



Safety & Security Council

**Wednesday, March 5, 2008
10:00 a.m. – 11:00 a.m.
102 House Office Building, Reed Hall**

ACTION PACKET

COUNCIL MEETING REPORT

Safety & Security Council

3/5/2008 10:00:00AM

Location: Reed Hall (102 HOB)

Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Dick Kravitz (Chair)	X		
Sandra Adams	X		
James Frishe	X		
Luis Garcia	X		
Dorothy Hukill	X		
Kurt Kelly	X		
Marcelo Llorente	X		
Mitch Needelman	X		
Juan-Carlos Planas	X		
Dennis Ross	X		
Maria Sachs	X		
William Snyder	X		
Priscilla Taylor	X		
Nicholas Thompson	X		
Perry Thurston	X		
Totals:	15	0	0

Committee meeting was reported out: Wednesday, March 05, 2008 11:54:31AM

COUNCIL MEETING REPORT

Safety & Security Council

3/5/2008 10:00:00AM

Location: Reed Hall (102 HOB)

HB 61 : Offenses Against Officers

<input checked="" type="checkbox"/> Favorable	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Sandra Adams	X				
James Frishe	X				
Luis Garcia	X				
Dorothy Hukill	X				
Kurt Kelly	X				
Marcelo Llorente	X				
Mitch Needelman	X				
Juan-Carlos Planas	X				
Dennis Ross	X				
Maria Sachs	X				
William Snyder	X				
Priscilla Taylor	X				
Nicholas Thompson	X				
Perry Thurston	X				
Dick Kravitz (Chair)	X				
Total Yeas: 15		Total Nays: 0			

Appearances:

HB 61

Roy Hudson, Director (Lobbyist) - Proponent
Florida Sheriff's Association
2617 Mahan Dr
Tallahassee FL
Phone: 850-877-2165

HB 61

Gary Bradford (Lobbyist) - Proponent
Florida Police Benevolent Association
300 E Brevard Street
Tallahassee FL 32301
Phone: 800-733-3722

Committee meeting was reported out: Wednesday, March 05, 2008 11:54:31AM

COUNCIL MEETING REPORT

Safety & Security Council

3/5/2008 10:00:00AM

Location: Reed Hall (102 HOB)

HB 133 : Sexual Battery Time Limitations

Favorable with Council Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Sandra Adams	X				
James Frishe	X				
Luis Garcia	X				
Dorothy Hukill	X				
Kurt Kelly	X				
Marcelo Llorente	X				
Mitch Needelman	X				
Juan-Carlos Planas	X				
Dennis Ross	X				
Maria Sachs	X				
William Snyder	X				
Priscilla Taylor	X				
Nicholas Thompson	X				
Perry Thurston	X				
Dick Kravitz (Chair)	X				
Total Yeas: 15		Total Nays: 0			

Committee meeting was reported out: Wednesday, March 05, 2008 11:54:31AM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

Bill No. **HB 133**

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	_____	

*favourable
3-5-08*

1 Council/Committee hearing bill: Safety & Security Council
2 Representative(s) Porth offered the following:

3
4 **Substitute Amendment for Amendment (No. 1) by**
5 **Representative Porth (with title amendment)**

6 Remove lines 15 - 17 and insert:

7 s. 794.011, the offender committed the offense on two or more
8 diverse occasions, and the victim was under 18 years of age at
9 the time the offense was committed, a prosecution of the offense
10 may be commenced at any time. However, if the alleged offense
11 occurred more than three years prior to the date that such
12 offense is to be charged, then the offense shall require proof
13 beyond the testimony of a single victim through other
14 corroborating evidence. This paragraph applies to any such

15
16 -----
17 **T I T L E A M E N D M E N T**

18 Remove line 5 and insert:

19 minor victims; providing for corroborating evidence; providing
20 an effective date.

COUNCIL MEETING REPORT

Safety & Security Council

3/5/2008 10:00:00AM

Location: Reed Hall (102 HOB)

HB 145 : Court Actions Involving Families

Favorable with Council Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Sandra Adams	X				
James Frishe	X				
Luis Garcia	X				
Dorothy Hukill	X				
Kurt Kelly	X				
Marcelo Llorente	X				
Mitch Needelman	X				
Juan-Carlos Planas	X				
Dennis Ross	X				
Maria Sachs	X				
William Snyder	X				
Priscilla Taylor	X				
Nicholas Thompson	X				
Perry Thurston	X				
Dick Kravitz (Chair)	X				
Total Yeas: 15		Total Nays: 0			

Committee meeting was reported out: Wednesday, March 05, 2008 11:54:31AM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

Bill No. **HB 145**

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	_____	

*Favorable
3-5-08*

Council/Committee hearing bill: Safety & Security Council
Representative(s) Hukill offered the following:

Substitute Amendment for Amendment (1) by Representative Planas (with title amendment)

Remove line(s) 296 and insert:

Section 12. Section 61.402, Florida Statutes, is amended to read:

61.402 Qualifications of guardians ad litem.--A guardian ad litem must be either a citizen certified by the Guardian Ad Litem Program to act in family law cases, a citizen certified by a not-for-profit legal aid organization defined in s. 68.096, or an attorney who is a member in good standing of The Florida Bar. Prior to certifying a guardian ad litem to be appointed under this chapter, the Guardian Ad Litem Program must conduct a security background investigation as provided in s. 39.821. Certification by a not-for-profit legal aid organization shall qualify a guardian ad litem to serve only in actions described in s. 61.401 other than actions in which the court has determined that there are well-founded allegations of child abuse, abandonment, or neglect as defined in s. 39.01. Prior to certifying a guardian ad litem, a not-for-profit legal aid

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

23 organization must conduct a security background investigation
24 which conforms to the requirements of s. 39.821.

25 Section 13. This act shall take effect upon becoming a
26 law.

27

28

29

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

30

Remove line(s) 8 and insert:

31

intent; amending s. 61.402, F.S.; revising qualifications for
32 guardians ad litem; providing an effective date.

COUNCIL MEETING REPORT

Safety & Security Council

3/5/2008 10:00:00AM

Location: Reed Hall (102 HOB)

HB 173 : Controlled Substances

Favorable with Council Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Sandra Adams	X				
James Frishe	X				
Luis Garcia	X				
Dorothy Hukill	X				
Kurt Kelly	X				
Marcelo Llorente	X				
Mitch Needelman	X				
Juan-Carlos Planas	X				
Dennis Ross	X				
Maria Sachs	X				
William Snyder	X				
Priscilla Taylor	X				
Nicholas Thompson	X				
Perry Thurston	X				
Dick Kravitz (Chair)	X				
Total Yeas: 15		Total Nays: 0			

Appearances:

HB 173

Gil Barnes, Legislative Coordinator (State Employee) - Proponent

Office of Drug Control

400 S Monroe Street

Tallahassee FL

Phone: 850-922-0867

HB 173

Kimberly Case, Legislative Affairs Director (Lobbyist) (State Employee) - Proponent

Florida Department of Legal Affairs

PL-01, The Capitol

Tallahassee FL 32399

Committee meeting was reported out: Wednesday, March 05, 2008 11:54:31AM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

Bill No. HB 173

COUNCIL/COMMITTEE ACTION

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

*Traveling Amendment
No Action Required*

1 Council/Committee hearing bill: Homeland Security & Public
2 Safety

3 Representative(s) Thompson offered the following:

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

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsections (5) through (21) of section 893.02,
8 Florida Statutes, are renumbered as subsections (6) through
9 (22), respectively, and a new subsection (5) is added to that
10 section to read:

11 893.02 Definitions.--The following words and phrases as
12 used in this chapter shall have the following meanings, unless
13 the context otherwise requires:

14 (5) "Cultivating" means the preparation of any soil or
15 hydroponic medium for the planting of a controlled substance, or
16 the tending and care or harvesting of a controlled substance.

17 Section 2. Section 893.1351, Florida Statutes, is amended
18 to read:

19 893.1351 Ownership, lease, rental, or possession ~~or rent~~
20 ~~for the purpose of~~ trafficking in or manufacturing a controlled
21 substance.--

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

22 (1) A person may not own, lease, or rent any place,
23 structure, or part thereof, trailer, or other conveyance, with
24 the knowledge that the such place, structure, trailer, or
25 conveyance will be used for the purpose of trafficking in a
26 controlled substance, as provided in s. 893.135; for, or the
27 sale of a controlled substance, as provided in s. 893.13; or for
28 the manufacture of a controlled substance intended for sale or
29 distribution to another. A person who violates this subsection
30 commits a felony of the third degree, punishable as provided in
31 s. 775.082, s. 775.083, or s. 775.084.

32 (2) A person may not knowingly be in actual or
33 constructive possession of any place, structure, or part
34 thereof, trailer, or other conveyance with the knowledge that
35 the place, structure, or part thereof, trailer, or conveyance
36 will be used for the purpose of trafficking in a controlled
37 substance, as provided in s. 893.135; for the sale of a
38 controlled substance, as provided in s. 893.13; or for the
39 manufacture of a controlled substance intended for sale or
40 distribution to another. A person who violates this subsection
41 commits a felony of the second degree, punishable as provided in
42 s. 775.082, s. 775.083, or s. 775.084.

43 ~~(2) A person who violates subsection (1) is guilty of a~~
44 ~~felony of the third degree, punishable as provided in s.~~
45 ~~775.082, s. 775.083, or s. 775.084.~~

46 (3) A person who is in actual or constructive possession of
47 a place, structure, trailer, or conveyance with the knowledge
48 that the place, structure, trailer, or conveyance is being used
49 to manufacture a controlled substance intended for sale or
50 distribution to another and who knew or should have known that a
51 minor is present or resides in the place, structure, trailer, or

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

52 conveyance commits a felony of the first degree, punishable as
53 provided in s. 775.082, s. 775.083, or s. 775.084.

54 (4) For the purposes of this section, proof of the
55 possession of 25 or more cannabis plants constitutes prima facie
56 evidence that the cannabis is intended for sale or distribution.

57 Section 3. Section 893.10, Florida Statutes, is amended to
58 read:

59 893.10 Burden of proof; photograph or video recording of
60 evidence.--

61 (1) It is ~~shall~~ not be necessary for the state to negative
62 any exemption or exception set forth in this chapter in any
63 indictment, information, or other pleading or in any trial,
64 hearing, or other proceeding under this chapter, and the burden
65 of going forward with the evidence with respect to any such
66 exemption or exception is ~~shall be~~ upon the person claiming its
67 benefit.

68 (2) In the case of a person charged under s. 893.14(1)
69 with the possession of a controlled substance, the label
70 required under s. 893.04(1) or s. 893.05(2) is ~~shall be~~
71 admissible in evidence and ~~shall be~~ prima facie evidence that
72 such substance was obtained pursuant to a valid prescription
73 form or dispensed by a practitioner while acting in the course
74 of his or her professional practice.

75 (3) In the prosecution of an offense involving the
76 manufacture of a controlled substance, a photograph or video
77 recording of the manufacturing equipment used in committing the
78 offense, including, but not limited to, grow lights, growing
79 trays, and chemical fertilizers, may be introduced as competent
80 evidence of the existence and use of the equipment and is

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

81 admissible in the prosecution of the offense to the same extent
82 as if the property were introduced as evidence.

83 (4) After a law enforcement agency documents the
84 manufacturing equipment by photography or video recording, the
85 manufacturing equipment may be destroyed on site and left in
86 disrepair. The law enforcement agency destroying the equipment
87 is immune from civil liability for the destruction of the
88 equipment. The destruction of the equipment must be recorded by
89 the supervising law enforcement officer in the manner described
90 in s. 893.12(1) (a) and records must be maintained for 24 months.

91 Section 4. Paragraphs (e) and (h) of subsection (3) of
92 section 921.0022, Florida Statutes, are amended to read:

93 921.0022 Criminal Punishment Code; offense severity
94 ranking chart.--

95 (3) OFFENSE SEVERITY RANKING CHART

96 (e) LEVEL 5

97

Florida Statute	Felony Degree	Description
316.027(1) (a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
316.1935(4) (a)	2nd	Aggravated fleeing or eluding.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.

98

99

100

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

101	327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
102	381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
103	440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
104	440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
105	440.381(2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
106	624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
107	626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
108	790.01(2)	3rd	Carrying a concealed firearm.
109			

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

110	790.162	2nd	Threat to throw or discharge destructive device.
111	790.163(1)	2nd	False report of deadly explosive or weapon of mass destruction.
112	790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
113	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
114	800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
115	800.04(7)(c)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
116	806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
117	812.0145(2)(b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
	812.015(8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.

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118	812.019(1)	2nd	Stolen property; dealing in or trafficking in.
119	812.131(2)(b)	3rd	Robbery by sudden snatching.
120	812.16(2)	3rd	Owning, operating, or conducting a chop shop.
121	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
122	817.234(11)(b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
123	817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
124	817.568(2)(b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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individuals.

125

817.625 (2) (b) 2nd Second or subsequent fraudulent use of scanning device or reencoder.

126

825.1025 (4) 3rd Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.

127

827.071 (4) 2nd Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.

128

827.071 (5) 3rd Possess any photographic material, motion picture, etc., which includes sexual conduct by a child.

129

839.13 (2) (b) 2nd Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.

130

843.01 3rd Resist officer with violence to person; resist arrest with violence.

131

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

132	847.0137(2)&(3)	3rd	Transmission of pornography by electronic device or equipment.
133	847.0138(2)&(3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
134	874.05(2)	2nd	Encouraging or recruiting another to join a criminal street gang; second or subsequent offense.
135	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
136	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
	893.13(1)(d)1.	1st	Sell, manufacture, or deliver

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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cocaine (or other s.
893.03(1)(a), (1)(b), (1)(d),
(2)(a), (2)(b), or (2)(c)4.
drugs) within 1,000 feet of
university.

137

893.13(1)(e)2. 2nd Sell, manufacture, or deliver
cannabis or other drug prohibited
under s. 893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3., (2)(c)5.,
(2)(c)6., (2)(c)7., (2)(c)8.,
(2)(c)9., (3), or (4) within
1,000 feet of property used for
religious services or a specified
business site.

138

893.13(1)(f)1. 1st Sell, manufacture, or deliver
cocaine (or other s.
893.03(1)(a), (1)(b), (1)(d), or
(2)(a), (2)(b), or (2)(c)4.
drugs) within 1,000 feet of
public housing facility.

139

893.13(4)(b) 2nd Deliver to minor cannabis (or
other s. 893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3., (2)(c)5.,
(2)(c)6., (2)(c)7., (2)(c)8.,
(2)(c)9., (3), or (4) drugs).

140

893.1351 (1) 3rd Ownership, lease, or rental for

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

trafficking in or manufacturing
of controlled substance.

141 (g) LEVEL 7

142

Florida

Felony Description

Statute

Degree

143

316.027(1)(b)

1st

Accident involving death, failure to stop; leaving scene.

144

316.193(3)(c)2.

3rd

DUI resulting in serious bodily injury.

145

316.1935(3)(b)

1st

Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.

146

327.35(3)(c)2.

3rd

Vessel BUI resulting in serious bodily injury.

147

402.319(2)

2nd

Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.

148

409.920(2)

3rd

Medicaid provider fraud.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

149	456.065(2)	3rd	Practicing a health care profession without a license.
150	456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
151	458.327(1)	3rd	Practicing medicine without a license.
152	459.013(1)	3rd	Practicing osteopathic medicine without a license.
153	460.411(1)	3rd	Practicing chiropractic medicine without a license.
154	461.012(1)	3rd	Practicing podiatric medicine without a license.
155	462.17	3rd	Practicing naturopathy without a license.
156	463.015(1)	3rd	Practicing optometry without a license.
157	464.016(1)	3rd	Practicing nursing without a license.
158	465.015(2)	3rd	Practicing pharmacy without a license.
159	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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160	467.201	3rd	Practicing midwifery without a license.
161	468.366	3rd	Delivering respiratory care services without a license.
162	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
163	483.901(9)	3rd	Practicing medical physics without a license.
164	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
165	484.053	3rd	Dispensing hearing aids without a license.
166	494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
167	560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by money transmitter.
168	560.125(5)(a)	3rd	Money transmitter business by unauthorized person, currency or

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

payment instruments exceeding \$300
but less than \$20,000.

169

655.50(10)(b)1. 3rd Failure to report financial
transactions exceeding \$300 but
less than \$20,000 by financial
institution.

170

775.21(10)(a) 3rd Sexual predator; failure to
register; failure to renew
driver's license or identification
card; other registration
violations.

171

775.21(10)(b) 3rd Sexual predator working where
children regularly congregate.

172

775.21(10)(g) 3rd Failure to report or providing
false information about a sexual
predator; harbor or conceal a
sexual predator.

173

782.051(3) 2nd Attempted felony murder of a
person by a person other than the
perpetrator or the perpetrator of
an attempted felony.

174

782.07(1) 2nd Killing of a human being by the
act, procurement, or culpable
negligence of another
(manslaughter).

175

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

176	782.071	2nd	Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
177	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
178	784.045 (1) (a) 1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
179	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.
180	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
181	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
182	784.048 (7)	3rd	Aggravated stalking; violation of court order.
183	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
184	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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185	784.081(1)	1st	Aggravated battery on specified official or employee.
186	784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
187	784.083(1)	1st	Aggravated battery on code inspector.
188	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
189	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
190	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
191	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
192	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
193	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

committing or attempting to commit
a felony.

194	794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
195	796.03	2nd	Procuring any person under 16 years for prostitution.
196	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
197	800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
198	806.01(2)	2nd	Maliciously damage structure by fire or explosive.
199	810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
200	810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
201	810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
202	810.02(3)(e)	2nd	Burglary of authorized emergency

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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vehicle.

203	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
204	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
205	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
206	812.014 (2) (b) 4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
207	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
208	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
209	812.131 (2) (a)	2nd	Robbery by sudden snatching.
210	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
211			

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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212	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
213	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
214	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
215	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
216	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
217	825.103 (2) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
218	827.03 (3) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

219	827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
220	837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
221	838.015	2nd	Bribery.
222	838.016	2nd	Unlawful compensation or reward for official behavior.
223	838.021(3)(a)	2nd	Unlawful harm to a public servant.
224	838.22	2nd	Bid tampering.
225	847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
226	847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
227	872.06	2nd	Abuse of a dead human body.
	893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

or publicly owned recreational facility or community center.

228

893.13(1)(e)1. 1st Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.

229

893.13(4)(a) 1st Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).

230

893.135(1)(a)1. 1st Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.

231

893.135(1)(b)1.a. 1st Trafficking in cocaine, more than 28 grams, less than 200 grams.

232

893.135(1)(c)1.a. 1st Trafficking in illegal drugs, more than 4 grams, less than 14 grams.

233

893.135(1)(d)1. 1st Trafficking in phencyclidine, more than 28 grams, less than 200 grams.

234

893.135(1)(e)1. 1st Trafficking in methaqualone, more than 200 grams, less than 5

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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kilograms.

235

893.135(1)(f)1. 1st Trafficking in amphetamine, more than 14 grams, less than 28 grams.

236

893.135(1)(g)1.a. 1st Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.

237

893.135(1)(h)1.a. 1st Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.

238

893.135(1)(j)1.a. 1st Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.

239

893.135(1)(k)2.a. 1st Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.

893.1351 (2) 2nd Possession of place for trafficking in or manufacturing of controlled substance.

240

896.101(5)(a) 3rd Money laundering, financial transactions exceeding \$300 but less than \$20,000.

241

896.104(4)(a)1. 3rd Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

less than \$20,000.

242

943.0435 (4) (c) 2nd Sexual offender vacating permanent residence; failure to comply with reporting requirements.

243

943.0435 (8) 2nd Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.

244

943.0435 (9) (a) 3rd Sexual offender; failure to comply with reporting requirements.

245

943.0435 (13) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

246

943.0435 (14) 3rd Sexual offender; failure to report and reregister; failure to respond to address verification.

247

944.607 (9) 3rd Sexual offender; failure to comply with reporting requirements.

248

944.607 (10) (a) 3rd Sexual offender; failure to submit to the taking of a digitized photograph.

249

944.607 (12) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a

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sexual offender.

250 944.607(13) 3rd Sexual offender; failure to report
and reregister; failure to respond
to address verification.

251 985.4815(10) 3rd Sexual offender; failure to submit
to the taking of a digitized
photograph.

252 985.4815(12) 3rd Failure to report or providing
false information about a sexual
offender; harbor or conceal a
sexual offender.

253 985.4815(13) 3rd Sexual offender; failure to report
and reregister; failure to respond
to address verification.

254
255 (h) LEVEL 8

256 Florida Felony Description
Statute Degree

257 316.193(3)(c)3.a. 2nd DUI manslaughter.

258 316.1935(4)(b) 1st Aggravated fleeing or attempted
eluding with serious bodily
injury or death.

259 327.35(3)(c)3. 2nd Vessel BUI manslaughter.

260

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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261	499.0051(7)	1st	Forgery of prescription or legend drug labels.
262	499.0052	1st	Trafficking in contraband legend drugs.
263	560.123(8)(b)2.	2nd	Failure to report currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.
264	560.125(5)(b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000.
265	655.50(10)(b)2.	2nd	Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.
266	777.03(2)(a)	1st	Accessory after the fact, capital felony.
	782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery,

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burglary, kidnapping, aircraft piracy, or unlawfully discharging bomb.

267

782.051(2) 1st Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).

268

782.071(1)(b) 1st Committing vehicular homicide and failing to render aid or give information.

269

782.072(2) 1st Committing vessel homicide and failing to render aid or give information.

270

790.161(3) 1st Discharging a destructive device which results in bodily harm or property damage.

271

794.011(5) 2nd Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.

272

794.08(3) 2nd Female genital mutilation, removal of a victim younger than 18 years of age from this state.

273

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

274	800.04 (4)	2nd	Lewd or lascivious battery.
275	806.01 (1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
276	810.02 (2) (a)	1st, PBL	Burglary with assault or battery.
277	810.02 (2) (b)	1st, PBL	Burglary; armed with explosives or dangerous weapon.
278	810.02 (2) (c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
279	812.014 (2) (a) 2.	1st	Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.
280	812.13 (2) (b)	1st	Robbery with a weapon.
281	812.135 (2) (c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.
282	817.568 (6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.

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283	825.102 (2)	2nd	Aggravated abuse of an elderly person or disabled adult.
284	825.1025 (2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
285	825.103 (2) (a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.
286	837.02 (2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
287	837.021 (2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
288	860.121 (2) (c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
289	860.16	1st	Aircraft piracy.
	893.13 (1) (b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1) (a) or (b).

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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290	893.13 (2) (b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1) (a) or (b).
291	893.13 (6) (c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1) (a) or (b).
292	893.135 (1) (a) 2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
293	893.135 (1) (b) 1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
294	893.135 (1) (c) 1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
295	893.135 (1) (d) 1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
296	893.135 (1) (e) 1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
297	893.135 (1) (f) 1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200

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			grams.
298	893.135(1)(g)1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
299	893.135(1)(h)1.b.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
300	893.135(1)(j)1.b.	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.
301	893.135(1)(k)2.b.	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
302	<u>893.1351(3)</u>	<u>1st</u>	<u>Possession of a place used to manufacture controlled substance when minor is present or resides there.</u>
303	895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
304	895.03(2)	1st	Acquire or maintain through

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racketeering activity any
interest in or control of any
enterprise or real property.

305

895.03(3) 1st Conduct or participate in any
enterprise through pattern of
racketeering activity.

306

896.101(5)(b) 2nd Money laundering, financial
transactions totaling or
exceeding \$20,000, but less than
\$100,000.

307

896.104(4)(a)2. 2nd Structuring transactions to evade
reporting or registration
requirements, financial
transactions totaling or
exceeding \$20,000 but less than
\$100,000.

