

Judiciary Committee

April 16, 2013

2:00 PM

404 HOB

Action Packet

Will Weatherford
Speaker

Dennis Baxley
Chair

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

Summary:

Judiciary Committee

Tuesday April 16, 2013 02:00 pm

CS/HB 49	Favorable With Committee Substitute	Yeas: 18	Nays: 0
	Amendment 755129	Adopted Without Objection	
CS/CS/HB 159	Favorable	Yeas: 16	Nays: 1
CS/CS/HB 643	Favorable	Yeas: 17	Nays: 0
CS/CS/HB 785	Favorable With Committee Substitute	Yeas: 15	Nays: 2
	Amendment 901835	Adopted Without Objection	
CS/HB 787	Favorable	Yeas: 16	Nays: 0
CS/CS/HB 915	Favorable With Committee Substitute	Yeas: 17	Nays: 0
	Amendment 844429	Adopted Without Objection	
CS/HB 1097	Favorable With Committee Substitute	Yeas: 11	Nays: 7
	Amendment 954351	Adopted Without Objection	
CS/CS/HB 1125	Favorable With Committee Substitute	Yeas: 12	Nays: 6
	Amendment 215537	Adopted Without Objection	
CS/HB 1147	Favorable With Committee Substitute	Yeas: 18	Nays: 0
	Amendment 807577	Adopted Without Objection	
HB 1167	Favorable	Yeas: 15	Nays: 2
CS/CS/HB 1325	Favorable	Yeas: 18	Nays: 0
HB 1327	Favorable With Committee Substitute	Yeas: 18	Nays: 0
	Amendment 351365	Adopted Without Objection	
	Amendment 530423	Adopted Without Objection	
CS/CS/HB 1379	Favorable With Committee Substitute	Yeas: 17	Nays: 1
	Amendment 627269	Adopted Without Objection	
	Amendment 932713	Adopted Without Objection	
CS/HB 1413	Favorable	Yeas: 14	Nays: 3
HB 1415	Favorable	Yeas: 14	Nays: 3
CS/HB 7083	Favorable With Committee Substitute	Yeas: 14	Nays: 4
	Amendment 466693	Adopted Without Objection	
HB 7137	Favorable With Committee Substitute	Yeas: 13	Nays: 3

Committee meeting was reported out: Tuesday, April 16, 2013 7:01:22PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

Summary: (continued)

Judiciary Committee

Tuesday April 16, 2013 02:00 pm

Amendment 177473	Adopted	Yeas: 14	Nays: 3
Amendment 885737	Failed to Adopt	Yeas: 5	Nays: 12
Amendment 273005	Withdrawn		

Committee meeting was reported out: Tuesday, April 16, 2013 7:01:22PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Dennis Baxley (Chair)	X		
Daphne Campbell	X		
Marti Coley	X		
Dwight Dudley	X		
Heather Fitzenhagen	X		
Matt Gaetz	X		
Bill Hager	X		
Dave Kerner	X		
Charles McBurney	X		
Kionne McGhee	X		
Larry Metz	X		
Jared Moskowitz	X		
Kathleen Passidomo	X		
Ray Pilon	X		
Kenneth Roberson	X		
Elaine Schwartz	X		
Ross Spano	X		
Charlie Stone	X		
Totals:	18	0	0

Committee meeting was reported out: Tuesday, April 16, 2013 7:01:22PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

CS/HB 49 : Retail Sale of Smoking Devices

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	X				
Marti Coley	X				
Dwight Dudley	X				
Heather Fitzenhagen	X				
Matt Gaetz	X				
Bill Hager	X				
Dave Kerner	X				
Charles McBurney	X				
Kionne McGhee	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 18		Total Nays: 0			

CS/HB 49 Amendments

Amendment 755129

Adopted Without Objection

Appearances:

Hamilton, Nancy (General Public) - Waive In Support
6665 66th St, N
Pinellas Park FL 33781

Cordial, Gail (Lobbyist) - Waive In Support
Florida Partners in Crisis, Inc
175 Marlin Dr
Merritt Island FL 32952
Phone: (321)453-8825

