Services~~. The term "adaptive behavior," for the purpose of this
1328 definition, means the effectiveness or degree with which an
1329 individual meets the standards of personal independence and
1330 social responsibility expected of his or her age, cultural
1331 group, and community. The Agency for Persons with Disabilities
1332 ~~Department of Children and Family Services~~ shall adopt rules to
1333 specify the standardized intelligence tests as provided in this
1334 subsection.

1335 Section 24. Paragraphs (d), (e), (g), and (h) of
1336 subsection (1), subsections (2), (3), and (4), paragraph (b) of

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

37 subsection (5), and paragraph (a) of subsection (6) of section
1338 985.223, Florida Statutes, are amended to read:

1339 985.223 Incompetency in juvenile delinquency cases.--

1340 (1) If, at any time prior to or during a delinquency case,
1341 the court has reason to believe that the child named in the
1342 petition may be incompetent to proceed with the hearing, the
1343 court on its own motion may, or on the motion of the child's
1344 attorney or state attorney must, stay all proceedings and order
1345 an evaluation of the child's mental condition.

1346 (d) For incompetency evaluations related to mental
1347 illness, the Department of Children and Family Services shall
1348 maintain and annually provide the courts with a list of
1349 available mental health professionals who have completed a
1350 training program approved by the Department of Children and
1351 Family Services to perform the evaluations.

52 (e) For incompetency evaluations related to mental
1353 retardation or autism, the court shall order the Agency for
1354 Persons with Disabilities ~~Developmental Disabilities Program~~
1355 ~~Office within the Department of Children and Family Services~~ to
1356 examine the child to determine if the child meets the definition
1357 of "retardation" or "autism" in s. 393.063 and, if so, whether
1358 the child is competent to proceed with delinquency proceedings.

1359 (g) Immediately upon the filing of the court order finding
1360 a child incompetent to proceed, the clerk of the court shall
1361 notify the Department of Children and Family Services and the
1362 Agency for Persons with Disabilities and fax or hand deliver to
1363 the department and to the agency ~~of Children and Family Services~~
1364 a referral packet that ~~which~~ includes, at a minimum, the court
1365 order, the charging documents, the petition, and the court-
1366 appointed evaluator's reports.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

1367 (h) After placement of the child in the appropriate
1368 setting, the Department of Children and Family Services in
1369 consultation with the Agency for Persons with Disabilities, as
1370 appropriate, must, within 30 days after placement of the
1371 ~~Department of Children and Family Services~~ places the child,
1372 prepare and submit to the court a treatment or training plan for
1373 the child's restoration of competency. A copy of the ~~treatment~~
1374 plan must be served upon the child's attorney, the state
1375 attorney, and the attorneys representing the Department of
1376 Juvenile Justice.

1377 (2) A child ~~who is mentally ill or retarded,~~ who is
1378 adjudicated incompetent to proceed, and who has committed a
1379 delinquent act or violation of law, either of which would be a
1380 felony if committed by an adult, must be committed to the
1381 Department of Children and Family Services for treatment or
1382 training. A child who has been adjudicated incompetent to
1383 proceed because of age or immaturity, or for any reason other
1384 than for mental illness or retardation or autism, must not be
1385 committed to the department or to the Department of Children and
1386 Family Services for restoration-of-competency treatment or
1387 training services. For purposes of this section, a child who has
1388 committed a delinquent act or violation of law, either of which
1389 would be a misdemeanor if committed by an adult, may not be
1390 committed to the department or to the Department of Children and
1391 Family Services for restoration-of-competency treatment or
1392 training services.

1393 (3) If the court finds that a child has mental illness,
1394 mental retardation, or autism ~~is mentally ill or retarded~~ and
1395 adjudicates the child incompetent to proceed, the court must
1396 also determine whether the child meets the criteria for secure
1397 placement. A child may be placed in a secure facility or program

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

98 if the court makes a finding by clear and convincing evidence
1399 that:

1400 (a) The child has mental illness, mental retardation, or
1401 autism ~~is mentally ill~~ and because of the mental illness, mental
1402 retardation, or autism; ~~or the child is mentally retarded and~~
1403 ~~because of the mental retardation:~~

1404 1. The child is manifestly incapable of surviving with the
1405 help of willing and responsible family or friends, including
1406 available alternative services, and without treatment or
1407 training the child is likely to either suffer from neglect or
1408 refuse to care for self, and such neglect or refusal poses a
1409 real and present threat of substantial harm to the child's well-
1410 being; or

1411 2. There is a substantial likelihood that in the near
1412 future the child will inflict serious bodily harm on self or
1413 others, as evidenced by recent behavior causing, attempting, or
1414 threatening such harm; and

1415 (b) All available less restrictive alternatives, including
1416 treatment or training in community residential facilities or
1417 community settings which would offer an opportunity for
1418 improvement of the child's condition, are inappropriate.