308

309 Section 5. Paragraph (s) of subsection (1) of section
310 465.016, Florida Statutes, is amended to read:

311 465.016 Disciplinary actions.--

312 (1) The following acts constitute grounds for denial of a
313 license or disciplinary action, as specified in s. 456.072(2):

314 (s) Dispensing any medicinal drug based upon a
315 communication that purports to be a prescription as defined by
316 s. 465.003(14) or s. 893.02 ~~893.02(20)~~ when the pharmacist knows
317 or has reason to believe that the purported prescription is not
318 based upon a valid practitioner-patient relationship.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

319 Section 6. Paragraph (e) of subsection (1) of section
320 465.023, Florida Statutes, is amended to read:

321 465.023 Pharmacy permittee; disciplinary action.--

322 (1) The department or the board may revoke or suspend the
323 permit of any pharmacy permittee, and may fine, place on
324 probation, or otherwise discipline any pharmacy permittee who
325 has:

326 (e) Dispensed any medicinal drug based upon a
327 communication that purports to be a prescription as defined by
328 s. 465.003(14) or s. 893.02 ~~893.02(20)~~ when the pharmacist knows
329 or has reason to believe that the purported prescription is not
330 based upon a valid practitioner-patient relationship that
331 includes a documented patient evaluation, including history and
332 a physical examination adequate to establish the diagnosis for
333 which any drug is prescribed and any other requirement
334 established by board rule under chapter 458, chapter 459,
335 chapter 461, chapter 463, chapter 464, or chapter 466.

336 Section 7. Subsection (6) of section 893.135, Florida
337 Statutes, is amended to read:

338 893.135 Trafficking; mandatory sentences; suspension or
339 reduction of sentences; conspiracy to engage in trafficking.--

340 (6) A mixture, as defined in s. 893.02 ~~893.02(14)~~,
341 containing any controlled substance described in this section
342 includes, but is not limited to, a solution or a dosage unit,
343 including but not limited to, a pill or tablet, containing a
344 controlled substance. For the purpose of clarifying legislative
345 intent regarding the weighing of a mixture containing a
346 controlled substance described in this section, the weight of
347 the controlled substance is the total weight of the mixture,
348 including the controlled substance and any other substance in

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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349 the mixture. If there is more than one mixture containing the
350 same controlled substance, the weight of the controlled
351 substance is calculated by aggregating the total weight of each
352 mixture.

353 Section 8. This act shall take effect July 1, 2008.

354

355

356

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

357

Remove the entire title and insert:

358

An act relating to controlled substances; amending s. 893.02,

359

F.S.; defining the term "cultivating" for specified purposes;

360

amending s. 893.1351, F.S.; prohibiting a person from owning or

361

actually or constructively possessing a place, structure,

362

trailer, or other described place with knowledge that the place

363

will be used to manufacture, sell, or traffic in a controlled

364

substance; providing that possession of a specified number or

365

more of cannabis plants constitutes prima facie evidence of

366

intent to sell or distribute; providing that a person with

367

actual or constructive possession of a place, structure,

368

trailer, or conveyance being used to manufacture a controlled

369

substance for sale and distribution commits a felony of the

370

first degree if a minor is present or resides in the place,

371

structure, trailer, or conveyance; providing criminal penalties;

372

amending s. 893.10, F.S.; providing that equipment used in the

373

cultivation or manufacture of controlled substances may be

374

photographed or video recorded and the photograph or video

375

recording used as evidence for later use at trial; providing for

376

the destruction of the equipment; amending s. 921.0022, F.S.;

377

ranking specified offenses in the offense severity ranking chart

378

of the Criminal Punishment Code; amending ss. 465.016, ,

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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379 465.023, and 893.135, F.S.; conforming cross-references;
380 providing an effective date.

381

382

COUNCIL MEETING REPORT

Safety & Security Council

3/5/2008 10:00:00AM

Location: Reed Hall (102 HOB)

HB 273 : Juvenile Justice

Favorable with Council Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Sandra Adams	X				
James Frishe	X				
Luis Garcia	X				
Dorothy Hukill	X				
Kurt Kelly	X				
Marcelo Llorente	X				
Mitch Needelman	X				
Juan-Carlos Planas	X				
Dennis Ross	X				
Maria Sachs		X			
William Snyder	X				
Priscilla Taylor		X			
Nicholas Thompson	X				
Perry Thurston		X			
Dick Kravitz (Chair)	X				
Total Yeas: 12		Total Nays: 3			

Appearances:

HB 273

Jason Welty, Deputy Director of Legislative Affairs (Lobbyist) (State Employee) - Information Only

Florida Department of Juvenile Justice

2737 Centerview Dr.

Tallahassee FL 32399-3100

Phone: 850-921-3097

HB 273

Amanda Ghaffari, Legislative Advocate (Lobbyist) - Opponent

Florida Association of Counties

100 S Monroe Street

Tallahassee FL 32301

Phone: 850-922-4300

HB 273

Mike Crabb, Sergeant, Government Affairs (General Public) - Proponent

Orange County Sheriff's Office

2500 W Colonial Dr

Orlando FL 32804

Phone: 321-436-4447

Committee meeting was reported out: Wednesday, March 05, 2008 11:54:31AM

COUNCIL MEETING REPORT

Safety & Security Council

3/5/2008 10:00:00AM

Location: Reed Hall (102 HOB)

HB 273

Nancy Daniels (State Employee) - Opponent

Public Defender, 2nd Circuit

Leon County Courthouse 301 S Monroe Street, #401

Tallahassee FL 32301

Phone: 850-606-1010

Committee meeting was reported out: Wednesday, March 05, 2008 11:54:31AM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (01)

Bill No. 273

COUNCIL/COMMITTEE ACTION

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

*Traveling Amendment
No Action Required*

1 Council/Committee hearing bill: Juvenile Justice

2 Representative(s) Adams offered the following:

3

4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6

7 Section 1. Paragraph (i) of subsection (5) of section
8 985.0301, Florida Statutes, is amended to read, paragraph (j) is
9 redesignated as paragraph (k), and a new paragraph (j) is added
10 to that subsection to read:

11 985.0301 Jurisdiction.--

12 (5)

13 (i) The court ~~may~~ retains jurisdiction over a child and
14 the child's parent or legal guardian whom the court has ordered
15 to pay restitution until the restitution order is satisfied. ~~To~~
16 ~~retain jurisdiction,~~ The court shall enter a restitution order,
17 which is separate from any disposition or order of commitment,
18 on or prior to the date that the court's jurisdiction would
19 cease under this section. The contents of the restitution order
20 shall be limited to the child's name and address, the name and
21 address of the parent or legal guardian, the name and address of
22 the payee, the case number, the date and amount of restitution

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (01)

23 ordered, any amount of restitution paid, the amount of
24 restitution due and owing, and a notation that costs, interest,
25 penalties, and attorney's fees may also be due and owing. The
26 terms of the restitution order are subject to s. 775.089(5).

27 (j) The court retains jurisdiction over a child and the
28 child's parent or legal guardian whom the court has ordered to
29 pay costs, fees, and costs associated with court-appointed
30 counsel until the costs, fees, and costs associated with court-
31 appointed counsel are satisfied, regardless of adjudication. The
32 child and the child's parent or legal guardian remain
33 responsible for unpaid costs, fees, and costs associated with
34 court-appointed counsel until the unpaid costs, fees, and costs
35 associated with court-appointed counsel are satisfied, even
36 after the child turns 19 years of age. The implementation of
37 this paragraph does not, in any way, authorize or otherwise
38 permit details of the juvenile court record to be disclosed
39 except as provided by law.

40 (k)-(j) This subsection does not prevent the exercise of
41 jurisdiction by any court having jurisdiction of the child if
42 the child, after becoming an adult, commits a violation of law.

43
44 The retention of jurisdiction pursuant to paragraphs (i) and (j)
45 does not preclude the Department from closing out the community
46 supervision case for a youth if the youth has successfully met
47 all other conditions of the supervision case plan.

48 Section 2. Paragraph (d) of subsection (1) of section
49 985.101, Florida Statutes, is amended, and subsection (5) is
50 added to that section, to read:

51 985.101 Taking a child into custody; preadjudicatory
52 release conditions.--

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (01)

53 (1) A child may be taken into custody under the following
54 circumstances:

55 (d) By a law enforcement officer who has probable cause to
56 believe that the child is in violation of the conditions of the
57 child's preadjudicatory release, conditions of the child's
58 probation, home detention, postcommitment probation, or
59 conditional release supervision; has absconded from
60 nonresidential commitment; or has escaped from residential
61 commitment.

62
63 Nothing in this subsection shall be construed to allow the
64 detention of a child who does not meet the detention criteria in
65 part V.

66 (5) The circuit court shall have the authority to set
67 reasonable conditions of preadjudicatory release. The child
68 shall comply with all such preadjudicatory release conditions
69 prior to an adjudicatory hearing. Reasonable conditions of
70 preadjudicatory release may include, but are not limited to, the
71 following:

72 (a) The child shall not engage in a violation of law.

73 (b) The child shall not possess or carry any weapon.

74 (c) The child shall not possess or use any alcoholic
75 beverage or any illegal drug or associate with those who do.

76 (d) The child shall obey all reasonable household rules.

77 (e) The child shall attend school regularly, including all
78 classes.

79 (f) The child shall abide by the curfew set by his or her
80 parents or guardian or as set by the court.

81 (g) The child shall have no contact with any codefendants,
82 an alleged victim, or the family of any alleged victim.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (01)

83 (h) The child shall not return to the scene of the alleged
84 crime, unless approved by the court.

85 Section 3. Subsection (1) of section 985.24, Florida
86 Statutes, is amended to read:

87 985.24 Use of detention; prohibitions.--

88 (1) All determinations and court orders regarding the use
89 of secure, nonsecure, or home detention care shall be based
90 primarily upon findings that the child:

91 (a) Presents a substantial risk of not appearing at a
92 subsequent hearing;

93 (b) Presents a substantial risk of inflicting bodily harm
94 on others as evidenced by recent behavior;

95 (c) Presents a history of committing a property offense
96 prior to adjudication, disposition, or placement;

97 (d) Has been adjudicated delinquent and committed to the
98 department in a residential facility, but is on home or
99 nonsecure detention care while awaiting placement, and:

100 1. Absconds from home or nonsecure detention care or
101 otherwise violates the terms of release; or

102 2. There is probable cause to believe that the child has
103 committed a new violation of law;

104 (e)-(d) Has committed contempt of court by:

105 1. Intentionally disrupting the administration of the
106 court;

107 2. Intentionally disobeying a court order; or

108 3. Engaging in a punishable act or speech in the court's
109 presence which shows disrespect for the authority and dignity of
110 the court; or

111 (f)-(e) Requests protection from imminent bodily harm.

112 Section 4. Subsection (1) of section 985.245, Florida
113 Statutes, is amended to read:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (01)

114 985.245 Risk assessment instrument.--

115 (1) All determinations and court orders regarding
116 placement of a child into detention care shall comply with all
117 requirements and criteria provided in this part and shall be
118 based on a risk assessment of the child, unless the child is
119 placed into detention care as provided in s. 985.255(2) or s.
120 985.28.

121 Section 5. Paragraph (b) of subsection (1) of section
122 985.25, Florida Statutes, is amended to read:

123 985.25 Detention intake.--

124 (1) The juvenile probation officer shall receive custody
125 of a child who has been taken into custody from the law
126 enforcement agency and shall review the facts in the law
127 enforcement report or probable cause affidavit and make such
128 further inquiry as may be necessary to determine whether
129 detention care is required.

130 (b) The juvenile probation officer shall base the decision
131 whether or not to place the child into secure detention care, or
132 home detention care, or nonsecure detention care on an
133 assessment of risk in accordance with the risk assessment
134 instrument and procedures developed by the department under s.
135 985.245. However, a child shall be placed in secure detention
136 care if:

137 1. The child is charged with possessing or discharging a
138 firearm on school property in violation of s. 790.115;

139 2. The child is alleged to have absconded from home or
140 nonsecure detention care or the child otherwise violates the
141 terms of release after adjudication and commitment to the
142 department but before placement in a residential facility; or

143 3. There is probable cause to believe the child has
144 committed a new violation of law while on home or nonsecure

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145 detention care after adjudication and commitment but before
146 placement in a residential facility shall be placed in secure
147 detention care.

148
149 Under no circumstances shall the juvenile probation officer or
150 the state attorney or law enforcement officer authorize the
151 detention of any child in a jail or other facility intended or
152 used for the detention of adults, without an order of the court.

153 Section 6. Subsection (1) of section 985.255, Florida
154 Statutes, is amended to read:

155 985.255 Detention criteria; detention hearing.--

156 (1) Subject to s. 985.25(1), a child taken into custody
157 and placed into nonsecure or home detention care or detained in
158 secure detention care prior to a detention hearing may continue
159 to be detained by the court if:

160 (a) The child is alleged to have absconded from home or
161 nonsecure detention care or otherwise violates the terms of
162 release after adjudication and commitment but while awaiting
163 placement in a residential facility.

164 (b) There is probable cause to believe the child has
165 committed a new violation of law while on home or nonsecure
166 detention care after adjudication and commitment but while
167 awaiting placement in a residential facility.

168 (c)-(a) The child is alleged to be an escapee from a
169 residential commitment program; or an absconder from a
170 nonresidential commitment program, a probation program, or
171 conditional release supervision; or is alleged to have escaped
172 while being lawfully transported to or from a residential
173 commitment program.

174 (d)-(b) The child is wanted in another jurisdiction for an
175 offense which, if committed by an adult, would be a felony.

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176 (e)~~(e)~~ The child is charged with a delinquent act or
177 violation of law and requests in writing through legal counsel
178 to be detained for protection from an imminent physical threat
179 to his or her personal safety.

180 (f)~~(d)~~ The child is charged with committing an offense of
181 domestic violence as defined in s. 741.28 and is detained as
182 provided in subsection (2).

183 (g)~~(e)~~ The child is charged with possession or discharging
184 a firearm on school property in violation of s. 790.115.

185 (h)~~(f)~~ The child is charged with a capital felony, a life
186 felony, a felony of the first degree, a felony of the second
187 degree that does not involve a violation of chapter 893, or a
188 felony of the third degree that is also a crime of violence,
189 including any such offense involving the use or possession of a
190 firearm.

191 (i)~~(g)~~ The child is charged with any second degree or
192 third degree felony involving a violation of chapter 893 or any
193 third degree felony that is not also a crime of violence, and
194 the child:

195 1. Has a record of failure to appear at court hearings
196 after being properly notified in accordance with the Rules of
197 Juvenile Procedure;

198 2. Has a record of law violations prior to court hearings;

199 3. Has already been detained or has been released and is
200 awaiting final disposition of the case;

201 4. Has a record of violent conduct resulting in physical
202 injury to others; or

203 5. Is found to have been in possession of a firearm.

204 (j)~~(h)~~ The child is alleged to have violated the
205 conditions of the child's probation or conditional release
206 supervision. However, a child detained under this paragraph may

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207 be held only in a consequence unit as provided in s. 985.439. If
208 a consequence unit is not available, the child may be placed in
209 secure detention care or home detention care or home detention
210 care with electronic monitoring shall be placed on home
211 detention with electronic monitoring.

212 (k)-(i) The child is detained on a judicial order for
213 failure to appear and has previously willfully failed to appear,
214 after proper notice, for an adjudicatory hearing on the same
215 case regardless of the results of the risk assessment
216 instrument. A child may be held in secure detention for up to 72
217 hours in advance of the next scheduled court hearing pursuant to
218 this paragraph. The child's failure to keep the clerk of court
219 and defense counsel informed of a current and valid mailing
220 address where the child will receive notice to appear at court
221 proceedings does not provide an adequate ground for excusal of
222 the child's nonappearance at the hearings.

223 (l)-(j) The child is detained on a judicial order for
224 failure to appear and has previously willfully failed to appear,
225 after proper notice, at two or more court hearings of any nature
226 on the same case regardless of the results of the risk
227 assessment instrument. A child may be held in secure detention
228 for up to 72 hours in advance of the next scheduled court
229 hearing pursuant to this paragraph. The child's failure to keep
230 the clerk of court and defense counsel informed of a current and
231 valid mailing address where the child will receive notice to
232 appear at court proceedings does not provide an adequate ground
233 for excusal of the child's nonappearance at the hearings.

234 (3) (a) A child who meets any of the criteria in subsection
235 (1) and who is ordered to be detained under that subsection
236 shall be given a hearing within 24 hours after being taken into
237 custody. The purpose of the detention hearing is to determine

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238 the existence of probable cause that the child has committed the
239 delinquent act or violation of law that he or she is charged
240 with and the need for continued detention. Unless a child is
241 detained under paragraph (1)(a), paragraph (1)(b), paragraph
242 (1)(f)-~~(d)~~, or paragraph (1)(g)-~~(e)~~, the court shall use the
243 results of the risk assessment performed by the juvenile
244 probation officer and, based on the criteria in subsection (1),
245 shall determine the need for continued detention. A child placed
246 into secure, nonsecure, or home detention care may continue to
247 be so detained by the court. A child detained under paragraph
248 (1)(a) or paragraph (1)(b) may be placed into secure detention
249 care pending placement in a residential facility.

250 (c) Except as provided in paragraph (1)(a), paragraph
251 (1)(b), s. 790.22(8), or in s. 985.27, when a child is placed
252 into secure or nonsecure detention care, or into a respite home
253 or other placement pursuant to a court order following a
254 hearing, the court order must include specific instructions that
255 direct the release of the child from such placement no later
256 than 5 p.m. on the last day of the detention period specified in
257 s. 985.26 or s. 985.27, whichever is applicable, unless the
258 requirements of such applicable provision have been met or an
259 order of continuance has been granted under s. 985.26~~(3)(4)~~.

260 Section 7. Section 985.26, Florida Statutes, is amended to
261 read:

262 985.26 Length of detention.--

263 (1) A child may not be placed into or held in secure,
264 nonsecure, or home detention care for longer than 24 hours
265 unless the court orders such detention care, and the order
266 includes specific instructions that direct the release of the
267 child from such detention care, in accordance with s. 985.255.
268 The order shall be a final order, reviewable by appeal under s.

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269 985.534 and the Florida Rules of Appellate Procedure. Appeals of
270 such orders shall take precedence over other appeals and other
271 pending matters.

272 (2) A child may not be held in secure, nonsecure, or home
273 detention care under a special detention order for more than 30
274 ~~21~~ days unless an adjudicatory hearing for the case has been
275 commenced in good faith by the court. However, upon good cause
276 being shown that the nature of the charge requires additional
277 time for the prosecution or defense of the case, the court may
278 extend the length of detention for an additional 15 ~~9~~ days if
279 the child is charged with an offense that would be, if committed
280 by an adult, a capital felony, a life felony, a felony of the
281 first degree, or a felony of the second degree involving
282 violence against any individual. If a child is released under
283 this subsection, the child must comply with all conditions of
284 preadjudicatory release set by the circuit court.

285 (3) Except as provided in subsection (2), a child may not
286 be held in secure, nonsecure, or home detention care for more
287 than 15 days following the entry of an order of adjudication.

288 (4) The time limits in subsections (2) and (3) do not
289 include periods of delay resulting from a continuance granted by
290 the court for cause on motion of the child or his or her counsel
291 or of the state. Upon the issuance of an order granting a
292 continuance for cause on a motion by either the child, the
293 child's counsel, or the state, the court shall conduct a hearing
294 at the end of each 72-hour period, excluding Saturdays, Sundays,
295 and legal holidays, to determine the need for continued
296 detention of the child and the need for further continuance of
297 proceedings for the child or the state.

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298 (5) The time limits required under this section do not
299 apply to children held in secure detention care pursuant to ss.
300 985.255(1)and(3), 985.27(1)(a)and(b), and 985.28.

301 ~~(6)-(5)~~ A child who was not in secure detention care at the
302 time of the adjudicatory hearing, but for whom residential
303 commitment is anticipated or recommended, may be placed under a
304 special detention order for a period not to exceed 72 hours,
305 excluding weekends and legal holidays, for the purpose of
306 conducting a comprehensive evaluation as provided in s. 985.185.
307 Motions for the issuance of such special detention order may be
308 made subsequent to a finding of delinquency. Upon said motion,
309 the court shall conduct a hearing to determine the
310 appropriateness of such special detention order and shall order
311 the least restrictive level of detention care necessary to
312 complete the comprehensive evaluation process that is consistent
313 with public safety. Such special detention order may be extended
314 for an additional 72 hours upon further order of the court.

315 ~~(7)-(6)~~ If a child is detained and a petition for
316 delinquency is filed, the child shall be arraigned in accordance
317 with the Florida Rules of Juvenile Procedure within 48 hours
318 after the filing of the petition for delinquency.

319 Section 8. Subsection (1) of section 985.265, Florida
320 Statutes, is amended to read:

321 985.265 Detention transfer and release; education; adult
322 jails.--

323 (1) If a child is detained under this part, the department
324 may transfer the child from nonsecure or home detention care to
325 secure detention care only if significantly changed
326 circumstances warrant such transfer. Such circumstances include,
327 but are not necessarily limited to:

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328 (a) Where a child is alleged to have absconded from home
329 or nonsecure detention care or otherwise violates the terms of
330 release after adjudication and commitment but while awaiting
331 placement in a residential facility; or

332 (b) Where probable cause exists that a child has committed
333 a new violation of law while on home or nonsecure detention care
334 after adjudication and commitment but while awaiting placement
335 in a residential facility.

336 Section 9. Subsection (1) of section 985.27, Florida
337 Statutes, is amended to read:

338 985.27 Postcommitment detention while awaiting
339 placement.--

340 (1) The court must place all children who are adjudicated
341 and awaiting placement in a commitment program in secure
342 detention care, home detention care or nonsecure care. Children
343 who are in home detention care or nonsecure detention care may
344 be placed on electronic monitoring.

345 (a) A child who is awaiting placement in a low-risk
346 residential program must be removed from detention within 5
347 days, excluding Saturdays, Sundays, and legal holidays. Any
348 child held in secure detention during the 5 days must meet
349 detention admission criteria under this part. A child who is
350 placed in home detention care, nonsecure detention care, or home
351 or nonsecure detention care with electronic monitoring, while
352 awaiting placement in a minimum-risk or low-risk program, may be
353 held in secure detention care for 5 days, if the child violates
354 the conditions of the home detention care, the nonsecure
355 detention care, or the electronic monitoring agreement. For any
356 subsequent violation, the court may impose an additional 15
357 days, excluding Saturdays, Sundays, and legal holidays, in
358 secure detention care.

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359 (b)1. A child who is awaiting placement in a moderate-risk
360 residential program must be placed in secure detention care,
361 home detention care or nonsecure detention care. Any child held
362 in secure detention care must meet detention admission criteria
363 under this part.

364 2. A child may not be held in secure detention care longer
365 than 15 days, excluding Saturdays, Sundays, and legal holidays,
366 while awaiting placement in a moderate-risk residential
367 facility, except that any child shall be held in secure
368 detention care until placed in a residential facility if:

369 a. The child is alleged to have absconded from home
370 detention care or nonsecure detention care or otherwise violated
371 the terms of release or electronic monitoring; or

372 b. Where probable cause exists that a child committed a
373 new violation of law while on home detention care, nonsecure
374 detention care, or electronic monitoring and the child is
375 awaiting placement in a residential program. A child who is
376 awaiting placement in a moderate risk residential program must
377 be removed from detention within 5 days, excluding Saturdays,
378 Sundays, and legal holidays. Any child held in secure detention
379 during the 5 days must meet detention admission criteria under
380 this part. The department may seek an order from the court
381 authorizing continued detention for a specific period of time
382 necessary for the appropriate residential placement of the
383 child. However, such continued detention in secure detention
384 care may not exceed 15 days after entry of the commitment order,
385 excluding Saturdays, Sundays, and legal holidays, and except as
386 otherwise provided in this section. A child who is placed in
387 home detention care, nonsecure detention care, or home or
388 nonsecure detention care with electronic monitoring, while
389 awaiting placement in a moderate risk program, may be held in

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390 ~~secure detention care for 5 days, if the child violates the~~
391 ~~conditions of the home detention care, the nonsecure detention~~
392 ~~care, or the electronic monitoring agreement. For any subsequent~~
393 ~~violation, the court may impose an additional 5 days in secure~~
394 ~~detention care.~~

395 (c) If the child is committed to a high-risk residential
396 program, the child must be held in secure detention care until
397 placement or commitment is accomplished.

398 (d) If the child is committed to a maximum-risk
399 residential program, the child must be held in secure detention
400 care until placement or commitment is accomplished.

401 Section 10. Section 985.28, Florida Statutes, is created
402 to read:

403 985.28 Appearance in court; preadjudicatory detention;
404 contempt.--

405 (1) A child may be held in secure detention care if, after
406 proper notice, the child fails to appear in court either because
407 the child refuses to appear, runs away, or otherwise
408 intentionally avoids his or her appearance in court. The court
409 may hold the child in secure detention care until the trial
410 concludes, regardless of the results of the risk assessment
411 instrument.