Quigley, Tim (General Public) - Waive In Support
Lieutenant, Volusia Sheriff
507 Dorset Circle
South Daytona FL 32119
Phone: 386-760-7292

Committee meeting was reported out: Tuesday, April 16, 2013 7:01:22PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

CS/HB 49 : Retail Sale of Smoking Devices (continued)

Appearances: (continued)

Fontaine, Mark (Lobbyist) - Waive In Support
Florida Alcohol & Drug Abuse Association, Inc
2868 Mahan Dr Ste 1
Tallahassee FL 32308
Phone: (850)878-2196

Pitts, Brian - Waive In Support
Justice-2-Jesus
1119 Newton Ave. S.
St. Petersburg FL 33705
Phone: 727-897-9291

Plantshorn, Robert (General Public) - Opponent
CEO, The Silver Tour
407 S. Dixie Highway
Lake Worth FL 33411
Phone: 954-773-6967

James, Jodi (General Public) - Waive In Opposition
Executive Director, Florida Cannabis Action Network
2613 Larry Ct
Melbourne FL 32935
Phone: 321-890-7302

Committee meeting was reported out: Tuesday, April 16, 2013 7:01:22PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE 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
4.16.13*

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative Rouson offered the following:

3

4 **Amendment**

5 Remove line 32 and insert:

6 (a) Metal, ~~wooden~~, acrylic, glass, stone, plastic, or

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

CS/CS/HB 159 : Sentencing for Controlled Substance Violations

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	X				
Marti Coley	X				
Dwight Dudley	X				
Heather Fitzenhagen	X				
Matt Gaetz		X			
Bill Hager	X				
Dave Kerner	X				
Charles McBurney				X	
Kionne McGhee	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 16		Total Nays: 1			

Appearances:

Dembinsky, Stephen (General Public) - Waive In Support
Chief of Police, Daytona Beach Shores Police Department
3050 S Atlantic Avenue
Daytona Beach Shores FL 32118
Phone: 386-527-0506

Daniels, Nancy (State Employee) - Waive In Support
Public Defender, 2nd circuit
Leon County Courthouse 301 S Monroe Street
Tallahassee FL 32301
Phone: 850-606-1010

Siegmeister, Jeff (State Employee) - Waive In Support
State Attorney, Third Circuit
182 Hernando St
Lake City FL 32025
Phone: 386-362-2320

Hamilton, Nancy (General Public) - Waive In Support
CEO/President, Operation PAR
6665 66th St, N
Pinellas Park FL 33781

Committee meeting was reported out: Tuesday, April 16, 2013 7:01:22PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

CS/CS/HB 159 : Sentencing for Controlled Substance Violations (continued)

Appearances: (continued)

Newburn, Greg (General Public) - Waive In Support
Florida Project Director, Families Against Mandatory Minimums
P O Box 142933
Gainesville FL 32614
Phone: 352-682-2542

Reeves, Teye (Lobbyist) - Waive In Support
Florida Association of Criminal Defense Lawyers
PO Box 1528
Tallahassee FL 32302
Phone: 850)681-0024

Bilbao, Ron (State Employee) - Waive In Support
American Civil Liberties Union of Florida
4500 Biscayne Blvd, Suite 340
Miami Florida 33137
Phone: 919-923-7288

Fontaine, Mark (Lobbyist) - Waive In Support
Florida Alcohol & Drug Abuse Association, Inc
2868 Mahan Dr Ste 1
Tallahassee FL 32308
Phone: (850)878-2196

DeBeaugrine, Jim (Lobbyist) - Waive In Support
Florida Smart Justice Alliance
204 S Monroe St Ste 201
Tallahassee FL
Phone: 850)508-8908

Committee meeting was reported out: Tuesday, April 16, 2013 7:01:22PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

CS/CS/HB 643 : Clerks of Court

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell			X		
Marti Coley	X				
Dwight Dudley	X				
Heather Fitzenhagen	X				
Matt Gaetz	X				
Bill Hager	X				
Dave Kerner	X				
Charles McBurney	X				
Kionne McGhee	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
	Total Yeas: 17	Total Nays: 0			