1419 (4) A child who is determined to have mental retardation
1420 or autism ~~be mentally ill or retarded~~, who has been adjudicated
1421 incompetent to proceed, and who meets the criteria set forth in
1422 subsection (3), must be committed to the Department of Children
1423 and Family Services, and receive treatment or training ~~the~~
1424 ~~Department of Children and Family Services must treat or train~~
1425 ~~the child~~ in a secure facility or program that ~~which~~ is the
1426 least restrictive alternative consistent with public safety. Any
1427 placement of a child to a secure residential program must be
28 separate from adult forensic programs. If the child attains

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

1429 competency, then custody, case management, and supervision of
1430 the child will be transferred to the department in order to
1431 continue delinquency proceedings; however, the court retains
1432 authority to order the Department of Children and Family
1433 Services to provide continued treatment or training to maintain
1434 competency.

1435 (a) A child adjudicated incompetent due to mental
1436 retardation or autism may be ordered into a secure program or
1437 facility designated by the Department of Children and Family
1438 Services for ~~retarded~~ children with mental retardation or
1439 autism.

1440 (b) A child adjudicated incompetent due to mental illness
1441 may be ordered into a secure program or facility designated by
1442 the Department of Children and Family Services for ~~mentally ill~~
1443 children have mental illnesses.

1444 (c) Whenever a child is placed in a secure residential
1445 facility, the department will provide transportation to the
1446 secure residential facility for admission and from the secure
1447 residential facility upon discharge.

1448 (d) The purpose of the treatment or training is the
1449 restoration of the child's competency to proceed.

1450 (e) The service provider must file a written report with
1451 the court pursuant to the applicable Florida Rules of Juvenile
1452 Procedure not later than 6 months after the date of commitment,
1453 or at the end of any period of extended treatment or training,
1454 and at any time the Department of Children and Family Services,
1455 through its service provider determines the child has attained
1456 competency or no longer meets the criteria for secure placement,
1457 or at such shorter intervals as ordered by the court. A copy of
1458 a written report evaluating the child's competency must be filed
1459 by the provider with the court and with the state attorney, the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

60 child's attorney, the department, and the Department of Children
1461 and Family Services.

1462 (5)

1463 (b) Whenever the provider files a report with the court
1464 informing the court that the child will never become competent
1465 to proceed, the Department of Children and Family Services will
1466 develop a discharge plan for the child prior to any hearing
1467 determining whether the child will ever become competent to
1468 proceed and send the. ~~The Department of Children and Family~~
1469 ~~Services must send the proposed discharge~~ plan to the court, the
1470 state attorney, the child's attorney, and the attorneys
1471 representing the Department of Juvenile Justice. The provider
1472 will continue to provide services to the child until the court
1473 issues the order finding the child will never become competent
1474 to proceed.

75 (6) (a) If a child is determined to have mental illness,
1476 mental retardation, or autism ~~be mentally ill or retarded~~ and is
1477 found to be incompetent to proceed but does not meet the
1478 criteria set forth in subsection (3), the court shall commit the
1479 child to the Department of Children and Family Services and
1480 shall order the Department of Children and Family Services to
1481 provide appropriate treatment and training in the community. The
1482 purpose of the treatment or training is the restoration of the
1483 child's competency to proceed.

1484 Section 25. Paragraph (b) of subsection (14) of section
1485 287.057, Florida Statutes, is amended to read:

1486 287.057 Procurement of commodities or contractual
1487 services.--

1488 (14)

1489 (b) Notwithstanding paragraph (a), the Department of
90 Children and Family Services may enter into agreements, not to

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

1491 exceed 20 years, with a private provider to finance, design, and
1492 construct a forensic treatment facility, as defined in s.
1493 916.106(10)(8), of at least 200 beds and to operate all aspects
1494 of daily operations within the forensic treatment facility. The
1495 selected contractor is authorized to sponsor the issuance of
1496 tax-exempt certificates of participation or other securities to
1497 finance the project, and the state is authorized to enter into a
1498 lease-purchase agreement for the forensic treatment facility.
1499 This paragraph expires July 1, 2006.

1500 Section 26. Paragraph (r) of subsection (3) of section
1501 408.036, Florida Statutes, is amended to read:

1502 408.036 Projects subject to review; exemptions.--

1503 (3) EXEMPTIONS.--Upon request, the following projects are
1504 subject to exemption from the provisions of subsection (1):

1505 (r) For beds in state mental health treatment facilities
1506 as defined in s. 394.455 ~~operated under s. 394.455(30)~~ and state
1507 mental health forensic facilities operated under chapter 916 ~~s.~~
1508 ~~916.106(8)~~.