412 (2) A parent or legal guardian, after being properly
413 noticed, who knowingly and willfully fails to bring or otherwise
414 prevents a child from appearing for trial may be held in
415 contempt of court.

416 Section 11. Subsection (1) of section 985.35, Florida
417 Statutes, is amended to read:

418 985.35 Adjudicatory hearings; withheld adjudications;
419 orders of adjudication.--

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420 (1) The adjudicatory hearing must be held as soon as
421 practicable after the petition alleging that a child has
422 committed a delinquent act or violation of law is filed and in
423 accordance with the Florida Rules of Juvenile Procedure; but
424 reasonable delay for the purpose of investigation, discovery, or
425 procuring counsel or witnesses shall be granted. If the child is
426 being detained, the time limitations in s. 985.26(2) and ~~(3)~~
427 apply.

428 Section 12. Subsection (4) is added to section 985.43,
429 Florida Statutes, to read:

430 985.43 Predisposition reports; other evaluations.--

431 (4) The Legislature finds that the court is in the best
432 position to weigh all facts and circumstances to determine
433 whether or not to commit a juvenile to the department and to
434 determine the most appropriate restrictiveness level for a
435 juvenile committed to the department.

436 Section 13. Paragraphs (a) and (b) of subsection (7) of
437 section 985.433, Florida Statutes, are amended to read:

438 985.433 Disposition hearings in delinquency cases.--When a
439 child has been found to have committed a delinquent act, the
440 following procedures shall be applicable to the disposition of
441 the case:

442 (7) If the court determines that the child should be
443 adjudicated as having committed a delinquent act and should be
444 committed to the department, such determination shall be in
445 writing or on the record of the hearing. The determination shall
446 include a specific finding of the reasons for the decision to
447 adjudicate and to commit the child to the department, including
448 any determination that the child was a member of a criminal
449 street gang.

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450 (a) The juvenile probation officer shall make a
451 recommendation to the court concerning placement and any
452 proposed treatment plan ~~recommend to the court the most~~
453 ~~appropriate placement and treatment plan, specifically~~
454 ~~identifying the restrictiveness level most appropriate for the~~
455 ~~child.~~ If the court has determined that the child was a member
456 of a criminal street gang, that determination shall be given
457 great weight in identifying the most appropriate restrictiveness
458 level for the child. The court shall consider the department's
459 recommendation in making its commitment decision.

460 (b) The court may ~~shall~~ commit the child to the department
461 at the restrictiveness level identified by the department or the
462 court may order placement at a different restrictiveness level.
463 The court may determine the disposition on the same factors as
464 the department considered in the department's predisposition
465 report and placement recommendation even if the court reaches a
466 different conclusion. The court may commit the child to a
467 different restrictiveness level than recommended by the
468 department. The court shall state for the record the reasons for
469 the disposition imposed ~~that establish by a preponderance of the~~
470 ~~evidence why the court is disregarding the assessment of the~~
471 ~~child and the restrictiveness level recommended by the~~
472 ~~department. Any party may appeal the court's findings resulting~~
473 ~~in a modified level of restrictiveness under this paragraph.~~

474 Section 14. Subsection (2) of section 985.439, Florida
475 Statutes, is amended to read:

476 985.439 Violation of probation or postcommitment
477 probation.--

478 (2) A child taken into custody under s. 985.101 for
479 violating the conditions of probation or postcommitment
480 probation shall be held in a consequence unit if such a unit is

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481 available or may be detained under part V in a facility other
482 than a consequence unit if one is not available. The child shall
483 be afforded a hearing within 24 hours after being taken into
484 custody to determine the existence of probable cause that the
485 child violated the conditions of probation or postcommitment
486 probation. A consequence unit is a secure facility specifically
487 designated by the department for children who are taken into
488 custody under s. 985.101 for violating probation or
489 postcommitment probation, or who have been found by the court to
490 have violated the conditions of probation or postcommitment
491 probation. If the violation involves a new charge of
492 delinquency, the child may be detained under part V in a
493 facility other than a consequence unit. If the child is not
494 eligible for detention for the new charge of delinquency, the
495 child may be held in the consequence unit pending a hearing and
496 is subject to the time limitations specified in part V.

497 Section 15. Section 938.20, Florida Statutes, is created
498 to read:

499 938.20 County juvenile crime prevention fund.--

500 (1) Notwithstanding s. 318.121, and in addition to ss.
501 938.19 and 939.185, in each county the board of county
502 commissioners may adopt a mandatory court cost to be assessed in
503 specific cases by incorporating by reference the provisions of
504 this section in a county ordinance. Assessments collected by the
505 clerk of the circuit court under this section shall be deposited
506 into an account specifically for the administration of the
507 county's juvenile crime prevention fund. The proceeds of the
508 county's juvenile crime prevention fund shall only be used to
509 fund local programs whose principal focus is the prevention of
510 juvenile crime, the creation of consequence or suspension

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511 centers, and truancy programs; and such other areas of local
512 concern relating to juvenile crime.

513 (2) A sum of up to \$50 shall be assessed as a court cost
514 in the circuit court in the county against each juvenile who
515 pleads guilty or nolo contendere to, or is found guilty of,
516 regardless of adjudication, a violation of criminal law or
517 municipal or county ordinance.

518 (3) The assessment for court costs under this section
519 shall be assessed in addition to any other cost or fee and may
520 not be deducted from the proceeds of any other cost that is
521 received by the county.

522 (4) (a) The clerk of the circuit court shall collect the
523 assessments for court costs under this section and shall remit
524 the assessments to the county's juvenile crime prevention fund
525 monthly.

526 (b) The clerk of the circuit court shall withhold 3
527 percent of the assessments collected, which shall be retained as
528 fee income of the office of the clerk of the circuit court.

529 (5) A county's juvenile crime prevention fund must account
530 for all funds received and disbursed under this section in a
531 written report to the board of county commissioners of that
532 county. The report must be given to the commissioners by August
533 1 of each year unless a different date is required by the
534 commissioners.

535 (6) A county's juvenile crime prevention fund may be
536 administered by a nonprofit organization, a law enforcement
537 agency, the court administrator, the clerk of the circuit court,
538 a county agency, or another similar agency authorized by the
539 board of county commissioners of that county.

540 Section 16. The Legislature determines and declares that
541 this act fulfills an important state interest.

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542 Section 17. This act shall take effect July 1, 2008.

543

544

545

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547

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

548

Remove the entire title and insert:

549

550 An act relating to juvenile justice; amending s. 985.0301, F.S.;

551 permitting a court to retain jurisdiction over a child and the

552 child's parent or legal guardian whom the court has ordered to

553 pay costs, fees, and costs associated with court-appointed

554 counsel until the costs, fees, and costs associated with court-

555 appointed counsel are satisfied; providing intent; amending s.

556 985.101, F.S.; permitting a child to be taken into custody for

557 violations of preadjudicatory release conditions; authorizing

558 the court to set reasonable conditions of preadjudicatory

559 release; providing examples of such conditions; providing that

560 conditions of preadjudicatory release may not be used to impose

561 home detention when not otherwise authorized; amending s.

562 985.24, F.S.; providing an additional finding to support use of

563 secure, nonsecure, or home detention; amending s. 985.245, F.S.;

564 providing that placement in detention care under a specified

565 provision does not require a risk assessment; amending s.

566 985.25, F.S.; providing additional grounds for placement of a

567 child in secure detention care; amending s. 985.255, F.S.;

568 providing for continuing home or nonsecure detention care or

569 secure detention care prior to a detention hearing in certain

570 circumstances; amending s. 985.26, F.S.; revising time limits

571 for secure, nonsecure, or home detention care under a special

572 detention order; requiring that children who have been released

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573 comply with preadjudicatory release conditions; permitting a
574 child to be held in secure detention care for additional time
575 under specified circumstances; providing that certain time
576 limits do not apply to secure detention under a specified
577 provision; amending s. 985.265, F.S.; specifying some changed
578 circumstances that permit the Department of Juvenile Justice to
579 transfer a child from a home or nonsecure detention care to
580 secure detention care; amending s. 985.27, F.S.; specifying
581 circumstances under which a child who is awaiting placement in a
582 low-risk or minimum-risk residential program may be held in
583 secure detention care; providing time limits on such detention
584 care; providing for secure detention care for absconders from
585 specified types of care; providing for secure detention care of
586 a child awaiting placement in a moderate-risk residential
587 program; providing for secure detention care in specified
588 circumstances; creating s. 985.28, F.S.; providing for secure
589 detention of a child in specified circumstances; permitting a
590 parent or legal guardian of a child to be held in contempt of
591 court if he or she knowingly and willfully fails to bring or
592 otherwise prevents the child from appearing for trial; amending
593 s. 985.35, F.S.; conforming a cross-reference to changes made by
594 the act; amending s. 985.43, F.S.; providing for a legislative
595 declaration concerning the determination of whether to commit a
596 juvenile to the Department of Juvenile Justice and the most
597 appropriate placement level if the juvenile is committed;
598 amending s. 985.433, F.S.; revising provisions relating to
599 recommendations by probation officers to the court concerning
600 placement and any proposed treatment plan of juveniles;
601 specifying that the court has the power to determine appropriate
602 dispositions; requiring that reasons for a disposition be stated
603 for the record; amends s. 985.439, relating to violation of

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604 probation or postcommitment probation; creating s. 938.20, F.S.;

605 permitting each county to create a juvenile crime prevention

606 fund; providing for an additional court cost; providing for

607 administration and use of funds; providing that the act fulfills

608 an important state interest; providing an effective date.

609

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 _____

*favorable
3-5-08*

1 Council/Committee hearing bill: Safety & Security Council
 2 Representative(s) Adams offered the following:

4 **Amendment to Amendment (1) by Representative Adams**

5 Remove line(s) 272-284 and insert:

6 (2) (a) A child may not be held in secure, nonsecure, or
 7 home detention care under a special detention order for more
 8 than 21 days, except as provided in paragraph (b), unless an
 9 adjudicatory hearing for the case has been commenced in good
 10 faith by the court.

11 (b)1. A child charged with an offense that would be, if
 12 committed by an adult, a capital felony, life felony, a felony
 13 of the first degree, or a felony of the second degree involving
 14 violence against any individual may not be held in secure,
 15 nonsecure, or home detention care under a special detention
 16 order for more than 30 days unless an adjudicatory hearing for
 17 the case has been commenced in good faith by the court.

18 2. However, Upon good cause being shown that the nature of
 19 the charge requires additional time for the prosecution or
 20 defense of the case, the court may extend the length of
 21 detention under this paragraph for an additional 15 9 days if
 22 ~~the child is charged with an offense that would be, if committed~~
 23 ~~by an adult, a capital felony, a life felony, a felony of the~~

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24 | ~~first degree, or a felony of the second degree involving~~
25 | ~~violence against any individual.~~

26 |
27 | For purposes of this subsection, if a child is released, the
28 | child must comply with all conditions of preadjudicatory release
29 | set by the circuit court.

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Amendment No. (2a)

Bill No. 273

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	_____	

*favourable
3.5.08*

1 Council/Committee hearing bill: Safety & Security Council
 2 Representative(s) Adams offered the following:

3

4 **Amendment to Amendment (1) by Representative Adams**

5 On line 473, after the period, insert:

6 The department shall maintain data to identify the extent
 7 to which the courts agree with the recommendation of the
 8 department.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (3a)

Bill No. 273

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 _____

*favorable
3-5-08*

1 Council/Committee hearing bill: Safety & Security Council
 2 Representative(s) Adams offered the following:

3
 4 **Amendment to Amendment (1) by Representative Adams (with**
 5 **directory and title amendments)**

6 Remove line(s) 66-84

7
8 -----

9 **D I R E C T O R Y A M E N D M E N T**

10 Remove line(s) 49-50 and insert:
 11 985.101, Florida Statutes, is amended to read:

12
13 -----

14 **T I T L E A M E N D M E N T**

15 Remove line(s) 557-561 and insert:
 16 violations of preadjudicatory release conditions; amending s.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (4a)

Bill No. 273

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 _____

*Favorable
3:5:08*

1 Council/Committee hearing bill: Safety & Security Council
2 Representative(s) Adams offered the following:

4 **Amendment to Amendment (1) by Representative Adams (with
5 title amendment)**

6 Between line(s) 47-48 insert:

7 Section 2. Section 985.031, Florida Statutes, is created
8 to read:

9 985.031 Preadjudicatory release; circuit court authority.-

10 The circuit court shall have the authority to set reasonable
11 conditions of preadjudicatory release. The child shall comply
12 with all such preadjudicatory release conditions prior to an
13 adjudicatory hearing. Reasonable conditions of preadjudicatory
14 release may include, but are not limited to, the following:

15 (1) The child shall not engage in a violation of law.

16 (2) The child shall not possess or carry any weapon.

17 (3) The child shall not possess or use any alcoholic
18 beverage or any illegal drug or associate with those who do.

19 (4) The child shall obey all reasonable household rules.

20 (5) The child shall attend school regularly, including all
21 classes.

22 (6) The child shall abide by the curfew set by his or her
23 parents or guardian or as set by the court.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (4a)

24 (7) The child shall have no contact with any codefendants,
25 an alleged victim, or the family of any alleged victim.

26 (8) The child shall not return to the scene of the alleged
27 crime, unless approved by the court.

28

29

30

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

31

On line 555 after "intent;", insert:

32

creating s. 985.031, F.S.; authorizing the court to set

33

reasonable conditions of preadjudicatory release; providing

34

examples of such conditions; providing that conditions of

35

preadjudicatory release may not be used to impose home detention

36

when not otherwise authorized;

COUNCIL MEETING REPORT

Safety & Security Council

3/5/2008 10:00:00AM

Location: Reed Hall (102 HOB)

HB 391 : Transfer Fee Covenants

Favorable with Council Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Sandra Adams	X				
James Frishe	X				
Luis Garcia	X				
Dorothy Hukill	X				
Kurt Kelly	X				
Marcelo Llorente	X				
Mitch Needelman	X				
Juan-Carlos Planas	X				
Dennis Ross	X				
Maria Sachs	X				
William Snyder	X				
Priscilla Taylor	X				
Nicholas Thompson	X				
Perry Thurston	X				
Dick Kravitz (Chair)	X				
Total Yeas: 15		Total Nays: 0			

Appearances:

HB 391

Pete Dunbar (Lobbyist) - Proponent

Real Property, Probate and Trust Law Section of the Florida Bar

215 S Monroe Street

Tallahassee FL 32301

Phone: 850-222-3533

Committee meeting was reported out: Wednesday, March 05, 2008 11:54:31AM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

Bill No. HB 391

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 _____

*Traveling Amendment
No Action Required*

1 Council/Committee hearing bill: Committee on Courts

2 Representative(s) McBurney offered the following:

3

4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Subsection 689.28, Florida Statutes, is created
7 to read:

8 689.28 Prohibition against transfer fee covenants.--

9 (1) INTENT.--The Legislature finds and declares that the
 10 public policy of this state favors the marketability of real
 11 property and the transferability of interests in real property
 12 free of title defects, unreasonable restraints on alienation,
 13 and covenants and servitudes that do not touch and concern the
 14 property. The Legislature further finds and declares that
 15 transfer fee covenants violate this public policy by impairing
 16 the marketability and transferability of real property,
 17 constituting an unreasonable restraint on alienation regardless
 18 of the duration of such covenants or the amount of such transfer
 19 fees, and do not touch and concern the real property for the
 20 purposes of running with the title to the property or for
 21 binding subsequent owners of the property under common law or
 22 equitable principles.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

23 (2) DEFINITIONS.--As used in this section, the term:

24 (a) "Environmental covenant" means a covenant or servitude
25 that imposes limitations on the use of real property pursuant to
26 an environmental remediation project pertaining to the property.
27 An environmental covenant is not a transfer fee covenant.

28 (b) "Transfer" means the sale, gift, conveyance,
29 assignment, inheritance, or other transfer of an ownership
30 interest in real property located in this state.

31 (c) "Transfer fee" means a fee or charge payable upon the
32 transfer of an interest in real property, or payable for the
33 right to make or accept such transfer, regardless of whether the
34 fee or charge is a fixed amount or is determined as a percentage
35 of the value of the property, the purchase price, or other
36 consideration given for the transfer. The following are not
37 transfer fees for purposes of this section:

38 1. Any consideration payable by the grantee to the grantor
39 for the interest in real property being transferred, including
40 any subsequent additional consideration for the property payable
41 by the grantee based upon any subsequent appreciation,
42 development, or sale of the property.

43 2. Any commission payable to a licensed real estate broker
44 for the transfer of real property pursuant to an agreement
45 between the broker and the grantor or the grantee, including any
46 subsequent additional commission for that transfer payable by
47 the grantor or the grantee based upon any subsequent
48 appreciation, development, or sale of the property.

49 3. Any interest, charges, fees, or other amounts payable
50 by a borrower to a lender pursuant to a loan secured by a
51 mortgage against real property, including, but not limited to,
52 any fee payable to the lender for consenting to an assumption of
53 the loan or a transfer of the real property subject to the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

54 mortgage, any fees or charges payable to the lender for estoppel
55 letters or certificates, and any shared appreciation interest or
56 profit participation or other consideration described in s.
57 687.03(4) and payable to the lender in connection with the loan.

58 4. Any rent, reimbursement, charge, fee, or other amount
59 payable by a lessee to a lessor under a lease, including, but
60 not limited to, any fee payable to the lessor for consenting to
61 an assignment, subletting, encumbrance, or transfer of the
62 lease.

63 5. Any consideration payable to the holder of an option to
64 purchase an interest in real property or the holder of a right
65 of first refusal or first offer to purchase an interest in real
66 property for waiving, releasing, or not exercising the option or
67 right upon the transfer of the property to another person.

68 6. Any tax, fee, charge, assessment, fine, or other amount
69 payable to or imposed by a governmental authority.

70 7. Any fee, charge, assessment, fine, or other amount
71 payable to a homeowners', condominium, cooperative, mobile home,
72 or property owners' association pursuant to a declaration or
73 covenant or law applicable to such association, including, but
74 not limited to, fees or charges payable for estoppel letters or
75 certificates issued by the association or its authorized agent.

76 8. Any fee, charge, assessment, dues, contribution, or
77 other amount imposed pursuant to a declaration or covenant
78 encumbering four or more parcels in a community, as defined in
79 s. 720.301, and payable to a nonprofit organization or
80 charitable organization for the purpose of supporting cultural,
81 educational, charitable, recreational, environmental,
82 conservation, or other similar activities benefiting the
83 community that is subject to the declaration or covenant.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

84 9. Any fee, charge, assessment, dues, contribution, or
85 other amount pertaining to the purchase or transfer of a club
86 membership related to real property owned by the member,
87 including, but not limited to, any such amount determined by
88 reference to the value, purchase price or other consideration
89 given for the transfer of the related real property.

90 10. Any payment required pursuant to an environmental
91 covenant.

92 (d) "Transfer fee covenant" means a declaration or
93 covenant purporting to affect real property which requires or
94 purports to require the payment of a transfer fee to the
95 declarant or other person specified in the declaration or
96 covenant or to their successors or assigns upon a subsequent
97 transfer of an interest in the real property.

98 (3) PROHIBITION.--A transfer fee covenant recorded in this
99 state on or after July 1, 2008, does not run with the title to
100 real property and is not binding on or enforceable at law or in
101 equity against any subsequent owner, purchaser, or mortgagee of
102 any interest in real property as an equitable servitude or
103 otherwise. Any liens purporting to secure the payment of any
104 transfer fee under a transfer fee covenant recorded in this
105 state on or after July 1, 2008, are void and unenforceable. This
106 subsection does not mean that transfer fee covenants or transfer
107 fee liens recorded in this state before July 1, 2008, are
108 presumed valid and enforceable.

109 Section 2. Section 692.01, Florida Statutes, is amended to
110 read:

111 692.01 Conveyances executed by corporations.--Any
112 corporation may execute instruments conveying, mortgaging, or
113 affecting any interest in ~~its~~ lands by instruments sealed with
114 the common or corporate seal and signed in its name by its

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

115 president or any vice president or chief executive officer.
116 Assignments, satisfactions, or partial releases of mortgages and
117 acquittances for debts may be similarly executed by any
118 corporate officer. No corporate resolution need be recorded to
119 evidence the authority of the person executing the deed,
120 mortgage, or other instrument for the corporation, and an
121 instrument so executed shall be valid whether or not the officer
122 signing for the corporation was authorized to do so by the board
123 of directors, in the absence of fraud in the transaction by the
124 person receiving it. In cases of fraud, subsequent transactions
125 with good faith purchasers for value and without notice of the
126 fraud shall be valid and binding on the corporation.

127 Section 3. Section 689.01, Florida Statutes, is amended to
128 read:

129 689.01 How real estate conveyed.--No estate or interest of
130 freehold, or for a term of more than 1 year, or any uncertain
131 interest of, in or out of any messuages, lands, tenements or
132 hereditaments shall be created, made, granted, transferred or
133 released in any other manner than by instrument in writing,
134 signed in the presence of two subscribing witnesses by the party
135 creating, making, granting, conveying, transferring or releasing
136 such estate, interest, or term of more than 1 year, or by the
137 party's agent thereunto lawfully authorized, unless by will and
138 testament, or other testamentary appointment, duly made
139 according to law; and no estate or interest, either of freehold,
140 or of term of more than 1 year, or any uncertain interest of,
141 in, to or out of any messuages, lands, tenements or
142 hereditaments, shall be assigned or surrendered unless it be by
143 instrument signed in the presence of two subscribing witnesses
144 by the party so assigning or surrendering, or by the party's
145 agent thereunto lawfully authorized, or by the act and operation

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

146 of law. No seal shall be necessary to give validity to any
147 instrument executed in conformity with this section.
148 Corporations may execute any and all conveyances convey in
149 accordance with the provisions of this section or in accordance
150 with the provisions of ss. 692.01 and 692.02.

151 Section 4. This act shall take effect July 1, 2008.

152

153

154

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

155

Remove the entire title and insert:

156

An act relating to real estate conveyances; creating s. 689.28,

157

F.S.; providing legislative intent regarding transfer fee

158

covenants; providing definitions; providing that certain

159

transfer fee covenants are unenforceable against subsequent

160

owners, purchasers, and mortgagees; providing that a presumption

161

is not created in favor of transfer fee covenants recorded

162

before the effective date of the act; amending s. 692.01, F.S.;

163

providing that corporations may execute conveyances; amending s.

164

689.01, F.S.; providing how real estate is conveyed; providing

165

an effective date.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

Bill No. HB 391

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 _____

*Favorable
3-5-08*

1 Council/Committee hearing bill: Committee on Courts
 2 Representative(s) McBurney offered the following:

Amendment to Amendment (No. 1) by Representative McBurney

Remove line(s) 31-93 and insert:

6 (c) "Transfer fee" means a fee or charge required under a
 7 transfer fee covenant and payable upon the transfer of an
 8 interest in real property, or payable for the right to make or
 9 accept such transfer, regardless of whether the fee or charge is
 10 a fixed amount or is determined as a percentage of the value of
 11 the property, the purchase price, or other consideration given
 12 for the transfer. The following are not transfer fees for
 13 purposes of this section:

14 1. Any consideration payable by the grantee to the grantor
 15 for the interest in real property being transferred, including
 16 any subsequent additional consideration for the property payable
 17 by the grantee based upon any subsequent appreciation,
 18 development, or sale of the property.

19 2. Any commission payable to a licensed real estate broker
 20 for the transfer of real property pursuant to an agreement
 21 between the broker and the grantor or the grantee, including any
 22 subsequent additional commission for that transfer payable by

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

23 the grantor or the grantee based upon any subsequent
24 appreciation, development, or sale of the property.

25 3. Any interest, charges, fees, or other amounts payable
26 by a borrower to a lender pursuant to a loan secured by a
27 mortgage against real property, including, but not limited to,
28 any fee payable to the lender for consenting to an assumption of
29 the loan or a transfer of the real property subject to the
30 mortgage, any fees or charges payable to the lender for estoppel
31 letters or certificates, and any shared appreciation interest or
32 profit participation or other consideration described in s.
33 687.03(4) and payable to the lender in connection with the loan.

34 4. Any rent, reimbursement, charge, fee, or other amount
35 payable by a lessee to a lessor under a lease, including, but
36 not limited to, any fee payable to the lessor for consenting to
37 an assignment, subletting, encumbrance, or transfer of the
38 lease.