Appearances:

Daniels, Nancy (State Employee) - Waive In Support
Public Defender, 2nd circuit
Leon County Courthouse 301 S Monroe Street
Tallahassee FL 32301
Phone: 850-606-1010

Committee meeting was reported out: Tuesday, April 16, 2013 7:01:22PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

CS/CS/HB 785 : Restitution for Juvenile Offenses

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell			X		
Marti Coley	X				
Dwight Dudley		X			
Heather Fitzenhagen	X				
Matt Gaetz	X				
Bill Hager	X				
Dave Kerner	X				
Charles McBurney	X				
Kionne McGhee	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz		X			
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 15		Total Nays: 2			

CS/CS/HB 785 Amendments

Amendment 901835

Adopted Without Objection

Committee meeting was reported out: Tuesday, April 16, 2013 7:01:22PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE 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
4-16-13*

Committee/Subcommittee hearing bill: Judiciary Committee
Representative Eagle offered the following:

Amendment

Remove lines 19-24 and insert:

Section 1. Subsection (5) of section 985.437, Florida Statutes, is renumbered as subsection (6), subsections (1), (2), and (4) are amended, and a new subsection (5) is added to that section, to read:

985.437 Restitution.—

(1) The court that has jurisdiction over an adjudicated delinquent child may, by an order stating the facts upon which a determination of a sanction and rehabilitative program was made at the disposition hearing, order the child and the child's parent or guardian to make restitution in the manner provided in this section. This order shall be part of the child's probation program to be implemented by the department or, in the case of a committed child, as part of the community-based sanctions ordered by the court at the disposition hearing or before the child's release from commitment.



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 785 (2013)

Amendment No. 1

21 (2) If the court orders restitution, The court shall ~~may~~
22 order the child and the child's

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

CS/HB 787 : Computer or Electronic Device Harassment

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Daphne Campbell	X				
Marti Coley	X				
Dwight Dudley	X				
Heather Fitzenhagen	X				
Matt Gaetz			X		
Bill Hager	X				
Dave Kerner	X				
Charles McBurney	X				
Kionne McGhee	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
Ross Spano	X				
Charlie Stone			X		
Dennis Baxley (Chair)	X				
Total Yeas: 16		Total Nays: 0			

Appearances:

Ogden, Daniel (General Public) - Waive In Support
Agent, Brevard County Sheriff Office
340 Gus Hipp Blvd
Rockledge FL
Phone: 321-633-8419

Kearschner, Linda (General Public) - Waive In Support
Florida PTA

Committee meeting was reported out: Tuesday, April 16, 2013 7:01:22PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

CS/CS/HB 915 : Filing False Documents Against Real or Personal Property

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	X				
Marti Coley	X				
Dwight Dudley	X				
Heather Fitzenhagen	X				
Matt Gaetz			X		
Bill Hager	X				
Dave Kerner	X				
Charles McBurney	X				
Kionne McGhee	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 17		Total Nays: 0			

CS/CS/HB 915 Amendments

Amendment 844429

Adopted Without Objection

Appearances:

Pitts, Brian - Information Only
Justice-2-Jesus
1119 Newton Ave. S.
St. Petersburg FL 33705
Phone: 727-897-9291

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Amendment No. 1

COMMITTEE/SUBCOMMITTEE 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
4.13.13*

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative Combee offered the following:

3

4 **Amendment (with title amendment)**

5 Remove lines 54-188 and insert:

6 bill of sale, agreement, notice of claim of lien, notice of
7 levy, promissory note, mortgage note, release, partial release
8 or satisfaction of any of the foregoing, or any other document
9 that relates to or attempts to restrict the ownership, transfer,
10 or encumbrance of, or claim against, real or personal property,
11 or any interest in real or personal property.

12 (d) "Official record" means the series of instruments,
13 regardless of how they are maintained, which a clerk of the
14 circuit court, or any person or entity designated by general
15 law, special law, or county charter, is required or authorized
16 by law to record. The term also includes a series of instruments
17 pertaining to the Uniform Commercial Code filed with the
18 Secretary of State or with any entity under contract with the
19 Secretary of State to maintain Uniform Commercial Code records



Amendment No. 1

20 and a database of judgment liens maintained by the Secretary of
21 State.