1509 Section 27. Paragraph (a) of subsection (4) of section
1510 943.0585, Florida Statutes, is amended to read:

1511 943.0585 Court-ordered expunction of criminal history
1512 records.--The courts of this state have jurisdiction over their
1513 own procedures, including the maintenance, expunction, and
1514 correction of judicial records containing criminal history
1515 information to the extent such procedures are not inconsistent
1516 with the conditions, responsibilities, and duties established by
1517 this section. Any court of competent jurisdiction may order a
1518 criminal justice agency to expunge the criminal history record
1519 of a minor or an adult who complies with the requirements of
1520 this section. The court shall not order a criminal justice
1521 agency to expunge a criminal history record until the person

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

22 seeking to expunge a criminal history record has applied for and
1523 received a certificate of eligibility for expunction pursuant to
1524 subsection (2). A criminal history record that relates to a
1525 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
1526 s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071,
1527 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
1528 s. 916.1075, or a violation enumerated in s. 907.041 may not be
1529 expunged, without regard to whether adjudication was withheld,
1530 if the defendant was found guilty of or pled guilty or nolo
1531 contendere to the offense, or if the defendant, as a minor, was
1532 found to have committed, or pled guilty or nolo contendere to
1533 committing, the offense as a delinquent act. The court may only
1534 order expunction of a criminal history record pertaining to one
1535 arrest or one incident of alleged criminal activity, except as
1536 provided in this section. The court may, at its sole discretion,
37 order the expunction of a criminal history record pertaining to
1538 more than one arrest if the additional arrests directly relate
1539 to the original arrest. If the court intends to order the
1540 expunction of records pertaining to such additional arrests,
1541 such intent must be specified in the order. A criminal justice
1542 agency may not expunge any record pertaining to such additional
1543 arrests if the order to expunge does not articulate the
1544 intention of the court to expunge a record pertaining to more
1545 than one arrest. This section does not prevent the court from
1546 ordering the expunction of only a portion of a criminal history
1547 record pertaining to one arrest or one incident of alleged
1548 criminal activity. Notwithstanding any law to the contrary, a
1549 criminal justice agency may comply with laws, court orders, and
1550 official requests of other jurisdictions relating to expunction,
1551 correction, or confidential handling of criminal history records
52 or information derived therefrom. This section does not confer

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

1553 any right to the expunction of any criminal history record, and
1554 any request for expunction of a criminal history record may be
1555 denied at the sole discretion of the court.

1556 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
1557 criminal history record of a minor or an adult which is ordered
1558 expunged by a court of competent jurisdiction pursuant to this
1559 section must be physically destroyed or obliterated by any
1560 criminal justice agency having custody of such record; except
1561 that any criminal history record in the custody of the
1562 department must be retained in all cases. A criminal history
1563 record ordered expunged that is retained by the department is
1564 confidential and exempt from the provisions of s. 119.07(1) and
1565 s. 24(a), Art. I of the State Constitution and not available to
1566 any person or entity except upon order of a court of competent
1567 jurisdiction. A criminal justice agency may retain a notation
1568 indicating compliance with an order to expunge.

1569 (a) The person who is the subject of a criminal history
1570 record that is expunged under this section or under other
1571 provisions of law, including former s. 893.14, former s. 901.33,
1572 and former s. 943.058, may lawfully deny or fail to acknowledge
1573 the arrests covered by the expunged record, except when the
1574 subject of the record:

- 1575 1. Is a candidate for employment with a criminal justice
1576 agency;
- 1577 2. Is a defendant in a criminal prosecution;
- 1578 3. Concurrently or subsequently petitions for relief under
1579 this section or s. 943.059;
- 1580 4. Is a candidate for admission to The Florida Bar;
- 1581 5. Is seeking to be employed or licensed by or to contract
1582 with the Department of Children and Family Services or the
1583 Department of Juvenile Justice or to be employed or used by such

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

84 contractor or licensee in a sensitive position having direct
1585 contact with children, the developmentally disabled, the aged,
1586 or the elderly as provided in s. 110.1127(3), s. 393.063, s.
1587 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
1588 409.175(2)(i), s. 415.102(4), chapter 916 ~~s. 916.106(10) and~~
1589 ~~(13)~~, s. 985.407, or chapter 400; or

1590 6. Is seeking to be employed or licensed by the Department
1591 of Education, any district school board, any university
1592 laboratory school, any charter school, any private or parochial
1593 school, or any local governmental entity that licenses child
1594 care facilities.