39 5. Any consideration payable to the holder of an option to
40 purchase an interest in real property or the holder of a right
41 of first refusal or first offer to purchase an interest in real
42 property for waiving, releasing, or not exercising the option or
43 right upon the transfer of the property to another person.

44 6. Any tax, fee, charge, assessment, fine, or other amount
45 payable to or imposed by a governmental authority.

46 7. Any fee, charge, assessment, fine, or other amount
47 payable to a homeowners', condominium, cooperative, mobile home,
48 or property owners' association pursuant to a declaration or
49 covenant or law applicable to such association, including, but
50 not limited to, fees or charges payable for estoppel letters or
51 certificates issued by the association or its authorized agent.

52 8. Any fee, charge, assessment, dues, contribution, or
53 other amount imposed pursuant to a declaration or covenant

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

54 encumbering four or more parcels in a community, as defined in
55 s. 720.301, and payable to a nonprofit organization or
56 charitable organization for the purpose of supporting cultural,
57 educational, charitable, recreational, environmental,
58 conservation, or other similar activities benefiting the
59 community that is subject to the declaration or covenant.

60 9. Any fee, charge, assessment, dues, contribution, or
61 other amount pertaining to the purchase or transfer of a club
62 membership related to real property owned by the member,
63 including, but not limited to, any such amount determined by
64 reference to the value, purchase price or other consideration
65 given for the transfer of the related real property.

66 10. Any payment required pursuant to an environmental
67 covenant.

68 (d) "Transfer fee covenant" means a declaration or
69 covenant recorded against the title to real property which
70 requires or

COUNCIL MEETING REPORT

Safety & Security Council

3/5/2008 10:00:00AM

Location: Reed Hall (102 HOB)

PCB SSC 08-01 : Court Rule References in Statutes

Favorable With Amendments

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Sandra Adams	X				
James Frishe	X				
Luis Garcia	X				
Dorothy Hukill	X				
Kurt Kelly	X				
Marcelo Llorente	X				
Mitch Needelman	X				
Juan-Carlos Planas	X				
Dennis Ross	X				
Maria Sachs	X				
William Snyder	X				
Priscilla Taylor	X				
Nicholas Thompson	X				
Perry Thurston	X				
Dick Kravitz (Chair)	X				
Total Yeas: 15		Total Nays: 0			

Committee meeting was reported out: Wednesday, March 05, 2008 11:54:31AM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

Bill No. PCB SSC 08-01

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 _____

*favourable
3-5-08*

Council/Committee hearing bill: Safety & Security Council

Representative(s) Ross offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Paragraph (a) of subsection (5) of section 27.51, Florida Statutes, is amended to read:

27.51 Duties of public defender.--

(5) (a) When direct appellate proceedings prosecuted by a public defender on behalf of an accused and challenging a judgment of conviction and sentence of death terminate in an affirmance of such conviction and sentence, whether by the Florida Supreme Court or by the United States Supreme Court or by expiration of any deadline for filing such appeal in a state or federal court, the public defender shall notify the accused of his or her rights to file motion to vacate, set aside, or correct sentence pursuant to court rule 3.850, Florida Rules of Criminal Procedure, including any time limits pertinent thereto, and shall advise such person that representation in any collateral proceedings is the responsibility of the capital collateral regional counsel. The public defender shall then forward all original files on the matter to the capital

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

23 collateral regional counsel, retaining such copies for his or
24 her files as may be desired. However, the trial court shall
25 retain the power to appoint the public defender or other
26 attorney not employed by the capital collateral regional counsel
27 to represent such person in proceedings for relief by executive
28 clemency pursuant to ss. 27.40 and 27.5303.

29 Section 2. Subsection (2) of section 34.01, Florida
30 Statutes, is amended to read:

31 34.01 Jurisdiction of county court.--

32 (2) The county courts shall have jurisdiction previously
33 exercised by county judges' courts other than that vested in the
34 circuit court by s. 26.012, except that county court judges may
35 hear matters involving ~~dissolution of marriage under the~~
36 ~~simplified dissolution procedure pursuant to the Florida Family~~
37 ~~Law Rules of Procedure~~ or may issue a final order for
38 dissolution in cases where the matter is uncontested, and the
39 jurisdiction previously exercised by county courts, the claims
40 court, small claims courts, small claims magistrates courts,
41 magistrates courts, justice of the peace courts, municipal
42 courts, and courts of chartered counties, including but not
43 limited to the counties referred to in ss. 9, 10, 11, and 24,
44 Art. VIII of the State Constitution of 1885, as preserved by s.
45 (6) (e), Art. VIII of the State Constitution of 1968.

46 Section 3. Subsection (2) of section 34.011, Florida
47 Statutes, is amended to read:

48 34.011 Jurisdiction in landlord and tenant cases.--

49 (2) The county court shall have exclusive jurisdiction of
50 proceedings relating to the right of possession of real property
51 and to the forcible or unlawful detention of lands and
52 tenements, except that the circuit court also has jurisdiction
53 if the amount in controversy exceeds the jurisdictional limits

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

54 of the county court or the circuit court otherwise has
55 jurisdiction as provided in s. 26.012. In cases transferred to
56 the circuit court ~~pursuant to Rule 1.170(j), Florida Rules of~~
57 ~~Civil Procedure, or Rule 7.100(d), Florida Small Claims Rules,~~
58 the demands of all parties shall be resolved by the circuit
59 court.

60 Section 4. Paragraph (d) of subsection (14) of section
61 39.01, Florida Statutes, is amended to read:

62 39.01 Definitions.--When used in this chapter, unless the
63 context otherwise requires:

64 (14) "Child who is found to be dependent" means a child
65 who, pursuant to this chapter, is found by the court:

66 (d) To have been voluntarily placed with a licensed child-
67 placing agency for the purposes of subsequent adoption, and a
68 parent or parents have signed a consent to termination of
69 parental rights ~~pursuant to the Florida Rules of Juvenile~~
70 ~~Procedure;~~

71 Section 5. Subsection (3) of section 39.4086, Florida
72 Statutes, is amended to read:

73 39.4086 Pilot program for attorneys ad litem for dependent
74 children.--

75 ~~(3) STANDARDS.--The Supreme Court is requested, by October~~
76 ~~1, 2000, to adopt rules of juvenile procedure which include the~~
77 ~~duties, responsibilities, and conduct of an attorney ad litem.~~
78 ~~The Office of the State Courts Administrator, in consultation~~
79 ~~with the Dependency Court Improvement Committee of the Supreme~~
80 ~~Court, shall develop implementation guidelines for the attorney~~
81 ~~ad litem pilot program.~~

82 Section 6. Subsection (2) of section 39.504, Florida
83 Statutes, is amended to read:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

84 39.504 Injunction pending disposition of petition;
85 penalty.--

86 (2) Notice shall be provided to the parties as required by
87 court rule ~~set forth in the Florida Rules of Juvenile Procedure,~~
88 unless the child is reported to be in imminent danger, in which
89 case the court may issue an injunction immediately. A judge may
90 issue an emergency injunction pursuant to this section without
91 notice at times when the court is closed for the transaction of
92 judicial business. When such an immediate injunction is issued,
93 the court shall hold a hearing on the next day of judicial
94 business either to dissolve the injunction or to continue or
95 modify it in accordance with the other provisions of this
96 section.

97 Section 7. Paragraph (a) of subsection (1) and subsection
98 (2) of section 39.507, Florida Statutes, are amended to read:

99 39.507 Adjudicatory hearings; orders of adjudication.--

100 (1) (a) The adjudicatory hearing shall be held as soon as
101 practicable after the petition for dependency is filed and in
102 accordance with court rule ~~the Florida Rules of Juvenile~~
103 ~~Procedure,~~ but no later than 30 days after the arraignment.

104 (2) All hearings, except as provided in this section,
105 shall be open to the public, and a person may not be excluded
106 except on special order of the judge, who may close any hearing
107 to the public upon determining that the public interest or the
108 welfare of the child is best served by so doing. The parents or
109 legal custodians shall be allowed to obtain discovery pursuant
110 to court rule ~~the Florida Rules of Juvenile Procedure,~~ provided
111 such discovery does not violate the provisions of s. 39.202.
112 Hearings involving more than one child may be held
113 simultaneously when the children involved are related to each
114 other or were involved in the same case. The child and the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

115 parents, caregivers, or legal custodians of the child may be
116 examined separately and apart from each other.

117 Section 8. Paragraphs (a) and (d) of subsection (1) of
118 section 39.603, Florida Statutes, are amended to read:

119 39.603 Court approvals of case planning.--

120 (1) All case plans and amendments to case plans must be
121 approved by the court. At the hearing on the case plan, which
122 shall occur in conjunction with the disposition hearing unless
123 otherwise directed by the court, the court shall determine:

124 (a) All parties who were notified and are in attendance at
125 the hearing, either in person or through a legal representative.
126 The court may appoint a guardian ad litem ~~under Rule 1.210,~~
127 ~~Florida Rules of Civil Procedure,~~ to represent the interests of
128 any parent, if the location of the parent is known but the
129 parent is not present at the hearing and the development of the
130 plan is based upon the physical, emotional, or mental condition
131 or physical location of the parent.

132 (d) In involuntary placements, whether each parent was
133 notified of the right to counsel at each stage of the dependency
134 proceedings, ~~in accordance with the Florida Rules of Juvenile~~
135 ~~Procedure.~~

136 Section 9. Paragraphs (b) and (c) of subsection (2) of
137 section 39.701, Florida Statutes, are amended to read:

138 39.701 Judicial review.--

139 (2)

140 (b) Citizen review panels may conduct hearings to review
141 the status of a child. The court shall select the cases
142 appropriate for referral to the citizen review panels and may
143 order the attendance of the parties at the review panel
144 hearings. However, any party may object to the referral of a
145 case to a citizen review panel. Whenever such an objection has

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

146 been filed with the court, the court shall review the substance
147 of the objection and may conduct the review itself or refer the
148 review to a citizen review panel. All parties retain the right
149 to take exception to the findings or recommended orders of a
150 citizen review panel ~~in accordance with Rule 1.490(h), Florida~~
151 ~~Rules of Civil Procedure.~~

152 (c) Notice of a hearing by a citizen review panel must be
153 provided as set forth in subsection (5). At the conclusion of a
154 citizen review panel hearing, each party may propose a
155 recommended order to the chairperson of the panel. Thereafter,
156 the citizen review panel shall submit its report, copies of the
157 proposed recommended orders, and a copy of the panel's
158 recommended order to the court. The citizen review panel's
159 recommended order must be limited to the dispositional options
160 available to the court in subsection (9). Each party may file
161 exceptions to the report and recommended order of the citizen
162 review panel ~~in accordance with Rule 1.490, Florida Rules of~~
163 ~~Civil Procedure.~~

164 Section 10. Paragraphs (b), (c), and (d) of subsection (3)
165 of section 39.801, Florida Statutes, are amended to read:

166 39.801 Procedures and jurisdiction; notice; service of
167 process.--

168 (3) Before the court may terminate parental rights, in
169 addition to the other requirements set forth in this part, the
170 following requirements must be met:

171 ~~(b) If a party required to be served with notice as~~
172 ~~prescribed in paragraph (a) cannot be served, notice of hearings~~
173 ~~must be given as prescribed by the rules of civil procedure, and~~
174 ~~service of process must be made as specified by law or civil~~
175 ~~actions.~~

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176 (b) ~~(e)~~ Notice as prescribed by this section may be waived,
177 in the discretion of the judge, with regard to any person to
178 whom notice must be given under this subsection if the person
179 executes, before two witnesses and a notary public or other
180 officer authorized to take acknowledgments, a written surrender
181 of the child to a licensed child-placing agency or the
182 department.

183 (c) ~~(d)~~ If the person served with notice under this section
184 fails to personally appear at the advisory hearing, the failure
185 to personally appear shall constitute consent for termination of
186 parental rights by the person given notice. If a parent appears
187 for the advisory hearing and the court orders that parent to
188 personally appear at the adjudicatory hearing for the petition
189 for termination of parental rights, stating the date, time, and
190 location of said hearing, then failure of that parent to
191 personally appear at the adjudicatory hearing shall constitute
192 consent for termination of parental rights.

193 Section 11. Subsection (2) of section 39.802, Florida
194 Statutes, is amended to read:

195 39.802 Petition for termination of parental rights;
196 filing; elements.--

197 ~~(2) The form of the petition is governed by the Florida~~
198 ~~Rules of Juvenile Procedure.~~ The petition must be in writing and
199 signed by the petitioner or, if the department is the
200 petitioner, by an employee of the department, under oath stating
201 the petitioner's good faith in filing the petition.

202 Section 12. Paragraph (d) of subsection (2) of section
203 39.807, Florida Statutes, is amended to read:

204 39.807 Right to counsel; guardian ad litem.--

205 (2)

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206 (d) A guardian ad litem is entitled to receive service of
207 pleadings and papers ~~as provided by the Florida Rules of~~
208 ~~Juvenile Procedure.~~

209 Section 13. Subsection (1) of section 39.824, Florida
210 Statutes, is amended to read:

211 39.824 Procedures and jurisdiction.--

212 (1) ~~The Supreme Court is requested to adopt rules of~~
213 ~~juvenile procedure by October 1, 1989, to implement this part.~~

214 All procedures, including petitions, pleadings, subpoenas,
215 summonses, and hearings in cases for the appointment of a
216 guardian advocate shall be according to the Florida Rules of
217 Juvenile Procedure unless otherwise provided by law.

218 Section 14. Section 39.825, Florida Statutes, is amended
219 to read:

220 39.825 Petition for appointment of a guardian advocate.--A
221 petition for appointment of a guardian advocate may be filed by
222 the department, any relative of the child, any licensed health
223 care professional, or any other interested person. The petition
224 shall be in writing and shall be signed by the petitioner under
225 oath stating his or her good faith in filing the petition. ~~The~~
226 ~~form of the petition and its contents shall be determined by the~~
227 ~~Florida Rules of Juvenile Procedure.~~

228 Section 15. Subsection (3) of section 48.27, Florida
229 Statutes, is amended to read:

230 48.27 Certified process servers.--

231 (3) Nothing herein shall be interpreted to exclude a
232 sheriff or deputy or other person appointed by the sheriff
233 pursuant to s. 48.021 from serving process or to exclude a
234 person from appointment by individual motion and order to serve
235 process in any civil action ~~in accordance with Rule 1.070(b) of~~
236 ~~the Florida Rules of Civil Procedure.~~

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237 Section 16. Subsection (1) of section 55.503, Florida
238 Statutes, is amended to read:

239 55.503 Recording and status of foreign judgments; fees.--

240 (1) A copy of any foreign judgment certified in accordance
241 with the laws of the United States or of this state may be
242 recorded in the office of the clerk of the circuit court of any
243 county. The clerk shall file, record, and index the foreign
244 judgment in the same manner as a judgment of a circuit or county
245 court of this state. A judgment so recorded shall have the same
246 effect and shall be subject to the same rules of ~~civil~~
247 procedure, legal and equitable defenses, and proceedings for
248 reopening, vacating, or staying judgments, and it may be
249 enforced, released, or satisfied, as a judgment of a circuit or
250 county court of this state.

251 Section 17. Subsection (3) of section 56.29, Florida
252 Statutes, is amended to read:

253 56.29 Proceedings supplementary.--

254 (3) The order shall be served in a reasonable time before
255 the date of the examination in the manner provided for ~~service~~
256 ~~of summons or may be served on such defendant or his or her~~
257 ~~attorney as provided for service of papers~~ in the rules of ~~civil~~
258 procedure.

259 Section 18. Paragraph (b) of subsection (2) of section
260 61.1301, Florida Statutes, is amended to read:

261 61.1301 Income deduction orders.--

262 (2) ENFORCEMENT OF INCOME DEDUCTION ORDERS.--

263 (b)1. Service by or upon any person who is a party to a
264 proceeding under this section shall be made in the manner
265 prescribed in court rule ~~the Florida Rules of Civil Procedure~~
266 for service upon parties.

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267 2. Service upon an obligor's payor or successor payor
268 under this section shall be made by prepaid certified mail,
269 return receipt requested, or in the manner prescribed in chapter
270 48.

271 Section 19. Paragraph (a) of subsection (6) of section
272 61.14, Florida Statutes, is amended to read:

273 61.14 Enforcement and modification of support,
274 maintenance, or alimony agreements or orders.--

275 (6)(a)1. When support payments are made through the local
276 depository or through the State Disbursement Unit, any payment
277 or installment of support which becomes due and is unpaid under
278 any support order is delinquent; and this unpaid payment or
279 installment, and all other costs and fees herein provided for,
280 become, after notice to the obligor and the time for response as
281 set forth in this subsection, a final judgment by operation of
282 law, which has the full force, effect, and attributes of a
283 judgment entered by a court in this state for which execution
284 may issue. No deduction shall be made by the local depository
285 from any payment made for costs and fees accrued in the judgment
286 by operation of law process under paragraph (b) until the total
287 amount of support payments due the obligee under the judgment
288 has been paid.

289 2. A certified statement by the local depository
290 evidencing a delinquency in support payments constitute evidence
291 of the final judgment under this paragraph.

292 3. The judgment under this paragraph is a final judgment
293 as to any unpaid payment or installment of support which has
294 accrued up to the time either party files a motion with the
295 court to alter or modify the support order, and such judgment
296 may not be modified by the court. The court may modify such
297 judgment as to any unpaid payment or installment of support

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298 which accrues after the date of the filing of the motion to
299 alter or modify the support order. This subparagraph does not
300 prohibit the court from providing relief from the judgment
301 pursuant to court rule 1.540, ~~Florida Rules of Civil Procedure~~.

302 Section 20. Subsection (2) of section 61.16, Florida
303 Statutes, is amended to read:

304 61.16 Attorney's fees, suit money, and costs.--

305 (2) In an action for contempt ~~brought pursuant to Rule~~
306 ~~3.840, Florida Rules of Criminal Procedure~~, whether denominated
307 direct or indirect criminal contempt, the court shall have
308 authority to:

309 (a) Appoint an attorney to prosecute said contempt.

310 (b) Assess attorney's fees and costs against the
311 contemtor after the court makes a determination of the
312 contemtor's ability to pay such costs and fees.

313 (c) Order that the amount be paid directly to the
314 attorney, who may enforce the order in his or her name.

315 Section 21. Subsections (5) and (6) of section 63.087,
316 Florida Statutes, are amended to read:

317 63.087 Proceeding to terminate parental rights pending
318 adoption; general provisions.--

319 (5) SUMMONS TO BE ISSUED.--The petitioner shall cause a
320 summons to be issued ~~substantially in the form provided in Form~~
321 ~~1.902, Florida Rules of Civil Procedure~~. The petition and
322 summons shall be served upon any person whose consent has been
323 provided but who has not waived service of the pleadings and
324 notice of the hearing thereon and also upon any person whose
325 consent is required but who has not provided that consent.

326 (6) ANSWER REQUIRED.--An answer to the petition or any
327 pleading requiring an answer shall be filed ~~in accordance with~~
328 ~~the Florida Rules of Civil Procedure~~. Failure to file a written

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329 response or to appear at the hearing on the petition constitutes
330 grounds upon which the court may terminate parental rights. The
331 petitioner shall provide notice of the final hearing by United
332 States mail to any person who has been served with the summons
333 and petition for termination of parental rights within the
334 specified time periods. Notwithstanding the filing of any answer
335 or any pleading, any person present at the hearing to terminate
336 parental rights pending adoption whose consent to adoption is
337 required under s. 63.062 must:

338 (a) Be advised by the court that he or she has a right to
339 ask that the hearing be reset for a later date so that the
340 person may consult with an attorney; and

341 (b) Be given an opportunity to deny the allegations in the
342 petition.

343 Section 22. Subsection (2) of section 63.122, Florida
344 Statutes, is amended to read:

345 63.122 Notice of hearing on petition.--

346 (2) Notice of hearing ~~must be given as prescribed by the~~
347 ~~Florida Rules of Civil Procedure~~, and service of process must be
348 made as required by court rule ~~specified by law for civil~~
349 ~~actions.~~

350 Section 23. Subsection (2) of section 68.083, Florida
351 Statutes, is amended to read:

352 68.083 Civil actions for false claims.--

353 (2) A person may bring a civil action for a violation of
354 s. 68.082 for the person and for the affected agency. Civil
355 actions instituted under this act ~~shall be governed by the~~
356 ~~Florida Rules of Civil Procedure~~ and shall be brought in the
357 name of the State of Florida. Prior to the court unsealing the
358 complaint under subsection (3), the action may be voluntarily
359 dismissed by the person bringing the action only if the

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360 department gives written consent to the dismissal and its
361 reasons for such consent.

362 Section 24. Section 83.231, Florida Statutes, is amended
363 to read:

364 83.231 Removal of tenant; judgment.--If the issues are
365 found for plaintiff, judgment shall be entered that plaintiff
366 recover possession of the premises. If the plaintiff expressly
367 and specifically sought money damages in the complaint, in
368 addition to awarding possession of the premises to the
369 plaintiff, the court shall also direct, in an amount which is
370 within its jurisdictional limitations, the entry of a money
371 judgment in favor of the plaintiff and against the defendant for
372 the amount of money found due, owing, and unpaid by the
373 defendant, with costs. However, no money judgment shall be
374 entered unless service of process has been effected by personal
375 service or, where authorized by law, by certified or registered
376 mail, return receipt, or in any other manner prescribed by law
377 or the rules of the court, ~~and no money judgment may be entered~~
378 ~~except in compliance with the Florida Rules of Civil Procedure.~~
379 Where otherwise authorized by law, the plaintiff in the judgment
380 for possession and money damages may also be awarded attorney's
381 fees and costs. If the issues are found for defendant, judgment
382 shall be entered dismissing the action.

383 Section 25. Section 83.625, Florida Statutes, is amended
384 to read:

385 83.625 Power to award possession and enter money
386 judgment.--In an action by the landlord for possession of a
387 dwelling unit based upon nonpayment of rent, if the court finds
388 the rent is due, owing, and unpaid and by reason thereof the
389 landlord is entitled to possession of the premises, the court,
390 in addition to awarding possession of the premises to the

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391 landlord, shall direct, in an amount which is within its
392 jurisdictional limitations, the entry of a money judgment with
393 costs in favor of the landlord and against the tenant for the
394 amount of money found due, owing, and unpaid by the tenant to
395 the landlord. However, no money judgment shall be entered unless
396 service of process has been effected by personal service or,
397 where authorized by law, by certified or registered mail, return
398 receipt, or in any other manner prescribed by law or the rules
399 of the court; ~~and no money judgment may be entered except in~~
400 ~~compliance with the Florida Rules of Civil Procedure.~~ The
401 prevailing party in the action may also be awarded attorney's
402 fees and costs.

403 Section 26. Paragraph (c) of subsection (3) of section
404 222.30, Florida Statutes, is amended to read:

405 222.30 Fraudulent asset conversions.--

406 (3) In an action for relief against a fraudulent asset
407 conversion, a creditor may obtain:

408 (c) Subject to applicable principles of equity ~~and in~~
409 ~~accordance with applicable rules of civil procedure:~~

410 1. An injunction against further conversion by the debtor
411 of the asset or of other property.

412 2. Any other relief the circumstances may require.

413 Section 27. Paragraph (b) of subsection (4) of section
414 255.071, Florida Statutes, is amended to read:

415 255.071 Payment of subcontractors, sub-subcontractors,
416 materialmen, and suppliers on construction contracts for public
417 projects.--

418 (4) After service of the complaint, the court shall
419 conduct an evidentiary hearing on the complaint, upon not less
420 than 15 days' written notice. The person providing labor,
421 services, or materials is entitled to the following remedies to

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422 the extent of the undisputed amount due for labor or services
423 performed or materials supplied, and upon proof of each
424 allegation in the complaint:

425 (b) A temporary injunction against the person who received
426 the payment, subject to the bond requirements specified in court
427 rule ~~the Florida Rules of Civil Procedure~~.

428 Section 28. Subsection (4) of section 316.1934, Florida
429 Statutes, is amended to read:

430 316.1934 Presumption of impairment; testing methods.--

431 (4) Any person charged with a violation of s. 316.193,
432 whether in a municipality or not, is entitled to trial by jury
433 ~~according to the Florida Rules of Criminal Procedure~~.

434 Section 29. Subsection (4) of section 327.354, Florida
435 Statutes, is amended to read:

436 327.354 Presumption of impairment; testing methods.--

437 (4) Any person charged with a violation of s. 327.35 is
438 entitled to trial by jury ~~according to the Florida Rules of~~
439 ~~Criminal Procedure~~.

440 Section 30. Subsection (2) of section 364.183, Florida
441 Statutes, is amended to read:

442 364.183 Access to company records.--

443 (2) Discovery in any docket or proceeding before the
444 commission shall be in the manner provided for in ~~Rule 1.280 of~~
445 the Florida Rules of Civil Procedure. Upon a showing by a
446 company or other person and a finding by the commission that
447 discovery will require the disclosure of proprietary
448 confidential business information, the commission shall issue an
449 appropriate protective order designating the manner for handling
450 such information during the course of the proceeding and for
451 protecting such information from disclosure outside the
452 proceeding. Such proprietary confidential business information

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453 shall be exempt from s. 119.07(1). Any records provided pursuant
454 to a discovery request for which proprietary confidential
455 business information status is requested shall be treated by the
456 commission and the Office of the Public Counsel and any other
457 party subject to the public records law as confidential and
458 shall be exempt from s. 119.07(1), pending a formal ruling on
459 such request by the commission or the return of the records to
460 the person providing the records. Any record which has been
461 determined to be proprietary confidential business information
462 and is not entered into the official record of the proceeding
463 shall be returned to the person providing the record within 60
464 days after the final order, unless the final order is appealed.
465 If the final order is appealed, any such record shall be
466 returned within 30 days after the decision on appeal. The
467 commission shall adopt the necessary rules to implement this
468 subsection.

469 Section 31. Subsection (2) of section 366.093, Florida
470 Statutes, is amended to read:

471 366.093 Public utility records; confidentiality.--

472 (2) Discovery in any docket or proceeding before the
473 commission shall be in the manner provided for in ~~Rule 1.280~~ of
474 the Florida Rules of Civil Procedure. Information which affects
475 a utility's rates or cost of service shall be considered
476 relevant for purposes of discovery in any docket or proceeding
477 where the utility's rates or cost of service are at issue. The
478 commission shall determine whether information requested in
479 discovery affects a utility's rates or cost of service. Upon a
480 showing by a utility or other person and a finding by the
481 commission that discovery will require the disclosure of
482 proprietary confidential business information, the commission
483 shall issue appropriate protective orders designating the manner

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484 for handling such information during the course of the
485 proceeding and for protecting such information from disclosure
486 outside the proceeding. Such proprietary confidential business
487 information shall be exempt from s. 119.07(1). Any records
488 provided pursuant to a discovery request for which proprietary
489 confidential business information status is requested shall be
490 treated by the commission and the office of the Public Counsel
491 and any other party subject to the public records law as
492 confidential and shall be exempt from s. 119.07(1), pending a
493 formal ruling on such request by the commission or the return of
494 the records to the person providing the records. Any record
495 which has been determined to be proprietary confidential
496 business information and is not entered into the official record
497 of the proceeding must be returned to the person providing the
498 record within 60 days after the final order, unless the final
499 order is appealed. If the final order is appealed, any such
500 record must be returned within 30 days after the decision on
501 appeal. The commission shall adopt the necessary rules to
502 implement this provision.

503 Section 32. Subsection (2) of section 367.156, Florida
504 Statutes, is amended to read:

505 367.156 Public utility records; confidentiality.--

506 (2) Discovery in any docket or proceeding before the
507 commission shall be in the manner provided for in ~~Rule 1.280~~ of
508 the Florida Rules of Civil Procedure. Information which affects
509 a utility's rates or cost of service shall be considered
510 relevant for purposes of discovery in any docket or proceeding
511 where the utility's rates or cost of service are at issue. The
512 commission shall determine whether information requested in
513 discovery affects a utility's rates or cost of service. Upon
514 showing by a utility or other person and a finding by the

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515 commission that discovery will require the disclosure of
516 proprietary confidential business information, the commission
517 shall issue appropriate protective orders designating the manner
518 for handling such information during the course of the
519 proceeding and for protecting such information from disclosure
520 outside the proceeding. Such proprietary confidential business
521 information shall be exempt from s. 119.07(1). Any records
522 provided pursuant to a discovery request for which proprietary
523 confidential business information status is requested shall be
524 treated by the commission and the office of the Public Counsel
525 and any other party subject to the public records act as
526 confidential and shall be exempt from s. 119.07(1), pending a
527 formal ruling on such request by the commission or the return of
528 the records to the person providing the records. Any record
529 which has been determined to be proprietary confidential
530 business information and is not entered into the official record
531 of the proceeding must be returned to the person providing the
532 record within 60 days after the final order, unless the final
533 order is appealed. If the final order is appealed, any such
534 record must be returned within 30 days after the decision on
535 appeal. The commission shall adopt the necessary rules to
536 implement this provision.

537 Section 33. Subsection (2) of section 368.108, Florida
538 Statutes, is amended to read:

539 368.108 Confidentiality; discovery.--

540 (2) Discovery in any docket or proceeding before the
541 commission shall be in the manner provided for in ~~Rule 1.280~~ of
542 the Florida Rules of Civil Procedure. Information which affects
543 a natural gas transmission company's rates or cost of service
544 shall be considered relevant for purposes of discovery in any
545 docket or proceeding where the natural gas transmission

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546 company's rates or cost of service are at issue. The commission
547 shall determine whether information requested in discovery
548 affects a natural gas transmission company's rates or cost of
549 service. Upon a showing by a natural gas transmission company or
550 other person and a finding by the commission that discovery will
551 require the disclosure of proprietary confidential business
552 information, the commission shall issue appropriate protective
553 orders designating the manner for handling such information
554 during the course of the proceeding and for protecting such
555 information from disclosure outside the proceeding. Such
556 proprietary confidential business information shall be exempt
557 from s. 119.07(1). Any records provided pursuant to a discovery
558 request for which proprietary confidential business information
559 status is requested shall be treated by the commission and the
560 office of the Public Counsel and any other party subject to the
561 public records law as confidential and shall be exempt from s.
562 119.07(1) pending a formal ruling on such request by the
563 commission or the return of the records to the person providing
564 the records. Any record which has been determined to be
565 proprietary confidential business information and is not entered
566 into the official record of the proceeding must be returned to
567 the person providing the record within 60 days after the final
568 order, unless the final order is appealed. If the final order is
569 appealed, any such record must be returned within 30 days after
570 the decision on appeal. The commission shall adopt the necessary
571 rules to implement this provision.

572 Section 34. Subsection (1) of section 392.60, Florida
573 Statutes, is amended to read:

574 392.60 Right of appeal; immediate release.--

575 (1) Any person who is aggrieved by the entry of an order
576 under s. 392.55, s. 392.56, or s. 392.57 may ~~shall have the~~

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577 ~~period of time provided by the Florida Rules of Appellate~~
578 ~~Procedure within which to appeal an order of ~~from~~ the circuit~~
579 court. Every order entered under the terms of s. 392.55, s.
580 392.56, or s. 392.57 shall be executed immediately unless the
581 court entering such order or the appellate court, in its
582 discretion, enters a supersedeas order and fixes the terms and
583 conditions thereof.

584 Section 35. Paragraph (a) of subsection (12) of section
585 393.11, Florida Statutes, is amended to read:

586 393.11 Involuntary admission to residential services.--
587 (12) APPEAL.--

588 (a) Any party to the proceeding who is affected by an
589 order of the court, including the agency, may appeal ~~to the~~
590 ~~appropriate district court of appeal within the time and in the~~
591 ~~manner prescribed by the Florida Rules of Appellate Procedure.~~

592 Section 36. Paragraph (b) of subsection (1) of section
593 393.12, Florida Statutes, is amended to read:

594 393.12 Capacity; appointment of guardian advocate.--
595 (1) CAPACITY.--

596 (b) The issue of capacity of a person with developmental
597 disabilities shall be determined in a separate proceeding
598 according to the procedures and requirements of chapter 744 ~~and~~
599 ~~the Florida Probate Rules.~~

600 Section 37. Paragraph (a) of subsection (7), subsection
601 (10), and subsection (11) of section 400.0233, Florida Statutes,
602 are amended to read:

603 400.0233 Presuit notice; investigation; notification of
604 violation of resident's rights or alleged negligence; claims
605 evaluation procedure; informal discovery; review; settlement
606 offer; mediation.--

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607 (7) Informal discovery may be used by a party to obtain
608 unsworn statements and the production of documents or things as
609 follows:

610 (a) Unsworn statements.--Any party may require other
611 parties to appear for the taking of an unsworn statement. Such
612 statements may be used only for the purpose of claims evaluation
613 and are not discoverable or admissible in any civil action for
614 any purpose by any party. A party seeking to take the unsworn
615 statement of any party must give reasonable notice in writing to
616 all parties. The notice must state the time and place for taking
617 the statement and the name and address of the party to be
618 examined. Unless otherwise impractical, the examination of any
619 party must be done at the same time by all other parties. Any
620 party may be represented by counsel at the taking of an unsworn
621 statement. An unsworn statement may be recorded electronically,
622 stenographically, or on videotape. The procedure for the taking
623 of an unsworn statement shall be as if the statement were an
624 unsworn statement as provided in statements is subject to the
625 provisions of the Florida Rules of Civil Procedure related to
626 medical malpractice presuit screening. The taking of the
627 statement and may be terminated for abuses.

628 (10) To the extent not inconsistent with this part, the
629 provisions of chapter 44 and the Florida Mediation Code, Florida
630 Rules of Civil Procedure, shall be applicable to such
631 proceedings.

632 (11) Within 30 days after the claimant's receipt of the
633 defendant's response to the claim, the parties or their
634 designated representatives shall meet in mediation to discuss
635 the issues of liability and damages in accordance with chapter
636 44 and the mediation rules of practice and procedures adopted by
637 the Supreme Court and applicable to civil actions in circuit

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638 court. Upon stipulation of the parties, this 30-day period may
639 be extended and the statute of limitations is tolled during the
640 mediation and any such extension. At the conclusion of
641 mediation, the claimant shall have 60 days or the remainder of
642 the period of the statute of limitations, whichever is greater,
643 within which to file suit.

644 Section 38. Subsection (1) of section 400.0237, Florida
645 Statutes, is amended to read:

646 400.0237 Punitive damages; pleading; burden of proof.--

647 (1) In any action for damages brought under this part, no
648 claim for punitive damages shall be permitted unless there is a
649 reasonable showing by evidence in the record or proffered by the
650 claimant which would provide a reasonable basis for recovery of
651 such damages. ~~The claimant may move to amend her or his~~
652 ~~complaint to assert a claim for punitive damages as allowed by~~
653 ~~the rules of civil procedure.~~ The rules of civil procedure shall
654 be liberally construed so as to allow the claimant discovery of
655 evidence which appears reasonably calculated to lead to
656 admissible evidence on the issue of punitive damages. No
657 discovery of financial worth shall proceed until after the
658 pleading concerning punitive damages is permitted.

659 Section 39. Paragraph (m) of subsection (4) of section
660 409.2563, Florida Statutes, is amended to read:

661 409.2563 Administrative establishment of child support
662 obligations.--

663 (4) NOTICE OF PROCEEDING TO ESTABLISH ADMINISTRATIVE
664 SUPPORT ORDER.--To commence a proceeding under this section, the
665 department shall provide to the custodial parent and serve the
666 noncustodial parent with a notice of proceeding to establish
667 administrative support order and a blank financial affidavit
668 form. The notice must state:

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669 (m) That, neither the department nor the Division of
670 Administrative Hearings has jurisdiction to award or change
671 child custody or rights of parental contact and these issues may
672 only be addressed in circuit court.

673 1. The noncustodial parent may request in writing that the
674 department proceed in circuit court to determine his or her
675 support obligations.

676 2. The noncustodial parent may state in writing to the
677 department his or her intention to address issues concerning
678 custody or rights to parental contact in circuit court.

679 3. If the noncustodial parent submits the request
680 authorized in subparagraph 1., or the statement authorized in
681 subparagraph 2. to the department within 20 days after the
682 receipt of the initial notice, the department shall file a
683 petition in circuit court for the determination of the
684 noncustodial parent's child support obligations, and shall send
685 to the noncustodial parent a copy of its petition, a notice of
686 commencement of action, and a request for waiver of service of
687 process ~~as provided in the Florida Rules of Civil Procedure.~~

688 4. If, within 10 days after receipt of the department's
689 petition and waiver of service, the noncustodial parent signs
690 and returns the waiver of service form to the department, the
691 department shall terminate the administrative proceeding without
692 prejudice and proceed in circuit court.

693 5. In any circuit court action filed by the department
694 pursuant to this paragraph or filed by a noncustodial parent or
695 other person pursuant to paragraph (l) or paragraph (n), the
696 department shall be a party only with respect to those issues of
697 support allowed and reimbursable under Title IV-D of the Social
698 Security Act. It is the responsibility of the noncustodial

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699 parent or other person to take the necessary steps to present
700 other issues for the court to consider.

701
702 The department may serve the notice of proceeding to establish
703 administrative support order by certified mail, restricted
704 delivery, return receipt requested. Alternatively, the
705 department may serve the notice by any means permitted for
706 service of process in a civil action. For purposes of this
707 section, an authorized employee of the department may serve the
708 notice and execute an affidavit of service. Service by certified
709 mail is completed when the certified mail is received or refused
710 by the addressee or by an authorized agent as designated by the
711 addressee in writing. If a person other than the addressee signs
712 the return receipt, the department shall attempt to reach the
713 addressee by telephone to confirm whether the notice was
714 received, and the department shall document any telephonic
715 communications. If someone other than the addressee signs the
716 return receipt, the addressee does not respond to the notice,
717 and the department is unable to confirm that the addressee has
718 received the notice, service is not completed and the department
719 shall attempt to have the addressee served personally. The
720 department shall provide the custodial parent or caretaker
721 relative with a copy of the notice by regular mail to the last
722 known address of the custodial parent or caretaker.

723 Section 40. Subsection (4) of section 409.257, Florida
724 Statutes, is amended to read:

725 409.257 Service of process.--

726 (4) Notices and other intermediate process, except witness
727 subpoenas, shall be served by the department as provided for in
728 court rule ~~the Florida Rules of Civil Procedure~~.

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729 Section 41. Paragraph (b) of subsection (2) of section
730 415.1045, Florida Statutes, is amended to read:

731 415.1045 Photographs, videotapes, and medical
732 examinations; abrogation of privileged communications;
733 confidential records and documents.--

734 (2) MEDICAL EXAMINATIONS.--

735 (b) Upon admission to a hospital or health care facility,
736 with the consent of the vulnerable adult who has capacity to
737 consent or that person's guardian, or pursuant to s. 415.1051,
738 the medical staff of the facility may examine, diagnose, or
739 treat the vulnerable adult. If a person who has legal authority
740 to give consent for the provision of medical treatment to a
741 vulnerable adult has not given or has refused to give such
742 consent, examination and treatment must be limited to reasonable
743 examination of the patient to determine the medical condition of
744 the patient and treatment reasonably necessary to alleviate the
745 medical condition or to stabilize the patient pending a
746 determination by the court of the department's petition
747 authorizing protective services. Any person may seek an
748 expedited judicial intervention under ~~rule 5.900~~ of the Florida
749 Probate Rules concerning medical treatment procedures.

750 Section 42. Paragraph (c) of subsection (2) of section
751 415.1051, Florida Statutes, is amended to read:

752 415.1051 Protective services interventions when capacity
753 to consent is lacking; nonemergencies; emergencies; orders;
754 limitations.--

755 (2) EMERGENCY PROTECTIVE SERVICES INTERVENTION.--If the
756 department has reasonable cause to believe that a vulnerable
757 adult is suffering from abuse or neglect that presents a risk of
758 death or serious physical injury to the vulnerable adult and
759 that the vulnerable adult lacks the capacity to consent to

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760 emergency protective services, the department may take action
761 under this subsection. If the vulnerable adult has the capacity
762 to consent and refuses consent to emergency protective services,
763 emergency protective services may not be provided.

764 (c) Emergency medical treatment.--If, upon admission to a
765 medical facility, it is the opinion of the medical staff that
766 immediate medical treatment is necessary to prevent serious
767 physical injury or death, and that such treatment does not
768 violate a known health care advance directive prepared by the
769 vulnerable adult, the medical facility may proceed with
770 treatment to the vulnerable adult. If a person with legal
771 authority to give consent for the provision of medical treatment
772 to a vulnerable adult has not given or has refused to give such
773 consent, examination and treatment must be limited to reasonable
774 examination of the patient to determine the medical condition of
775 the patient and treatment reasonably necessary to alleviate the
776 emergency medical condition or to stabilize the patient pending
777 court determination of the department's petition authorizing
778 emergency protective services. Any person may seek an expedited
779 judicial intervention under ~~rule 5.900~~ of the Florida Probate
780 Rules concerning medical treatment procedures.

781 Section 43. Paragraph (a) of subsection (7), subsection
782 (10), and subsection (11) of section 429.293, Florida Statutes,
783 are amended to read:

784 429.293 Presuit notice; investigation; notification of
785 violation of residents' rights or alleged negligence; claims
786 evaluation procedure; informal discovery; review; settlement
787 offer; mediation.--

788 (7) Informal discovery may be used by a party to obtain
789 unsworn statements and the production of documents or things, as
790 follows:

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791 (a) Unsworn statements.--Any party may require other
792 parties to appear for the taking of an unsworn statement. Such
793 statements may be used only for the purpose of claims evaluation
794 and are not discoverable or admissible in any civil action for
795 any purpose by any party. A party seeking to take the unsworn
796 statement of any party must give reasonable notice in writing to
797 all parties. The notice must state the time and place for taking
798 the statement and the name and address of the party to be
799 examined. Unless otherwise impractical, the examination of any
800 party must be done at the same time by all other parties. Any
801 party may be represented by counsel at the taking of an unsworn
802 statement. An unsworn statement may be recorded electronically,
803 stenographically, or on videotape. The procedure for the taking
804 of an unsworn statement shall be as if the statement were an
805 unsworn statement as provided in statements is subject to the
806 provisions of the Florida Rules of Civil Procedure related to
807 medical malpractice presuit screening. The taking of the
808 statement and may be terminated for abuses.

809 (10) To the extent not inconsistent with this part, the
810 provisions of chapter 44 and the Florida Mediation Code, Florida
811 Rules of Civil Procedure, shall be applicable to such
812 proceedings.

813 (11) Within 30 days after the claimant's receipt of
814 defendant's response to the claim, the parties or their
815 designated representatives shall meet in mediation to discuss
816 the issues of liability and damages in accordance with chapter
817 44 and the mediation rules of practice and procedures adopted by
818 the Supreme Court and applicable to civil actions in circuit
819 court. Upon stipulation of the parties, this 30-day period may
820 be extended and the statute of limitations is tolled during the
821 mediation and any such extension. At the conclusion of

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822 mediation, the claimant shall have 60 days or the remainder of
823 the period of the statute of limitations, whichever is greater,
824 within which to file suit.

825 Section 44. Subsection (1) of section 429.297, Florida
826 Statutes, is amended to read:

827 429.297 Punitive damages; pleading; burden of proof.--

828 (1) In any action for damages brought under this part, no
829 claim for punitive damages shall be permitted unless there is a
830 reasonable showing by evidence in the record or proffered by the
831 claimant which would provide a reasonable basis for recovery of
832 such damages. ~~The claimant may move to amend her or his~~
833 ~~complaint to assert a claim for punitive damages as allowed by~~
834 ~~the rules of civil procedure.~~ The rules of civil procedure shall
835 be liberally construed so as to allow the claimant discovery of
836 evidence which appears reasonably calculated to lead to
837 admissible evidence on the issue of punitive damages. No
838 discovery of financial worth shall proceed until after the
839 pleading concerning punitive damages is permitted.

840 Section 45. Section 440.31, Florida Statutes, is amended
841 to read:

842 440.31 Witness fees.--

843 (1) Each witness who appears in obedience to a subpoena is
844 ~~shall be~~ entitled to the same fees as witnesses in a civil
845 action in the circuit court. ~~; however, any~~

846 (2) Each expert witness, ~~as defined in Rule 1.390(a) of the~~
847 ~~Florida Rules of Civil Procedure,~~ who testifies shall have
848 testified in any proceeding under this chapter shall be allowed
849 a witness fee, including the cost of any exhibits used by such
850 witness, in such reasonable amount as the judge of compensation
851 claims may determine, not in excess of the rate prevailing in
852 the locality for witness fees for such expert witnesses in

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853 workers' compensation proceedings, notwithstanding the
854 limitation provided in s. 92.231. As used in this subsection, an
855 expert witness is a person duly and regularly engaged in the
856 practice of a profession who holds a professional degree from a
857 university or college and who has had special professional
858 training and experience, or a person possessed of special
859 knowledge or skill about the subject upon which he or she is
860 called to testify.

861 Section 46. Subsection (2) of section 447.507, Florida
862 Statutes, is amended to read:

863 447.507 Violation of strike prohibition; penalties.--

864 (2) If a public employee, a group of employees, an
865 employee organization, or any officer, agent, or representative
866 of any employee organization engages in a strike in violation of
867 s. 447.505, either the commission or any public employer whose
868 employees are involved or whose employees may be affected by the
869 strike may file suit to enjoin the strike ~~in the circuit court~~
870 ~~having proper jurisdiction and proper venue of such actions~~
871 ~~under the Florida Rules of Civil Procedure and Florida Statutes.~~
872 The circuit court shall conduct a hearing, with notice to the
873 commission and to all interested parties, at the earliest
874 practicable time. If the plaintiff makes a prima facie showing
875 that a violation of s. 447.505 is in progress or that there is a
876 clear, real, and present danger that such a strike is about to
877 commence, the circuit court shall issue a temporary injunction
878 enjoining the strike. Upon final hearing, the circuit court
879 shall either make the injunction permanent or dissolve it.

880 Section 47. Subsection (9) of section 448.110, Florida
881 Statutes, is amended to read:

882 448.110 State minimum wage; annual wage adjustment;
883 enforcement.--

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884 (9) Actions brought pursuant to this section may be
885 brought as a class action ~~pursuant to Rule 1.220, Florida Rules~~
886 ~~of Civil Procedure~~. In any class action brought pursuant to this
887 section, the plaintiffs shall prove, by a preponderance of the
888 evidence, the individual identity of each class member and the
889 individual damages of each class member.

890 Section 48. Paragraph (a) of subsection (7) of section
891 456.057, Florida Statutes, is amended to read:

892 456.057 Ownership and control of patient records; report
893 or copies of records to be furnished.--

894 (7) (a) Except as otherwise provided in this section and in
895 s. 440.13(4)(c), such records may not be furnished to, and the
896 medical condition of a patient may not be discussed with, any
897 person other than the patient or the patient's legal
898 representative or other health care practitioners and providers
899 involved in the care or treatment of the patient, except upon
900 written authorization of the patient. However, such records may
901 be furnished without written authorization under the following
902 circumstances:

903 1. To any person, firm, or corporation that has procured
904 or furnished such examination or treatment with the patient's
905 consent.

906 2. When compulsory physical examination is made in a civil
907 action pursuant to court rule. 1.360, Florida Rules of Civil
908 Procedure, in which case Copies of the medical records shall be
909 furnished to parties entitled to such records under the rule
910 ~~both the defendant and the plaintiff.~~

911 3. In any civil or criminal action, unless otherwise
912 prohibited by law, upon the issuance of a subpoena from a court
913 of competent jurisdiction and proper notice to the patient or

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914 the patient's legal representative by the party seeking such
915 records.

916 4. For statistical and scientific research, provided the
917 information is abstracted in such a way as to protect the
918 identity of the patient or provided written permission is
919 received from the patient or the patient's legal representative.

920 5. To a regional poison control center for purposes of
921 treating a poison episode under evaluation, case management of
922 poison cases, or compliance with data collection and reporting
923 requirements of s. 395.1027 and the professional organization
924 that certifies poison control centers in accordance with federal
925 law.