1595 Section 28. Paragraph (a) of subsection (4) of section
1596 943.059, Florida Statutes, is amended to read:

1597 943.059 Court-ordered sealing of criminal history
1598 records.--The courts of this state shall continue to have
99 jurisdiction over their own procedures, including the
1600 maintenance, sealing, and correction of judicial records
1601 containing criminal history information to the extent such
1602 procedures are not inconsistent with the conditions,
1603 responsibilities, and duties established by this section. Any
1604 court of competent jurisdiction may order a criminal justice
1605 agency to seal the criminal history record of a minor or an
1606 adult who complies with the requirements of this section. The
1607 court shall not order a criminal justice agency to seal a
1608 criminal history record until the person seeking to seal a
1609 criminal history record has applied for and received a
1610 certificate of eligibility for sealing pursuant to subsection
1611 (2). A criminal history record that relates to a violation of s.
1612 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
1613 800.04, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s.
14 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s. 916.1075, or

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

1615 a violation enumerated in s. 907.041 may not be sealed, without
1616 regard to whether adjudication was withheld, if the defendant
1617 was found guilty of or pled guilty or nolo contendere to the
1618 offense, or if the defendant, as a minor, was found to have
1619 committed or pled guilty or nolo contendere to committing the
1620 offense as a delinquent act. The court may only order sealing of
1621 a criminal history record pertaining to one arrest or one
1622 incident of alleged criminal activity, except as provided in
1623 this section. The court may, at its sole discretion, order the
1624 sealing of a criminal history record pertaining to more than one
1625 arrest if the additional arrests directly relate to the original
1626 arrest. If the court intends to order the sealing of records
1627 pertaining to such additional arrests, such intent must be
1628 specified in the order. A criminal justice agency may not seal
1629 any record pertaining to such additional arrests if the order to
1630 seal does not articulate the intention of the court to seal
1631 records pertaining to more than one arrest. This section does
1632 not prevent the court from ordering the sealing of only a
1633 portion of a criminal history record pertaining to one arrest or
1634 one incident of alleged criminal activity. Notwithstanding any
1635 law to the contrary, a criminal justice agency may comply with
1636 laws, court orders, and official requests of other jurisdictions
1637 relating to sealing, correction, or confidential handling of
1638 criminal history records or information derived therefrom. This
1639 section does not confer any right to the sealing of any criminal
1640 history record, and any request for sealing a criminal history
1641 record may be denied at the sole discretion of the court.

1642 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A criminal
1643 history record of a minor or an adult which is ordered sealed by
1644 a court of competent jurisdiction pursuant to this section is
1645 confidential and exempt from the provisions of s. 119.07(1) and

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

46 s. 24(a), Art. I of the State Constitution and is available only
1647 to the person who is the subject of the record, to the subject's
1648 attorney, to criminal justice agencies for their respective
1649 criminal justice purposes, or to those entities set forth in
1650 subparagraphs (a)1., 4., 5., and 6. for their respective
1651 licensing and employment purposes.

1652 (a) The subject of a criminal history record sealed under
1653 this section or under other provisions of law, including former
1654 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
1655 deny or fail to acknowledge the arrests covered by the sealed
1656 record, except when the subject of the record:

1657 1. Is a candidate for employment with a criminal justice
1658 agency;

1659 2. Is a defendant in a criminal prosecution;

1660 3. Concurrently or subsequently petitions for relief under
61 this section or s. 943.0585;

1662 4. Is a candidate for admission to The Florida Bar;

1663 5. Is seeking to be employed or licensed by or to contract
1664 with the Department of Children and Family Services or the
1665 Department of Juvenile Justice or to be employed or used by such
1666 contractor or licensee in a sensitive position having direct
1667 contact with children, the developmentally disabled, the aged,
1668 or the elderly as provided in s. 110.1127(3), s. 393.063, s.
1669 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
1670 409.175(2)(i), s. 415.102(4), s. 415.103, chapter 916 s-
1671 ~~916.106(10) and (13)~~, s. 985.407, or chapter 400; or

1672 6. Is seeking to be employed or licensed by the Department
1673 of Education, any district school board, any university
1674 laboratory school, any charter school, any private or parochial
1675 school, or any local governmental entity that licenses child
76 care facilities.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

1677 Section 29. This act shall take effect upon becoming a
1678 law.

COMMITTEE MEETING REPORT

Criminal Justice Committee

4/4/2006 10:15:00AM

Location: 404 HOB

Summary:

Criminal Justice Committee

Tuesday April 04, 2006 10:15 am

HB 471 CS	Favorable With Committee Substitute	Yeas: 6	Nays: 0
HB 1147	Favorable	Yeas: 7	Nays: 0
HB 1225	Favorable With Committee Substitute	Yeas: 6	Nays: 0
HR 1627	Favorable	Yeas: 6	Nays: 0
HB 7065	Favorable With Committee Substitute	Yeas: 6	Nays: 0
HB 7199	Favorable With Committee Substitute	Yeas: 6	Nays: 0

Committee meeting was reported out: Tuesday, April 04, 2006 12:06:59PM