926 Section 49. Paragraph (b) of subsection (3) of section
927 518.112, Florida Statutes, is amended to read:

928 518.112 Delegation of investment functions.--

929 (3) A fiduciary may delegate investment functions to an
930 investment agent under subsection (1) or subsection (2), if:

931 (b) In the case of a trust or estate, the fiduciary has
932 given written notice, of its intention to begin delegating
933 investment functions under this section, to all beneficiaries,
934 or their legal representative, eligible to receive distributions
935 from the trust or estate within 30 days of the delegation unless
936 such notice is waived by the eligible beneficiaries entitled to
937 receive such notice. This notice shall thereafter, until or
938 unless the beneficiaries eligible to receive income from the
939 trust or distributions from the estate at the time are notified
940 to the contrary, authorize the trustee or legal representative
941 to delegate investment functions pursuant to this subsection.
942 This discretion to revoke the delegation does not imply under
943 subsection (2) any continuing obligation to review the agent's
944 actions.

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945 1. Notice to beneficiaries eligible to receive
946 distributions from the trust from the estate, or their legal
947 representatives shall be sufficient notice to all persons who
948 may join the eligible class of beneficiaries in the future.

949 2. Additionally, as used herein, legal representative
950 includes one described in s. 731.303, without any requirement of
951 a court order, an attorney-in-fact under a durable power of
952 attorney sufficient to grant such authority, a legally appointed
953 guardian, or equivalent under applicable law, any living,
954 natural guardian of a minor child, or a guardian ad litem.

955 3. Written notice shall be:

956 a. By any form of mail or by any commercial delivery
957 service, approved for service of process by the chief judge of
958 the judicial circuit in which the trust has its principal place
959 of business at the date of notice, requiring a signed receipt;

960 b. As provided by law for service of process; or

961 ~~c. By an elisor as may be provided in the Florida Rules of~~
962 ~~Civil Procedure.~~

963
964 Notice by mail or by approved commercial delivery service is
965 complete on receipt of notice. Proof of notice must be by
966 verified statement of the person mailing or sending notice, and
967 there must be attached thereto the signed receipt or other
968 satisfactory evidence that delivery was effected on the
969 addressee or on the addressee's agent. Proof of notice must be
970 maintained among the trustee's permanent records.

971 Section 50. Subsection (4) of section 552.40, Florida
972 Statutes, is amended to read:

973 552.40 Administrative remedy for alleged damage due to the
974 use of explosives in connection with construction materials
975 mining activities.--

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976 (4) The administrative judge shall issue an order
977 directing mediation ~~under Rule 1700 et seq., Florida Rules of~~
978 ~~Civil Procedure~~. The parties shall jointly select a mediator and
979 the location of mediation. If the parties fail to do so within
980 30 days after the order for mediation is issued, the
981 administrative law judge shall designate the mediator and the
982 location of mediation. Petitioner and respondent shall each pay
983 one-half of the cost of mediation. If the petitioner's annual
984 income is less than 150 percent of the applicable federal
985 poverty guideline published in the Federal Register by the
986 United States Department of Health and Human Services, the
987 respondent shall bear the full cost of mediation. The mediation
988 must be concluded within 60 days after the date of designation
989 of the mediator unless the parties agree upon a different date.

990 Section 51. Paragraph (b) of subsection (1) and subsection
991 (5) of section 607.0505, Florida Statutes, are amended to read:

992 607.0505 Registered agent; duties.--

993 (1)

994 (b) Each such corporation, foreign corporation, or alien
995 business organization which fails to have and continuously
996 maintain a registered office and a registered agent as required
997 in this section will be liable to this state for \$500 for each
998 year, or part of a year, during which the corporation, foreign
999 corporation, or alien business organization fails to comply with
1000 these requirements; but such liability will be forgiven in full
1001 upon the compliance by the corporation, foreign corporation, or
1002 alien business organization with the requirements of this
1003 subsection, even if such compliance occurs after an action to
1004 collect such liability is instituted. The Department of Legal
1005 Affairs may file an action in the circuit court for the judicial
1006 circuit in which the corporation, foreign corporation, or alien

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1007 business organization is found or transacts business, or in
1008 which real property belonging to the corporation, foreign
1009 corporation, or alien business organization is located, to
1010 petition the court for an order directing that a registered
1011 agent be appointed and that a registered office be designated,
1012 and to obtain judgment for the amount owed under this
1013 subsection. In connection with such proceeding, the department
1014 may, without prior approval by the court, file a lis pendens
1015 against real property owned by the corporation, foreign
1016 corporation, or alien business organization, which lis pendens
1017 shall set forth the legal description of the real property and
1018 shall be filed in the public records of the county where the
1019 real property is located. If the lis pendens is filed in any
1020 county other than the county in which the action is pending, the
1021 lis pendens which is filed must be a certified copy of the
1022 original lis pendens. The failure to comply timely or fully with
1023 an order directing that a registered agent be appointed and that
1024 a registered office be designated will result in a civil penalty
1025 of not more than \$1,000 for each day of noncompliance. A
1026 judgment or an order of payment entered pursuant to this
1027 subsection will become a judgment lien against any real property
1028 owned by the corporation, foreign corporation, or alien business
1029 organization when a certified copy of the judgment or order is
1030 recorded as required by s. 55.10. ~~The department will be able to~~
1031 ~~avail itself of, and is entitled to use, any provision of law or~~
1032 ~~of the Florida Rules of Civil Procedure to further the~~
1033 ~~collecting or obtaining of payment pursuant to a judgment or~~
1034 ~~order of payment.~~ The state, through the Attorney General, may
1035 bid, at any judicial sale to enforce its judgment lien, any
1036 amount up to the amount of the judgment or lien obtained
1037 pursuant to this subsection. All moneys recovered under this

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1038 subsection shall be treated as forfeitures under ss. 895.01-
1039 895.09 and used or distributed in accordance with the procedure
1040 set forth in s. 895.09. A corporation, foreign corporation, or
1041 alien business organization which fails to have and continuously
1042 maintain a registered office and a registered agent as required
1043 in this section may not defend itself against any action
1044 instituted by the Department of Legal Affairs or by any other
1045 agency of this state until the requirements of this subsection
1046 have been met.

1047 (5) If a corporation, foreign corporation, or alien
1048 business organization fails without lawful excuse to comply
1049 timely or fully with a subpoena issued pursuant to subsection
1050 (2), the Department of Legal Affairs may file an action in the
1051 circuit court for the judicial circuit in which the corporation,
1052 foreign corporation, or alien business organization is found or
1053 transacts business or in which real property belonging to the
1054 corporation, foreign corporation, or alien business organization
1055 is located, for an order compelling compliance with the
1056 subpoena. The failure without a lawful excuse to comply timely
1057 or fully with an order compelling compliance with the subpoena
1058 will result in a civil penalty of not more than \$1,000 for each
1059 day of noncompliance with the order. In connection with such
1060 proceeding, the department may, without prior approval by the
1061 court, file a lis pendens against real property owned by the
1062 corporation, foreign corporation, or alien business
1063 organization, which lis pendens shall set forth the legal
1064 description of the real property and shall be filed in the
1065 public records of the county where the real property is located.
1066 If the lis pendens is filed in any county other than the county
1067 in which the action is pending, the lis pendens which is filed
1068 must be a certified copy of the original lis pendens. A judgment

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1069 or an order of payment entered pursuant to this subsection will
1070 become a judgment lien against any real property owned by the
1071 corporation, foreign corporation, or alien business organization
1072 when a certified copy of the judgment or order is recorded as
1073 required by s. 55.10. ~~The department will be able to avail~~
1074 ~~itself of, and is entitled to use, any provision of law or of~~
1075 ~~the Florida Rules of Civil Procedure to further the collecting~~
1076 ~~or obtaining of payment pursuant to a judgment or order of~~
1077 ~~payment.~~ The state, through the Attorney General, may bid, at
1078 any judicial sale to enforce its judgment lien, an amount up to
1079 the amount of the judgment or lien obtained pursuant to this
1080 subsection. All moneys recovered under this subsection shall be
1081 treated as forfeitures under ss. 895.01-895.09 and used or
1082 distributed in accordance with the procedure set forth in s.
1083 895.09.

1084 Section 52. Paragraph (b) of subsection (1) and subsection
1085 (5) of section 617.0503, Florida Statutes, are amended to read:

1086 617.0503 Registered agent; duties; confidentiality of
1087 investigation records.--

1088 (1)

1089 (b) Each such corporation, foreign corporation, or alien
1090 business organization that fails to have and continuously
1091 maintain a registered office and a registered agent as required
1092 in this section is liable to this state for \$500 for each year,
1093 or part of a year, during which the corporation, foreign
1094 corporation, or alien business organization fails to comply with
1095 these requirements; but this liability is forgiven in full upon
1096 the compliance by the corporation, foreign corporation, or alien
1097 business organization with the requirements of this subsection,
1098 even if that compliance occurs after an action to collect such
1099 amount is instituted. The Department of Legal Affairs may file

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1100 an action in the circuit court for the judicial circuit in which
1101 the corporation, foreign corporation, or alien business
1102 organization is found or transacts business, or in which real
1103 property belonging to the corporation, foreign corporation, or
1104 alien business organization is located, to petition the court
1105 for an order directing that a registered agent be appointed and
1106 that a registered office be designated, and to obtain judgment
1107 for the amount owed under this subsection. In connection with
1108 such proceeding, the department may, without prior approval by
1109 the court, file a lis pendens against real property owned by the
1110 corporation, foreign corporation, or alien business
1111 organization, which lis pendens shall set forth the legal
1112 description of the real property and shall be filed in the
1113 public records of the county where the real property is located.
1114 If the lis pendens is filed in any county other than the county
1115 in which the action is pending, the lis pendens that is filed
1116 must be a certified copy of the original lis pendens. The
1117 failure to comply timely or fully with an order directing that a
1118 registered agent be appointed and that a registered office be
1119 designated will result in a civil penalty of not more than
1120 \$1,000 for each day of noncompliance. A judgment or an order of
1121 payment entered under this subsection becomes a judgment lien
1122 against any real property owned by the corporation, foreign
1123 corporation, or alien business organization when a certified
1124 copy of the judgment or order is recorded as required by s.
1125 55.10. ~~The department may avail itself of, and is entitled to~~
1126 ~~use, any provision of law or of the Florida Rules of Civil~~
1127 ~~Procedure to further the collecting or obtaining of payment~~
1128 ~~pursuant to a judgment or order of payment.~~ The state, through
1129 the Attorney General, may bid, at any judicial sale to enforce
1130 its judgment lien, any amount up to the amount of the judgment

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1131 or lien obtained pursuant to this subsection. All moneys
1132 recovered under this subsection shall be treated as forfeitures
1133 under ss. 895.01-895.09 and used or distributed in accordance
1134 with the procedure set forth in s. 895.09. A corporation,
1135 foreign corporation, or alien business organization that fails
1136 to have and continuously maintain a registered office and a
1137 registered agent as required in this section may not defend
1138 itself against any action instituted by the Department of Legal
1139 Affairs or by any other agency of this state until the
1140 requirements of this subsection have been met.

1141 (5) If a corporation, foreign corporation, or alien
1142 business organization fails without lawful excuse to comply
1143 timely or fully with a subpoena issued pursuant to subsection
1144 (2), the Department of Legal Affairs may file an action in the
1145 circuit court for the judicial circuit in which the corporation,
1146 foreign corporation, or alien business organization is found or
1147 transacts business or in which real property belonging to the
1148 corporation, foreign corporation, or alien business organization
1149 is located, for an order compelling compliance with the
1150 subpoena. The failure without a lawful excuse to comply timely
1151 or fully with an order compelling compliance with the subpoena
1152 will result in a civil penalty of not more than \$1,000 for each
1153 day of noncompliance with the order. In connection with such
1154 proceeding, the department may, without prior approval by the
1155 court, file a lis pendens against real property owned by the
1156 corporation, foreign corporation, or alien business
1157 organization, which lis pendens shall set forth the legal
1158 description of the real property and shall be filed in the
1159 public records of the county where the real property is located.
1160 If the lis pendens is filed in any county other than the county
1161 in which the action is pending, the lis pendens that is filed

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1162 must be a certified copy of the original lis pendens. A judgment
1163 or an order of payment entered pursuant to this subsection will
1164 become a judgment lien against any real property owned by the
1165 corporation, foreign corporation, or alien business organization
1166 when a certified copy of the judgment or order is recorded as
1167 required by s. 55.10. ~~The department may avail itself of, and is~~
1168 ~~entitled to use, any provision of law or of the Florida Rules of~~
1169 ~~Civil Procedure to further the collecting or obtaining of~~
1170 ~~payment pursuant to a judgment or order of payment.~~ The state,
1171 through the Attorney General, may bid at any judicial sale to
1172 enforce its judgment lien, an amount up to the amount of the
1173 judgment or lien obtained pursuant to this subsection. All
1174 moneys recovered under this subsection shall be treated as
1175 forfeitures under ss. 895.01-895.09 and used or distributed in
1176 accordance with the procedure set forth in s. 895.09.

1177 Section 53. Subsection (1) of section 655.059, Florida
1178 Statutes, is amended to read:

1179 655.059 Access to books and records; confidentiality;
1180 penalty for disclosure.--

1181 (1) The books and records of a financial institution are
1182 confidential and shall be made available for inspection and
1183 examination only:

1184 (a) To the office or its duly authorized representative;

1185 (b) To any person duly authorized to act for the financial
1186 institution;

1187 (c) To any federal or state instrumentality or agency
1188 authorized to inspect or examine the books and records of an
1189 insured financial institution;

1190 (d) With respect to an international banking corporation,
1191 to the home-country supervisor of the corporation, provided:

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1192 1. The supervisor provides advance notice to the office
1193 that the supervisor intends to examine the Florida office of the
1194 corporation.

1195 2. The supervisor confirms to the office that the purpose
1196 of the examination is to ensure the safety and soundness of the
1197 corporation.

1198 3. The books and records pertaining to customer deposit,
1199 investment, and custodial accounts are not disclosed to the
1200 supervisor.

1201 4. At any time during the conduct of the examination, the
1202 office reserves the right to have an examiner present or to
1203 participate jointly in the examination.

1204
1205 For purposes of this paragraph, "home-country supervisor" means
1206 the governmental entity in the corporation's home country with
1207 responsibility for the supervision and regulation of the
1208 corporation;

1209 (e) As compelled by a court of competent jurisdiction,
1210 pursuant to a subpoena issued ~~pursuant to the Florida Rules of~~
1211 ~~Civil Procedure, the Florida Rules of Criminal Procedure, or the~~
1212 ~~Federal Rules of Civil Procedure, or pursuant to a subpoena~~
1213 ~~issued~~ in accordance with state or federal law. Prior to the
1214 production of the books and records of a financial institution,
1215 the party seeking production must reimburse the financial
1216 institution for the reasonable costs and fees incurred in
1217 compliance with the production. If the parties disagree
1218 regarding the amount of reimbursement, the party seeking the
1219 records may request the court or agency having jurisdiction to
1220 set the amount of reimbursement;

1221 (f) As compelled by legislative subpoena as provided by
1222 law, in which case the provisions of s. 655.057 apply;

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1223 (g) Pursuant to a subpoena, to any federal or state law
1224 enforcement or prosecutorial instrumentality authorized to
1225 investigate suspected criminal activity;

1226 (h) As authorized by the board of directors of the
1227 financial institution; or

1228 (i) As provided in subsection (2).

1229 Section 54. Paragraph (b) of subsection (4) of section
1230 713.346, Florida Statutes, is amended to read:

1231 713.346 Payment on construction contracts.--

1232 (4) After service of the complaint, the court shall
1233 conduct an evidentiary hearing on the complaint, upon not less
1234 than 15 days' written notice. The person providing labor,
1235 services, or materials is entitled to the following remedies to
1236 the extent of the undisputed amount due for labor or services
1237 performed or materials supplied, and upon proof of each
1238 allegation in the complaint:

1239 (b) A temporary injunction against the person who received
1240 the payment, ~~subject to the bond requirements specified in the~~
1241 ~~Florida Rules of Civil Procedure.~~

1242 Section 55. Paragraph (h) of subsection (4) of section
1243 718.1255, Florida Statutes, is amended to read:

1244 718.1255 Alternative dispute resolution; voluntary
1245 mediation; mandatory nonbinding arbitration; legislative
1246 findings.--

1247 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF
1248 DISPUTES.--The Division of Florida Land Sales, Condominiums, and
1249 Mobile Homes of the Department of Business and Professional
1250 Regulation shall employ full-time attorneys to act as
1251 arbitrators to conduct the arbitration hearings provided by this
1252 chapter. The division may also certify attorneys who are not
1253 employed by the division to act as arbitrators to conduct the

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1254 arbitration hearings provided by this section. No person may be
1255 employed by the department as a full-time arbitrator unless he
1256 or she is a member in good standing of The Florida Bar. The
1257 department shall promulgate rules of procedure to govern such
1258 arbitration hearings including mediation incident thereto. The
1259 decision of an arbitrator shall be final; however, such a
1260 decision shall not be deemed final agency action. Nothing in
1261 this provision shall be construed to foreclose parties from
1262 proceeding in a trial de novo unless the parties have agreed
1263 that the arbitration is binding. If such judicial proceedings
1264 are initiated, the final decision of the arbitrator shall be
1265 admissible in evidence in the trial de novo.

1266 (h) Mediation proceedings must generally be conducted in
1267 accordance with chapter 44 ~~the Florida Rules of Civil Procedure,~~
1268 ~~and these proceedings are privileged and confidential to the~~
1269 ~~same extent as court-ordered mediation.~~ Persons who are not
1270 parties to the dispute are not allowed to attend the mediation
1271 conference without the consent of all parties, with the
1272 exception of counsel for the parties and corporate
1273 representatives designated to appear for a party. If the
1274 mediator declares an impasse after a mediation conference has
1275 been held, the arbitration proceeding terminates, unless all
1276 parties agree in writing to continue the arbitration proceeding,
1277 in which case the arbitrator's decision shall be either binding
1278 or nonbinding, as agreed upon by the parties; in the arbitration
1279 proceeding, the arbitrator shall not consider any evidence
1280 relating to the unsuccessful mediation except in a proceeding to
1281 impose sanctions for failure to appear at the mediation
1282 conference. If the parties do not agree to continue arbitration,
1283 the arbitrator shall enter an order of dismissal, and either
1284 party may institute a suit in a court of competent jurisdiction.

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1285 The parties may seek to recover any costs and attorneys' fees
1286 incurred in connection with arbitration and mediation
1287 proceedings under this section as part of the costs and fees
1288 that may be recovered by the prevailing party in any subsequent
1289 litigation.

1290 Section 56. Paragraph (a) of subsection (2) of section
1291 720.311, Florida Statutes, is amended to read:

1292 720.311 Dispute resolution.--

1293 (2)(a) Disputes between an association and a parcel owner
1294 regarding use of or changes to the parcel or the common areas
1295 and other covenant enforcement disputes, disputes regarding
1296 amendments to the association documents, disputes regarding
1297 meetings of the board and committees appointed by the board,
1298 membership meetings not including election meetings, and access
1299 to the official records of the association shall be the subject
1300 of a demand for presuit mediation served by an aggrieved party
1301 before the dispute is filed in court. Presuit mediation
1302 proceedings must be conducted in accordance with chapter 44 ~~the~~
1303 ~~applicable Florida Rules of Civil Procedure, and these~~
1304 ~~proceedings are privileged and confidential to the same extent~~
1305 ~~as court-ordered mediation.~~ Disputes subject to presuit
1306 mediation under this section shall not include the collection of
1307 any assessment, fine, or other financial obligation, including
1308 attorney's fees and costs, claimed to be due or any action to
1309 enforce a prior mediation settlement agreement between the
1310 parties. Also, in any dispute subject to presuit mediation under
1311 this section where emergency relief is required, a motion for
1312 temporary injunctive relief may be filed with the court without
1313 first complying with the presuit mediation requirements of this
1314 section. After any issues regarding emergency or temporary
1315 relief are resolved, the court may either refer the parties to a

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1316 mediation program administered by the courts or require
1317 mediation under this section. An arbitrator or judge may not
1318 consider any information or evidence arising from the presuit
1319 mediation proceeding except in a proceeding to impose sanctions
1320 for failure to attend a presuit mediation session or to enforce
1321 a mediated settlement agreement. Persons who are not parties to
1322 the dispute may not attend the presuit mediation conference
1323 without the consent of all parties, except for counsel for the
1324 parties and a corporate representative designated by the
1325 association. When mediation is attended by a quorum of the
1326 board, such mediation is not a board meeting for purposes of
1327 notice and participation set forth in s. 720.303. An aggrieved
1328 party shall serve on the responding party a written demand to
1329 participate in presuit mediation in substantially the following
1330 form:

1331

1332

1333 STATUTORY OFFER TO PARTICIPATE

1334

1335

1336 IN PRESUIT MEDIATION

1337

1338

1339 The alleged aggrieved party, _____, hereby
1340 demands that _____, as the responding party,
1341 engage in mandatory presuit mediation in connection with the
1342 following disputes, which by statute are of a type that are
1343 subject to presuit mediation:

1344

1345

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1346 (List specific nature of the dispute or disputes to be mediated
1347 and the authority supporting a finding of a violation as to each
1348 dispute.)

1349
1350
1351 Pursuant to section 720.311, Florida Statutes, this demand to
1352 resolve the dispute through presuit mediation is required before
1353 a lawsuit can be filed concerning the dispute. Pursuant to the
1354 statute, the parties are required to engage in presuit mediation
1355 with a neutral third-party mediator in order to attempt to
1356 resolve this dispute without court action, and the aggrieved
1357 party demands that you likewise agree to this process. If you
1358 fail to participate in the mediation process, suit may be
1359 brought against you without further warning.

1360
1361
1362 The process of mediation involves a supervised negotiation
1363 process in which a trained, neutral third-party mediator meets
1364 with both parties and assists them in exploring possible
1365 opportunities for resolving part or all of the dispute. By
1366 agreeing to participate in presuit mediation, you are not bound
1367 in any way to change your position. Furthermore, the mediator
1368 has no authority to make any decisions in this matter or to
1369 determine who is right or wrong and merely acts as a facilitator
1370 to ensure that each party understands the position of the other
1371 party and that all options for reasonable settlement are fully
1372 explored.

1373
1374
1375 If an agreement is reached, it shall be reduced to writing and
1376 becomes a binding and enforceable commitment of the parties. A

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1377 resolution of one or more disputes in this fashion avoids the
1378 need to litigate these issues in court. The failure to reach an
1379 agreement, or the failure of a party to participate in the
1380 process, results in the mediator declaring an impasse in the
1381 mediation, after which the aggrieved party may proceed to court
1382 on all outstanding, unsettled disputes. If you have failed or
1383 refused to participate in the entire mediation process, you will
1384 not be entitled to recover attorney's fees, even if you prevail.
1385

1386
1387 The aggrieved party has selected and hereby lists five certified
1388 mediators who we believe to be neutral and qualified to mediate
1389 the dispute. You have the right to select any one of these
1390 mediators. The fact that one party may be familiar with one or
1391 more of the listed mediators does not mean that the mediator
1392 cannot act as a neutral and impartial facilitator. Any mediator
1393 who cannot act in this capacity is required ethically to decline
1394 to accept engagement. The mediators that we suggest, and their
1395 current hourly rates, are as follows:
1396

1397
1398 (List the names, addresses, telephone numbers, and hourly rates
1399 of the mediators. Other pertinent information about the
1400 background of the mediators may be included as an attachment.)
1401

1402
1403 You may contact the offices of these mediators to confirm that
1404 the listed mediators will be neutral and will not show any
1405 favoritism toward either party. The Florida Supreme Court can
1406 provide you a list of certified mediators.
1407

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1408

1409 Unless otherwise agreed by the parties, section 720.311(2)(b),
1410 Florida Statutes, requires that the parties share the costs of
1411 presuit mediation equally, including the fee charged by the
1412 mediator. An average mediation may require three to four hours
1413 of the mediator's time, including some preparation time, and the
1414 parties would need to share equally the mediator's fees as well
1415 as their own attorney's fees if they choose to employ an
1416 attorney in connection with the mediation. However, use of an
1417 attorney is not required and is at the option of each party. The
1418 mediators may require the advance payment of some or all of the
1419 anticipated fees. The aggrieved party hereby agrees to pay or
1420 prepay one-half of the mediator's estimated fees and to forward
1421 this amount or such other reasonable advance deposits as the
1422 mediator requires for this purpose. Any funds deposited will be
1423 returned to you if these are in excess of your share of the fees
1424 incurred.

1425

1426

1427 To begin your participation in presuit mediation to try to
1428 resolve the dispute and avoid further legal action, please sign
1429 below and clearly indicate which mediator is acceptable to you.
1430 We will then ask the mediator to schedule a mutually convenient
1431 time and place for the mediation conference to be held. The
1432 mediation conference must be held within ninety (90) days of
1433 this date, unless extended by mutual written agreement. In the
1434 event that you fail to respond within 20 days from the date of
1435 this letter, or if you fail to agree to at least one of the
1436 mediators that we have suggested or to pay or prepay to the
1437 mediator one-half of the costs involved, the aggrieved party
1438 will be authorized to proceed with the filing of a lawsuit

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1439 against you without further notice and may seek an award of
1440 attorney's fees or costs incurred in attempting to obtain
1441 mediation.

1442
1443
1444 Therefore, please give this matter your immediate attention. By
1445 law, your response must be mailed by certified mail, return
1446 receipt requested, and by first-class mail to the address shown
1447 on this demand.

1448

1449

1450

1451

1452

1453

1454

1455 RESPONDING PARTY: YOUR SIGNATURE INDICATES YOUR AGREEMENT TO
1456 THAT CHOICE.

1457

1458 AGREEMENT TO MEDIATE

1459

1460

1461 The undersigned hereby agrees to participate in presuit
1462 mediation and agrees to attend a mediation conducted by the
1463 following mediator or mediators who are listed above as someone
1464 who would be acceptable to mediate this dispute:

1465

1466

1467 (List acceptable mediator or mediators.)

1468

1469

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1470 I/we further agree to pay or prepay one-half of the mediator's
1471 fees and to forward such advance deposits as the mediator may
1472 require for this purpose.

1473

1474

1475

1476

1477 _____
Signature of responding party #1

1478

1479

1480

1481

1482 _____
Telephone contact information

1483

1484

1485

1486

1487 _____
Signature and telephone contact information of responding party
1488 #2 (if applicable) (if property is owned by more than one person,
1489 all owners must sign)

1490 Section 57. Subsection (2) of section 723.0381, Florida
1491 Statutes, is amended to read:

1492 723.0381 Civil actions; arbitration.--

1493 (2) The court may refer the action to nonbinding
1494 arbitration pursuant to s. 44.103 ~~and the Florida Rules of Civil~~
1495 ~~Procedure~~. The court shall order the hearing to be held
1496 informally with presentation of testimony kept to a minimum and
1497 matters presented to the arbitrators primarily through the
1498 statements and arguments of counsel. The court shall assess the
1499 parties equally to pay the compensation awarded to the
1500 arbitrators if neither party requests a trial de novo. If a

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1501 party has filed for a trial de novo, the party shall be assessed
1502 the arbitration costs, court costs, and other reasonable costs
1503 of the opposing party, including attorney's fees, investigation
1504 expenses, and expenses for expert or other testimony or evidence
1505 incurred after the arbitration hearing if the judgment upon the
1506 trial de novo is not more favorable than the arbitration
1507 decision. If subsequent to arbitration a party files for a trial
1508 de novo, the arbitration decision may be made known to the judge
1509 only after he or she has entered his or her order on the merits.

1510 Section 58. Subsection (1) of section 726.108, Florida
1511 Statutes, is amended to read:

1512 726.108 Remedies of creditors.--

1513 (1) In an action for relief against a transfer or
1514 obligation under ss. 726.101-726.112, a creditor, subject to the
1515 limitations in s. 726.109 may obtain:

1516 (a) Avoidance of the transfer or obligation to the extent
1517 necessary to satisfy the creditor's claim;

1518 (b) An attachment or other provisional remedy against the
1519 asset transferred or other property of the transferee in
1520 accordance with applicable law;

1521 ~~(c) Subject to applicable principles of equity and in~~
1522 ~~accordance with applicable rules of civil procedure:~~

1523 (c)1. An injunction against further disposition by the
1524 debtor or a transferee, or both, of the asset transferred or of
1525 other property;

1526 (d)2. Appointment of a receiver to take charge of the
1527 asset transferred or of other property of the transferee; or

1528 (e)3. Any other relief the circumstances may require.

1529 Section 59. Paragraph (b) of subsection (2) of section
1530 727.104, Florida Statutes, is amended to read:

1531 727.104 Commencement of proceedings.--

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1532 (2) Within 10 days after delivery of the assignment to the
1533 assignee, the assignee shall:

1534 (b) File, in the office of the clerk of the court in the
1535 county of the assignor's place of business if it has one, in the
1536 county of its chief executive office if it has more than one
1537 place of business, or in the county of the assignor's residence
1538 if the assignor is an individual not engaged in business, ~~in~~
1539 ~~accordance with the procedures for filing a complaint as set~~
1540 ~~forth in the Florida Rules of Civil Procedure,~~ a petition
1541 setting forth the name and address of the assignor and the name
1542 and address of the assignee; a copy of the assignment, together
1543 with Schedules A and B; and a request that the court fix the
1544 amount of the assignee's bond to be filed with the clerk of the
1545 court. This bond shall be subject to reconsideration upon the
1546 motion of any party in interest after notice and hearing. The
1547 bond shall be payable to the clerk of the court, in an amount
1548 not less than double the liquidation value of the assets of the
1549 estate as set forth in Schedule B, conditioned upon the
1550 assignee's faithful discharge of her or his duties. Within 30
1551 days after the court enters an order setting the amount of such
1552 bond, the assignee shall file the bond with the clerk of the
1553 court, who shall approve the bond.

1554 Section 60. Section 731.011, Florida Statutes, is amended
1555 to read:

1556 731.011 Determination of substantive rights; ~~procedures.--~~
1557 The code became effective on January 1, 1976. The substantive
1558 rights of all persons that vested prior to January 1, 1976,
1559 shall be determined as provided in former chapters 731-737 and
1560 744-746. ~~The procedures for the enforcement of vested~~
1561 ~~substantive rights shall be as provided in the Florida Probate~~
1562 ~~Rules.~~

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1563 Section 61. Subsection (2) of section 732.107, Florida
1564 Statutes, is amended to read:

1565 732.107 Escheat.--

1566 (2) Property that escheats shall be sold ~~as provided in~~
1567 ~~the Florida Probate Rules~~ and the proceeds paid to the Chief
1568 Financial Officer of the state and deposited in the State School
1569 Fund.

1570 Section 62. Subsection (3) of section 733.101, Florida
1571 Statutes, is amended to read:

1572 733.101 Venue of probate proceedings.--

1573 (3) Whenever a proceeding is filed laying venue in an
1574 improper county, the court may transfer the action ~~in the same~~
1575 ~~manner as provided in the Florida Rules of Civil Procedure~~. Any
1576 action taken by the court or the parties before the transfer is
1577 not affected by the improper venue.

1578 Section 63. Subsection (3) of section 733.212, Florida
1579 Statutes, is amended to read:

1580 733.212 Notice of administration; filing of objections.--

1581 (3) Any interested person on whom a copy of the notice of
1582 administration is served must object to the validity of the
1583 will, the qualifications of the personal representative, the
1584 venue, or the jurisdiction of the court by filing a petition or
1585 other pleading requesting relief ~~in accordance with the Florida~~
1586 ~~Probate Rules~~ on or before the date that is 3 months after the
1587 date of service of a copy of the notice of administration on the
1588 objecting person, or those objections are forever barred.

1589 Section 64. Subsection (2) of section 733.6171, Florida
1590 Statutes, is amended to read:

1591 733.6171 Compensation of attorney for the personal
1592 representative.--

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1593 (2) The attorney, the personal representative, and persons
1594 bearing the impact of the compensation may agree to compensation
1595 determined in a different manner than provided in this section.
1596 Compensation may also be determined in a different manner than
1597 provided in this section if the manner is disclosed to the
1598 parties bearing the impact of the compensation and if no
1599 objection is made ~~as provided for in the Florida Probate Rules.~~

1600 Section 65. Subsection (2) of section 733.705, Florida
1601 Statutes, is amended to read:

1602 733.705 Payment of and objection to claims.--

1603 (2) On or before the expiration of 4 months from the first
1604 publication of notice to creditors or within 30 days from the
1605 timely filing or amendment of a claim, whichever occurs later, a
1606 personal representative or other interested person may file a
1607 written objection to a claim. If an objection is filed, the
1608 person filing it shall serve a copy of the objection ~~as provided~~
1609 ~~by the Florida Probate Rules.~~ The failure to serve a copy of the
1610 objection constitutes an abandonment of the objection. For good
1611 cause, the court may extend the time for filing or serving an
1612 objection to any claim. Objection to a claim constitutes an
1613 objection to an amendment of that claim unless the objection is
1614 withdrawn.

1615 Section 66. Subsection (2) of section 734.102, Florida
1616 Statutes, is amended to read:

1617 734.102 Ancillary administration.--

1618 ~~(2) Ancillary administration shall be commenced as~~
1619 ~~provided by the Florida Probate Rules.~~

1620 Section 67. Subsection (4) of section 736.0109, Florida
1621 Statutes, is amended to read:

1622 736.0109 Methods and waiver of notice.--

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1623 (4) Notice of a judicial proceeding must be given as
1624 provided in statute and the applicable court rule ~~Florida Rules~~
1625 ~~of Civil Procedure.~~

1626 Section 68. Subsection (1), and paragraph (c) of subsection
1627 (9) of section 738.104, Florida Statutes, are amended to read:

1628 738.104 Trustee's power to adjust.--

1629 (1) A trustee may adjust between principal and income to
1630 the extent the trustee considers necessary if the trustee
1631 invests and manages trust assets as a prudent investor, the
1632 terms of the trust describe the amount that may or shall be
1633 distributed to a beneficiary by referring to the trust's income,
1634 and the trustee determines, after applying the provisions of
1635 ~~rules in~~ s. 738.103(1), that the trustee is unable to comply
1636 with s. 738.103(2).

1637 (9)

1638 (c) The statement referred to in this subsection shall be
1639 served informally by delivering a copy or mailing it to the
1640 beneficiary, ~~in the manner provided in the Florida Rules of~~
1641 ~~Civil Procedure relating to service of pleadings subsequent to~~
1642 ~~the initial pleading.~~ The statement may be served on a legal
1643 representative or natural guardian of a beneficiary without the
1644 filing of any proceeding or approval of any court.

1645 Section 69. Paragraph (c) of subsection (2) of section
1646 738.1041, Florida Statutes, is amended to read:

1647 738.1041 Total return unitrust.--

1648 (2) A trustee may, without court approval, convert an
1649 income trust to a total return unitrust, reconvert a total
1650 return unitrust to an income trust, or change the percentage
1651 used to calculate the unitrust amount or the method used to
1652 determine the fair market value of the trust if:

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1653 (c) The trustee sends written notice of its intention to
1654 take such action, along with copies of such written statement
1655 and this section, and, if applicable, the determinations of
1656 either the trustee or the disinterested person to:

1657 1. The grantor of the trust, if living.

1658 2. All living persons who are currently receiving or
1659 eligible to receive distributions of income of the trust.

1660 3. All living persons who would receive distributions of
1661 principal of the trust if the trust were to terminate at the
1662 time of the giving of such notice (without regard to the
1663 exercise of any power of appointment) or, if the trust does not
1664 provide for its termination, all living persons who would
1665 receive or be eligible to receive distributions of income or
1666 principal of the trust if the persons identified in subparagraph
1667 2. were deceased.

1668 4. All persons acting as advisers or protectors of the
1669 trust.

1670
1671 Notice under this paragraph shall be served informally by
1672 delivering a copy or mailing it to the beneficiary, ~~in the~~
1673 ~~manner provided in the Florida Rules of Civil Procedure relating~~
1674 ~~to service of pleadings subsequent to the initial pleading.~~

1675 Notice may be served on a legal representative or natural
1676 guardian of a person without the filing of any proceeding or
1677 approval of any court;

1678 Section 70. Paragraph (b) of subsection (5), paragraph (h)
1679 of subsection (6), and paragraph (b) of subsection (9), of
1680 section 741.30, Florida Statutes, are amended to read:

1681 741.30 Domestic violence; injunction; powers and duties of
1682 court and clerk; petition; notice and hearing; temporary

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1683 injunction; issuance of injunction; statewide verification
1684 system; enforcement.--

1685 (5)

1686 (b) In a hearing ex parte for the purpose of obtaining
1687 such ex parte temporary injunction, no evidence other than
1688 verified pleadings or affidavits shall be used as evidence,
1689 unless the respondent appears at the hearing or has received
1690 reasonable notice of the hearing. A denial of a petition for an
1691 ex parte injunction shall be by written order noting the legal
1692 grounds for denial. When the only ground for denial is no
1693 appearance of an immediate and present danger of domestic
1694 violence, the court shall set a full hearing on the petition for
1695 injunction with notice at the earliest possible time. Nothing
1696 herein affects a petitioner's right to promptly amend any
1697 petition, or otherwise be heard in person on any petition
1698 consistent with court rule ~~the Florida Rules of Civil Procedure.~~

1699 (6)

1700 (h) All proceedings under this subsection shall be
1701 recorded. Recording may be by electronic means ~~as provided by~~
1702 ~~the Rules of Judicial Administration.~~

1703 (9)

1704 (b) If the respondent is arrested by a law enforcement
1705 officer under s. 901.15(6) or for a violation of s. 741.31, the
1706 respondent shall be held in custody until brought before the
1707 court as expeditiously as possible for the purpose of enforcing
1708 the injunction and for admittance to bail in accordance with
1709 chapter 903 ~~and the applicable rules of criminal procedure,~~
1710 pending a hearing.

1711 Section 71. Subsection (2) of section 742.16, Florida
1712 Statutes, is amended to read:

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1713 742.16 Expedited affirmation of parental status for
1714 gestational surrogacy.--

1715 (2) After the petition is filed, the court shall fix a
1716 time and place for hearing the petition, which may be
1717 immediately after the filing of the petition. Notice of hearing
1718 shall be given as prescribed by court rule ~~the rules of civil~~
1719 ~~procedure~~, and service of process shall be made as specified by
1720 law for civil actions.

1721 Section 72. Subsection (11) of section 742.18, Florida
1722 Statutes, is amended to read:

1723 742.18 Disestablishment of paternity or termination of
1724 child support obligation.--

1725 (11) Nothing in this section precludes an individual from
1726 seeking relief from a final judgment, decree, order, or
1727 proceeding pursuant to court rule ~~1.540, Florida Rules of Civil~~
1728 ~~Procedure~~, or from challenging a paternity determination
1729 pursuant to s. 742.10(4).

1730 Section 73. Paragraph (d) of subsection (1) of section
1731 744.3025, Florida Statutes, is amended to read:

1732 744.3025 Claims of minors.--

1733 (1)

1734 (d) The duty of the guardian ad litem is to protect the
1735 minor's interests ~~as described in the Florida Probate Rules.~~

1736 Section 74. Subsection (2) of section 744.307, Florida
1737 Statutes, is amended to read:

1738 744.307 Foreign guardian may manage the property of
1739 nonresident ward.--

1740 (2) The guardian shall designate a resident agent ~~as~~
1741 ~~required by the Florida Probate Rules.~~

1742 Section 75. Subsection (2) of section 744.447, Florida
1743 Statutes, is amended to read:

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1744 744.447 Petition for authorization to act.--

1745 (2) No notice of a petition to authorize a sale of
1746 perishable personal property or of property rapidly
1747 deteriorating shall be required. Notice of a petition to perform
1748 any other acts under s. 744.441 or s. 744.446 shall be given to
1749 the ward, to the next of kin, if any, and to those interested
1750 persons who have filed requests for notices and copies of
1751 pleadings, ~~as provided in the Florida Probate Rules,~~ unless
1752 waived by the court. Notice need not be given to a ward who is
1753 under 14 years of age or who has been determined to be totally
1754 incapacitated.

1755 Section 76. Section 765.105, Florida Statutes, is amended
1756 to read:

1757 765.105 Review of surrogate or proxy's decision.--The
1758 patient's family, the health care facility, or the attending
1759 physician, or any other interested person who may reasonably be
1760 expected to be directly affected by the surrogate or proxy's
1761 decision concerning any health care decision may seek expedited
1762 judicial intervention ~~pursuant to rule 5.900 of the Florida~~
1763 ~~Probate Rules,~~ if that person believes:

1764 (1) The surrogate or proxy's decision is not in accord
1765 with the patient's known desires or the provisions of this
1766 chapter;

1767 (2) The advance directive is ambiguous, or the patient has
1768 changed his or her mind after execution of the advance
1769 directive;

1770 (3) The surrogate or proxy was improperly designated or
1771 appointed, or the designation of the surrogate is no longer
1772 effective or has been revoked;

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1773 (4) The surrogate or proxy has failed to discharge duties,
1774 or incapacity or illness renders the surrogate or proxy
1775 incapable of discharging duties;

1776 (5) The surrogate or proxy has abused powers; or

1777 (6) The patient has sufficient capacity to make his or her
1778 own health care decisions.

1779 Section 77. Section 765.113, Florida Statutes, is amended
1780 to read:

1781 765.113 Restrictions on providing consent.--Unless the
1782 principal expressly delegates such authority to the surrogate in
1783 writing, or a surrogate or proxy has sought and received court
1784 approval pursuant to rule 5.900 of the Florida Probate Rules, a
1785 surrogate or proxy may not provide consent for:

1786 (1) Abortion, sterilization, electroshock therapy,
1787 psychosurgery, experimental treatments that have not been
1788 approved by a federally approved institutional review board in
1789 accordance with 45 C.F.R. part 46 or 21 C.F.R. part 56, or
1790 voluntary admission to a mental health facility.

1791 (2) Withholding or withdrawing life-prolonging procedures
1792 from a pregnant patient prior to viability as defined in s.
1793 390.0111(4).

1794 Section 78. Subsection (1) of section 768.72, Florida
1795 Statutes, is amended to read:

1796 768.72 Pleading in civil actions; claim for punitive
1797 damages.--

1798 (1) In any civil action, no claim for punitive damages
1799 shall be permitted unless there is a reasonable showing by
1800 evidence in the record or proffered by the claimant which would
1801 provide a reasonable basis for recovery of such damages. ~~The~~
1802 ~~claimant may move to amend her or his complaint to assert a~~
1803 ~~claim for punitive damages as allowed by the rules of civil~~

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1804 ~~procedure.~~ The rules of civil procedure shall be liberally
1805 construed so as to allow the claimant discovery of evidence
1806 which appears reasonably calculated to lead to admissible
1807 evidence on the issue of punitive damages. No discovery of
1808 financial worth shall proceed until after the pleading
1809 concerning punitive damages is permitted.

1810 Section 79. Paragraph (a) of subsection (3) of section
1811 768.81, Florida Statutes, is amended to read:

1812 768.81 Comparative fault.--

1813 (3) APPORTIONMENT OF DAMAGES.--In cases to which this
1814 section applies, the court shall enter judgment against each
1815 party liable on the basis of such party's percentage of fault
1816 and not on the basis of the doctrine of joint and several
1817 liability.

1818 (a) In order to allocate any or all fault to a nonparty, a
1819 defendant must affirmatively plead the fault of a nonparty and,
1820 absent a showing of good cause, identify the nonparty, if known,
1821 or describe the nonparty as specifically as practicable, either
1822 by motion or in the initial responsive pleading when defenses
1823 are first presented, subject to amendment any time before trial
1824 in accordance with court rule ~~the Florida Rules of Civil~~
1825 ~~Procedure.~~

1826 Section 80. Paragraph (b) of subsection (9) of section
1827 784.046, Florida Statutes, is amended to read:

1828 784.046 Action by victim of repeat violence, sexual
1829 violence, or dating violence for protective injunction; powers
1830 and duties of court and clerk of court; filing and form of
1831 petition; notice and hearing; temporary injunction; issuance;
1832 statewide verification system; enforcement.--

1833 (9)

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1834 (b) If the respondent is arrested by a law enforcement
1835 officer under s. 901.15(6) for committing an act of repeat
1836 violence, sexual violence, or dating violence in violation of an
1837 injunction for protection, the respondent shall be held in
1838 custody until brought before the court as expeditiously as
1839 possible for the purpose of enforcing the injunction and for
1840 admittance to bail in accordance with chapter 903 and the
1841 ~~applicable rules of criminal procedure~~, pending a hearing.

1842 Section 81. Subsection (4) of section 790.157, Florida
1843 Statutes, is amended to read:

1844 790.157 Presumption of impairment; testing methods.--

1845 ~~(4) Any person charged with using a firearm while under~~
1846 ~~the influence of alcoholic beverages or controlled substances to~~
1847 ~~the extent that his or her normal faculties were impaired,~~
1848 ~~whether in a municipality or not, shall be entitled to trial by~~
1849 ~~jury according to the Florida Rules of Criminal Procedure.~~

1850 Section 82. Paragraph (h) of subsection (8) of section
1851 896.101, Florida Statutes, is amended to read:

1852 896.101 Florida Money Laundering Act; definitions;
1853 penalties; injunctions; seizure warrants; immunity.--

1854 (8)

1855 (h) Only the lawful owner or the account holder of the
1856 monetary instruments or funds being enjoined may request a
1857 hearing to contest the order entered pursuant to this section by
1858 petitioning the court that issued the order. A hearing must be
1859 held within 3 days after the request or as soon as practicable
1860 thereafter and before the expiration of the temporary order. The
1861 hearing must be set and noticed by the lawful owner of the
1862 monetary instruments or funds or his or her attorney. Notice of
1863 the hearing must be provided to the petitioner who procured the
1864 temporary injunction ~~pursuant to the Florida Rules of Civil~~

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1865 ~~Procedure but~~ not less than 24 hours before the scheduled
1866 hearing. The court may receive and consider at a hearing held
1867 pursuant to this subsection, evidence and information that would
1868 be inadmissible under the Florida Rules of Evidence. A
1869 proceeding under this subsection is governed by the Florida
1870 Rules of Civil Procedure.

1871 Section 83. Subsection (2) of section 916.13, Florida
1872 Statutes, is amended to read:

1873 916.13 Involuntary commitment of defendant adjudicated
1874 incompetent.--

1875 (2) A defendant who has been charged with a felony and who
1876 has been adjudicated incompetent to proceed due to mental
1877 illness, and who meets the criteria for involuntary commitment
1878 to the department under the provisions of this chapter, may be
1879 committed to the department, and the department shall retain and
1880 treat the defendant. No later than 6 months after the date of
1881 admission and at the end of any period of extended commitment,
1882 or at any time the administrator or designee shall have
1883 determined that the defendant has regained competency to proceed
1884 or no longer meets the criteria for continued commitment, the
1885 administrator or designee shall file a report with the court
1886 ~~pursuant to the applicable Florida Rules of Criminal Procedure.~~

1887 Section 84. Subsection (3) of section 916.15, Florida
1888 Statutes, is amended to read:

1889 916.15 Involuntary commitment of defendant adjudicated not
1890 guilty by reason of insanity.--

1891 (3) Every defendant acquitted of criminal charges by
1892 reason of insanity and found to meet the criteria for
1893 involuntary commitment may be committed and treated in
1894 accordance with the provisions of this section and the
1895 applicable Florida Rules of Criminal Procedure. The department

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1896 shall admit a defendant so adjudicated to an appropriate
1897 facility or program for treatment and shall retain and treat
1898 such defendant. No later than 6 months after the date of
1899 admission, prior to the end of any period of extended
1900 commitment, or at any time the administrator or designee shall
1901 have determined that the defendant no longer meets the criteria
1902 for continued commitment placement, the administrator or
1903 designee shall file a report with the court ~~pursuant to the~~
1904 ~~applicable Florida Rules of Criminal Procedure.~~

1905 Section 85. Paragraph (a) of subsection (2) of section
1906 916.302, Florida Statutes, is amended to read:

1907 916.302 Involuntary commitment of defendant determined to
1908 be incompetent to proceed.--

1909 (2) ADMISSION TO A FACILITY.--

1910 (a) A defendant who has been charged with a felony and who
1911 is found to be incompetent to proceed due to retardation or
1912 autism, and who meets the criteria for involuntary commitment to
1913 the agency under the provisions of this chapter, shall be
1914 committed to the agency, and the agency shall retain and provide
1915 appropriate training for the defendant. No later than 6 months
1916 after the date of admission or at the end of any period of
1917 extended commitment or at any time the administrator or designee
1918 shall have determined that the defendant has regained competency
1919 to proceed or no longer meets the criteria for continued
1920 commitment, the administrator or designee shall file a report
1921 with the court pursuant to this chapter ~~and the applicable~~
1922 ~~Florida Rules of Criminal Procedure.~~

1923 Section 86. Paragraph (g) of subsection (1) of section
1924 924.07, Florida Statutes, is amended to read:

1925 924.07 Appeal by state.--

1926 (1) The state may appeal from:

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1927 (g) An order adjudicating a defendant insane ~~under the~~
1928 ~~Florida Rules of Criminal Procedure.~~

1929 Section 87. Paragraph (a) of subsection (6) of section
1930 932.704, Florida Statutes, is amended to read:

1931 932.704 Forfeiture proceedings.--

1932 (6) (a) If the property is required by law to be titled or
1933 registered, or if the owner of the property is known in fact to
1934 the seizing agency, or if the seized property is subject to a
1935 perfected security interest in accordance with the Uniform
1936 Commercial Code, chapter 679, the attorney for the seizing
1937 agency shall serve the forfeiture complaint ~~as an original~~
1938 ~~service of process under the Florida Rules of Civil Procedure~~
1939 ~~and other applicable law~~ to each person having an ownership or
1940 security interest in the property. The seizing agency shall also
1941 publish, in accordance with chapter 50, notice of the forfeiture
1942 complaint once each week for 2 consecutive weeks in a newspaper
1943 of general circulation, as defined in s. 165.031, in the county
1944 where the seizure occurred.

1945 Section 88. Paragraph (d) of subsection (12) of section
1946 984.03, Florida Statutes, is amended to read:

1947 984.03 Definitions.--When used in this chapter, the term:

1948 (12) "Child who is found to be dependent" or "dependent
1949 child" means a child who, pursuant to this chapter, is found by
1950 the court:

1951 (d) To have been voluntarily placed with a licensed child-
1952 placing agency for the purposes of subsequent adoption and a
1953 natural parent or parents have consented to termination of
1954 parental rights ~~signed a consent pursuant to the Florida Rules~~
1955 ~~of Juvenile Procedure.~~

1956 Section 89. Subsection (6) of section 984.04, Florida
1957 Statutes, is amended to read:

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1958 984.04 Families in need of services and children in need
1959 of services; procedures and jurisdiction.--

1960 ~~(6) All procedures, including petitions, pleadings,~~
1961 ~~subpoenas, summonses, and hearings, in family in need of~~
1962 ~~services cases and child in need of services cases shall be~~
1963 ~~according to the Florida Rules of Juvenile Procedure unless~~
1964 ~~otherwise provided by law.~~

1965 Section 90. Subsection (13) of section 984.19, Florida
1966 Statutes, is amended to read:

1967 984.19 Medical screening and treatment of child;
1968 examination of parent, guardian, or person requesting custody.--

1969 (13) At any time after the filing of a petition for a
1970 child in need of services, when the mental or physical
1971 condition, including the blood group, of a parent, guardian, or
1972 other person requesting custody of a child is in controversy,
1973 the court may order the person to submit to a physical or mental
1974 examination by a qualified professional. The order may be made
1975 only upon good cause shown and pursuant to notice ~~and procedures~~
1976 ~~as set forth by the Florida Rules of Juvenile Procedure.~~

1977 Section 91. Paragraphs (a) and (b) of subsection (1) and
1978 paragraphs (a) and (b) of subsection (2) of section 984.20,
1979 Florida Statutes, are amended to read:

1980 984.20 Hearings for child-in-need-of-services cases.--

1981 (1) ARRAIGNMENT HEARING.--

1982 (a) When a child has been taken into custody by order of
1983 the court, an arraignment hearing shall be held within 7 days
1984 after the date the child is taken into custody. The hearing
1985 shall be held for the child and the parent, guardian, or
1986 custodian to admit, deny, or consent to findings that a child is
1987 in need of services as alleged in the petition. If the child and
1988 the parent, guardian, or custodian admit or consent to the

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1989 findings in the petition, the court shall proceed ~~as set forth~~
1990 ~~in the Florida Rules of Juvenile Procedure~~. However, if either
1991 the child or the parent, guardian, or custodian denies any of
1992 the allegations of the petition, the court shall hold an
1993 adjudicatory hearing within 7 days after the date of the
1994 arraignment hearing.

1995 (b) When a child is in the custody of the parent,
1996 guardian, or custodian, upon the filing of a petition, the clerk
1997 shall set a date for an arraignment hearing within a reasonable
1998 time from the date of the filing of the petition. If the child
1999 and the parent, guardian, or custodian admit or consent to an
2000 adjudication, the court shall proceed ~~as set forth in the~~
2001 ~~Florida Rules of Juvenile Procedure~~. However, if either the
2002 child or the parent, guardian, or custodian denies any of the
2003 allegations of child in need of services, the court shall hold
2004 an adjudicatory hearing within a reasonable time from the date
2005 of the arraignment hearing.

2006 (2) ADJUDICATORY HEARING.--

2007 (a) The adjudicatory hearing shall be held as soon as
2008 practicable after the petition for a child in need of services
2009 is filed ~~and in accordance with the Florida Rules of Juvenile~~
2010 ~~Procedure~~, but reasonable delay for the purpose of
2011 investigation, discovery, or procuring counsel or witnesses
2012 shall, whenever practicable, be granted. If the child is in
2013 custody, the adjudicatory hearing shall be held within 14 days
2014 after the date the child was taken into custody.

2015 (b) Adjudicatory hearings shall be conducted by the judge
2016 without a jury, ~~applying the rules of evidence in use in civil~~
2017 ~~cases and adjourning the hearings from time to time as~~
2018 necessary. In a hearing on a petition in which it is alleged
2019 that the child is a child in need of services, a preponderance

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2020 of evidence shall be required to establish that the child is in
2021 need of services.

2022 Section 92. Paragraph (e) of subsection (4) and paragraph
2023 (d) of subsection (6) of section 985.19, Florida Statutes, are
2024 amended to read:

2025 985.19 Incompetency in juvenile delinquency cases.--

2026 (4) A child who is determined to have mental illness,
2027 mental retardation, or autism, who has been adjudicated
2028 incompetent to proceed, and who meets the criteria set forth in
2029 subsection (3), must be committed to the Department of Children
2030 and Family Services and receive treatment or training in a
2031 secure facility or program that is the least restrictive
2032 alternative consistent with public safety. Any placement of a
2033 child to a secure residential program must be separate from
2034 adult forensic programs. If the child attains competency, then
2035 custody, case management, and supervision of the child will be
2036 transferred to the department in order to continue delinquency
2037 proceedings; however, the court retains authority to order the
2038 Department of Children and Family Services to provide continued
2039 treatment or training to maintain competency.

2040 (e) The service provider must file a written report with
2041 the court ~~pursuant to the applicable Florida Rules of Juvenile~~
2042 ~~Procedure~~ not later than 6 months after the date of commitment,
2043 or at the end of any period of extended treatment or training,
2044 and at any time the Department of Children and Family Services,
2045 through its service provider determines the child has attained
2046 competency or no longer meets the criteria for secure placement,
2047 or at such shorter intervals as ordered by the court. A copy of
2048 a written report evaluating the child's competency must be filed
2049 by the provider with the court and with the state attorney, the

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2050 child's attorney, the department, and the Department of Children
2051 and Family Services.

2052 (6)

2053 (d) The service provider must file a written report with
2054 the court ~~pursuant to the applicable Florida Rules of Juvenile~~
2055 ~~Procedure~~, not later than 6 months after the date of commitment,
2056 at the end of any period of extended treatment or training, and
2057 at any time the service provider determines the child has
2058 attained competency or will never attain competency, or at such
2059 shorter intervals as ordered by the court. A copy of a written
2060 report evaluating the child's competency must be filed by the
2061 provider with the court, the state attorney, the child's
2062 attorney, the Department of Children and Family Services, and
2063 the department.

2064 Section 93. Paragraph (g) of subsection (1) of section
2065 985.255, Florida Statutes, is amended to read:

2066 985.255 Detention criteria; detention hearing.--

2067 (1) Subject to s. 985.25(1), a child taken into custody
2068 and placed into nonsecure or home detention care or detained in
2069 secure detention care prior to a detention hearing may continue
2070 to be detained by the court if:

2071 (g) The child is charged with any second degree or third
2072 degree felony involving a violation of chapter 893 or any third
2073 degree felony that is not also a crime of violence, and the
2074 child:

2075 1. Has a record of failure to appear at court hearings
2076 after being properly notified ~~in accordance with the Rules of~~
2077 ~~Juvenile Procedure~~;

2078 2. Has a record of law violations prior to court hearings;

2079 3. Has already been detained or has been released and is
2080 awaiting final disposition of the case;

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2081 4. Has a record of violent conduct resulting in physical
2082 injury to others; or

2083 5. Is found to have been in possession of a firearm.

2084 Section 94. Subsection (6) of section 985.26, Florida
2085 Statutes, is amended to read:

2086 985.26 Length of detention.--

2087 (6) If a child is detained and a petition for delinquency
2088 is filed, the child shall be arraigned ~~in accordance with the~~
2089 ~~Florida Rules of Juvenile Procedure~~ within 48 hours after the
2090 filing of the petition for delinquency.

2091 Section 95. Subsection (1) of section 985.35, Florida
2092 Statutes, is amended to read:

2093 985.35 Adjudicatory hearings; withheld adjudications;
2094 orders of adjudication.--

2095 (1) The adjudicatory hearing must be held as soon as
2096 practicable after the petition alleging that a child has
2097 committed a delinquent act or violation of law is filed ~~and in~~
2098 ~~accordance with the Florida Rules of Juvenile Procedure;~~ but
2099 reasonable delay for the purpose of investigation, discovery, or
2100 procuring counsel or witnesses shall be granted. If the child is
2101 being detained, the time limitations in s. 985.26(2) and (3)
2102 apply.

2103 Section 96. Paragraph (b) of subsection (1) of section
2104 985.534, Florida Statutes, is amended to read:

2105 985.534 Appeal.--

2106 (1) An appeal from an order of the court affecting a party
2107 to a case involving a child under this chapter may be taken to
2108 the appropriate district court of appeal within the time and in
2109 the manner prescribed by s. 924.051 and the Florida Rules of
2110 Appellate Procedure by:

2111 (b) The state, which may appeal from:

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- 2112 1. An order dismissing a petition or any section thereof;
2113 2. An order granting a new adjudicatory hearing;
2114 3. An order arresting judgment;
2115 4. A ruling on a question of law when the child is
2116 adjudicated delinquent and appeals from the judgment;
2117 5. The disposition, on the ground that it is illegal;
2118 6. A judgment discharging a child on habeas corpus;
2119 7. An order adjudicating a child insane ~~under the Florida~~
2120 ~~Rules of Juvenile Procedure; and~~
2121 8. All other preadjudicatory hearings, except that the
2122 state may not take more than one appeal under this subsection in
2123 any case.

2124
2125 In the case of an appeal by the state, the notice of appeal
2126 shall be filed by the appropriate state attorney or his or her
2127 authorized assistant under s. 27.18. Such an appeal shall embody
2128 all assignments of error in each preadjudicatory hearing order
2129 that the state seeks to have reviewed. The state shall pay all
2130 costs of the appeal except for the child's attorney's fee.

2131 Section 97. This act shall take effect July 1, 2008.
2132
2133

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

2136 Remove the entire title and insert:

2137 An act relating to statutory references to court rules; amending
2138 s. 27.51, F.S.; removing reference to a specific court rule
2139 relating to duties of the public defender; providing duties of
2140 the public defender to notify an accused of certain rights;
2141 amending s. 34.01, F.S.; removing reference to court rules
2142 relating to the jurisdiction of county courts; amending s.

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2143 34.011, F.S.; removing specific reference to court rules
2144 relating to jurisdiction in landlord and tenant cases; amending
2145 s. 39.01, F.S.; removing a reference to court rules relating to
2146 definitions of a child who is found to be dependent; redefining
2147 the term "child who is found to be dependent"; amending s.
2148 39.4086, F.S.; deleting a provision requesting that the Supreme
2149 Court adopt court rules by a certain date relating to a pilot
2150 program for attorneys ad litem for dependent children; amending
2151 s. 39.504, F.S.; removing a reference to court rules relating to
2152 an injunction pending disposition of a petition; amending s.
2153 39.507, F.S.; removing references to court rules relating to
2154 adjudicatory hearings; amending s. 39.603, F.S.; removing
2155 references to court rules relating to court approvals of case
2156 planning; amending s. 39.701, F.S.; removing specific reference
2157 to court rules relating to judicial review; amending s. 39.801,
2158 F.S.; removing a requirement that notice of hearings be
2159 prescribed by court rules relating to procedures and
2160 jurisdiction in termination of parental rights; amending s.
2161 39.802, F.S.; removing references to court rules relating to a
2162 petition for termination of parental rights; amending s. 39.807,
2163 F.S.; removing a reference to court rules relating to guardians
2164 ad litem; amending s. 39.824, F.S.; removing obsolete provisions
2165 requesting the Supreme Court to adopt rules relating to
2166 procedure and jurisdiction; amending s. 39.825, F.S.; removing a
2167 reference to court rules relating to a petition for appointment
2168 of a guardian advocate; amending s. 48.27, F.S.; removing
2169 specific reference to a court rule regarding certified process
2170 servers; amending s. 55.503, F.S.; removing a reference to court
2171 rules relating to the recording of foreign judgments; amending
2172 s. 56.29, F.S.; removing a reference to service of summons in
2173 court rules relating to supplementary proceedings; amending s.

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2174 61.1301, F.S.; removing a reference to court rules relating to
2175 enforcement of income deduction orders; amending s. 61.14, F.S.;
2176 removing specific reference to a court rule relating to
2177 enforcement and modification of support, maintenance, or alimony
2178 agreements; amending s. 61.16, F.S.; removing specific reference
2179 to a court rule relating to attorney's fees; amending s. 63.087,
2180 F.S.; removing specific reference to court rules relating to
2181 proceedings for termination of parental rights pending adoption;
2182 amending s. 63.122, F.S.; removing a reference to the court rule
2183 relating to the notice of hearing on a petition; amending s.
2184 68.083, F.S.; removing reference to the court rules relating to
2185 civil actions for false claims; amending s. 83.231, F.S.;
2186 removing a reference to court rules relating to the removal of a
2187 tenant; amending s. 83.625, F.S.; removing a reference to court
2188 rules relating to the power to enter money judgments in an
2189 action by a landlord; amending s. 222.30, F.S.; removing a
2190 reference to court rules relating to fraudulent asset
2191 conversions; amending s. 255.071, F.S.; removing a reference to
2192 court rules relating to payment of subcontractors for public
2193 projects; amending ss. 316.1934 and 327.354, F.S.; removing
2194 references to court rules relating to presumption of impairment;
2195 amending s. 364.183, F.S.; removing reference to a specific
2196 court rule relating to access to company records; amending s.
2197 366.093, F.S.; removing reference to a specific court rule
2198 relating to public utility records; amending s. 367.156, F.S.;
2199 removing reference to a specific court rule relating to
2200 discovery in public utility records; amending s. 368.108, F.S.;
2201 removing reference to a specific court rule relating to
2202 confidentiality; amending s. 392.60, F.S.; removing a reference
2203 to court rules relating to the right of appeal; amending s.
2204 393.11, F.S.; removing a reference to court rules regarding the

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2205 appeal of involuntary admission to residential services;
2206 amending s. 393.12, F.S.; removing references to court rules
2207 regarding capacity and a guardian advocate; amending s.
2208 400.0233, F.S.; providing a reference to a specific chapter of
2209 court rules relating to informal discovery and used to obtain
2210 unsworn statements; revising provisions relating to informal
2211 discovery used to obtain unsworn statements; amending s.
2212 400.0237, F.S.; removing a reference to court rules on how to
2213 amend claims relating to punitive damages; amending s. 409.2563,
2214 F.S.; removing a reference to court rule relating to the
2215 administrative establishment of child support obligations;
2216 amending s. 409.257, F.S.; removing a reference to court rules
2217 regarding service of process; amending s. 415.1045, F.S.;
2218 removing specific reference to a court rule relating to medical
2219 examinations; amending s. 415.1051, F.S.; removing specific
2220 reference to a court rule relating to emergency protective
2221 services intervention; amending s. 429.293, F.S.; providing a
2222 reference to a specific chapter of court rules relating to
2223 informal discovery; revising provisions relating to informal
2224 discovery used to obtain unsworn statements; amending s.
2225 429.297, F.S.; removing a reference to court rules relating to
2226 punitive damages; amending s. 440.31, F.S.; removing specific
2227 reference to a court rule relating to the definition of expert
2228 witnesses; defining the term "expert witness"; amending s.
2229 447.507, F.S.; removing reference to court rules relating to
2230 violation of a strike prohibition; amending s. 448.110, F.S.;
2231 removing reference to a specific court rule relating to state
2232 minimum wage and annual wage adjustment; amending s. 456.057,
2233 F.S.; removing reference to a specific court rule relating to
2234 the furnishing of patient records; amending s. 518.112, F.S.;
2235 removing a reference to court rules relating to delegation of

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

2236 investment functions; amending s. 552.40, F.S.; removing
2237 specific reference to a court rule relating to an administrative
2238 remedy for alleged damage due to the use of explosives in
2239 mining; amending ss. 607.0505 and 617.0503, F.S.; removing
2240 reference to court rules relating to registered agents of
2241 corporations; amending s. 655.059, F.S.; removing a reference to
2242 court rules relating to access to books; amending s. 713.346,
2243 F.S.; removing a reference to bond requirements in court rules
2244 relating to payment on construction contracts; amending s.
2245 718.1255, F.S.; removing a reference to court rules relating to
2246 mandatory nonbinding arbitration and mediation of disputes;
2247 providing a reference to a specific chapter of court rules
2248 relating to mandatory nonbinding arbitration and mediation of
2249 disputes; amending s. 720.311, F.S.; removing a reference to
2250 court rules relating to dispute resolution; providing reference
2251 to a specific chapter of court rules relating to dispute
2252 resolution; amending s. 723.0381, F.S.; removing a reference to
2253 court rules relating to civil arbitration actions; amending s.
2254 726.108, F.S.; removing a reference to court rules relating to
2255 remedies of creditors; amending s. 727.104, F.S.; removing a
2256 reference to court rules relating to commencement of
2257 proceedings; amending s. 731.011, F.S.; removing a reference to
2258 court rules relating to determination and procedure of
2259 substantive rights; amending s. 732.107, F.S.; removing a
2260 reference to court rules relating to escheat; amending s.
2261 733.101, F.S.; removing a reference to court rules relating to
2262 venue of probate proceedings; amending s. 733.212, F.S.;
2263 removing a reference to court rules relating to notice of
2264 administration; amending s. 733.6171, F.S.; removing a reference
2265 to court rules relating to compensation of attorneys for the
2266 personal representative; amending s. 733.705, F.S.; removing a

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

2267 reference to court rules relating to the payment of and
2268 objection to claims; amending s. 734.102, F.S.; removing a
2269 reference to court rules relating to ancillary administration;
2270 amending s. 736.0109, F.S.; removing a reference to court rules
2271 relating to methods and waiver of notice; amending s. 738.104,
2272 F.S.; removing a reference to court rules relating to a
2273 trustee's power to adjust; providing for delivering or mailing a
2274 copy of the statement to the beneficiary relating to a trustee's
2275 power to adjust; amending s. 738.1041, F.S.; removing a
2276 reference to court rules relating to a total return unitrust;
2277 providing for delivering or mailing a copy of the statement to
2278 the beneficiary relating to total return unitrust; amending s.
2279 741.30, F.S.; removing a reference to court rules relating to
2280 injunctions for domestic violence; amending s. 742.16, F.S.;
2281 removing a reference to court rules relating to expedited
2282 affirmation of parent status for gestational surrogacy; amending
2283 s. 742.18, F.S.; removing specific reference to a court rule
2284 relating to disestablishment of paternity or termination of a
2285 child support obligation; amending s. 744.3025, F.S.; removing a
2286 reference to court rules relating to claims of minors; amending
2287 s. 744.307, F.S.; removing a reference to court rules relating
2288 to foreign guardians; amending s. 744.447, F.S.; removing a
2289 reference to court rules relating to a petition for
2290 authorization to act; amending s. 765.105, F.S.; removing
2291 specific reference to a court rule relating to the review of a
2292 decision by a surrogate or proxy; amending s. 765.113, F.S.;
2293 removing specific reference to a court rule relating to
2294 restrictions on providing consent; amending s. 768.72, F.S.;
2295 removing a reference to court rules relating to pleadings and
2296 claims for punitive damages in civil actions; amending s.
2297 768.81, F.S.; removing a reference to court rules relating to

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

2298 apportionment of damages in comparative fault; amending s.
2299 784.046, F.S.; removing a reference to court rules relating to
2300 repeat violence, sexual violence, or dating violence; amending
2301 s. 790.157, F.S.; removing a reference to trial by jury in court
2302 rules relating to the presumption of impairment; amending s.
2303 896.101, F.S.; removing a reference to court rules relating to
2304 the Florida Money Laundering Act; amending s. 916.13, F.S.;
2305 removing a reference to court rules relating to involuntary
2306 commitment of a defendant who is adjudicated incompetent;
2307 amending s. 916.15, F.S.; removing a reference to court rules
2308 relating to involuntary commitment of a defendant who is
2309 adjudicated not guilty by reason of insanity; amending s.
2310 916.302, F.S.; removing a reference to court rules relating to
2311 involuntary commitment of a defendant who is determined
2312 incompetent to proceed; amending s. 924.07, F.S.; removing a
2313 reference to court rules relating to appeals by the state;
2314 amending s. 932.704, F.S.; removing a reference to court rules
2315 relating to forfeiture proceedings; amending s. 984.03, F.S.;
2316 removing a reference to court rules relating to the definition
2317 of a dependent child; redefining the term "dependent child";
2318 amending s. 984.04, F.S.; removing a reference to court rules
2319 relating to families and children in need of services; amending
2320 s. 984.19, F.S.; removing a reference to court rules relating to
2321 medical screening and treatment regarding custody; amending s.
2322 984.20, F.S.; removing references to court rules relating to
2323 hearings for child-in-need-of-services cases; amending s.
2324 985.19, F.S.; removing references to court rules relating to
2325 incompetency in juvenile delinquency cases; amending s. 985.255,
2326 F.S.; removing a reference to court rules relating to detention
2327 criteria and hearings; amending s. 985.26, F.S.; removing a
2328 reference to court rules relating to length of detention;

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

2329 amending s. 985.35, F.S.; removing a reference to court rules
2330 relating to adjudicatory hearings; amending s. 985.534, F.S.;
2331 removing a reference to court rules relating to appeals;
2332 providing an effective date.
2333

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 _____

*favorable
3.5.08*

1 Council/Committee hearing bill: Safety & Security Council
2 Representative(s) Adams offered the following:
3

4 **Amendment to Amendment 1 by Representative Ross (with title**
5 **amendment)**

6 Remove line(s) 825-839
7
8
9

10 -----

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

12 Remove line(s) 2224-2226 and insert:
13 discovery used to obtain unsworn statements; amending s. 440.31,
14 F.S.; removing specific
15

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 _____

*Favorable
3.5.08*

1 Council/Committee hearing bill: Safety & Security Council
2 Representative(s) Adams offered the following:
3

4 **Amendment to Amendment 1 by Representative Ross (with title**
5 **amendment)**

6 Remove line(s) 1794-1809
7
8
9

10 -----

11 **T I T L E A M E N D M E N T**

12 Remove line(s) 2294-2296 and insert:
13 restrictions on providing consent; amending s.
14

COUNCIL MEETING REPORT

Safety & Security Council

3/5/2008 10:00:00AM

Location: Reed Hall (102 HOB)

Summary:

Safety & Security Council

Wednesday March 05, 2008 10:00 am

HB 61	Favorable	Yeas: 15	Nays: 0
HB 133	Favorable with Council Substitute	Yeas: 15	Nays: 0
HB 145	Favorable with Council Substitute	Yeas: 15	Nays: 0
HB 173	Favorable with Council Substitute	Yeas: 15	Nays: 0
HB 273	Favorable with Council Substitute	Yeas: 12	Nays: 3
HB 391	Favorable with Council Substitute	Yeas: 15	Nays: 0
PCB SSC 08-01	Favorable With Amendments	Yeas: 15	Nays: 0

Committee meeting was reported out: Wednesday, March 05, 2008 11:54:31AM