22 (e) "Public officer or employee" means, but is not limited
23 to:

24 1. A person elected or appointed to a local, state, or
25 federal office, including any person serving on an advisory
26 body, board, commission, committee, council, or authority.

27 2. An employee of a state, county, municipal, political
28 subdivision, school district, educational institution, or
29 special district agency or entity, including judges, attorneys,
30 law enforcement officers, deputy clerks of court, and marshals.

31 3. A state or federal executive, legislative, or judicial
32 officer, employee, or volunteer authorized to perform actions or
33 services for any state or federal executive, legislative, or
34 judicial office, or agency.

35 4. A person who acts as a general or special magistrate,
36 auditor, arbitrator, umpire, referee, hearing officer, or
37 consultant to any state or local governmental entity.

38 5. A person who is a candidate for public office or
39 judicial position.

40 (2)(a) A person who files or directs a filer to file, with
41 the intent to defraud or harass another, any instrument
42 containing a materially false, fictitious, or fraudulent
43 statement or representation that purports to adversely affect an
44 owner's interest in the property described in the instrument
45 commits a felony of the third degree, punishable as provided in
46 s. 775.082, s. 775.083, or s. 775.084.



Amendment No. 1

47 (b) A person who violates paragraph (a) a second or
48 subsequent time commits a felony of the second degree,
49 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

50 (3) If a person is convicted of violating subsection (2)
51 and the owner of the property adversely affected by the false
52 instrument is a public officer or employee, the offense shall be
53 reclassified as follows:

54 (a) In the case of a felony of the third degree, to a
55 felony of the second degree, punishable as provided in s.
56 775.082, s. 775.083, or s. 775.084.

57 (b) In the case of a felony of the second degree, to a
58 felony of the first degree, punishable as provided in s.
59 775.082, s. 775.083, or s. 775.084.

60 (4) (a) If a person is convicted of violating subsection
61 (2) and the person committed the offense while incarcerated in a
62 jail or correctional institution or while participating in a
63 pretrial diversion program under any form of pretrial release or
64 bond, on probation or parole, or under any postrelease
65 supervision, the offense shall be reclassified as follows:

66 1. In the case of a felony of the third degree, to a
67 felony of the second degree, punishable as provided in s.
68 775.082, s. 775.083, or s. 775.084.

69 2. In the case of a felony of the second degree, to a
70 felony of the first degree, punishable as provided in s.
71 775.082, s. 775.083, or s. 775.084.

72 (b) If a person's offense has been reclassified pursuant
73 to this subsection, the sentencing court shall issue a written
74 finding that the offense occurred while incarcerated in a jail



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75 or correctional institution and direct that a copy of the
76 written finding and judgment of conviction be forwarded to the
77 appropriate state institution or county facility for
78 consideration of disciplinary action and forfeiture of all gain-
79 time or any early release credits accumulated up to the date of
80 the violation.

81 (5) If the person is convicted of violating subsection (2)
82 and the owner of the property adversely affected by the false
83 instrument incurs financial loss as a result of the instrument
84 being recorded in the official record, including costs and
85 attorney fees incurred in correcting, sealing, or removing the
86 false instrument from the official record as described herein,
87 the offense shall be reclassified as follows:

88 (a) In the case of a felony of the third degree, to a
89 felony of the second degree, punishable as provided in s.
90 775.082, s. 775.083, or s. 775.084.

91 (b) In the case of a felony of the second degree, to a
92 felony of the first degree, punishable as provided in s.
93 775.082, s. 775.083, or s. 775.084.

94 (6) A person who fraudulently records a claim of lien in
95 the official records pursuant to part I of chapter 713 is
96 subject to the fraud provisions of s. 713.31 and not this
97 section.

98 (7) If a person is convicted of violating this section,
99 the sentencing court shall issue an order declaring the
100 instrument forming the basis of the conviction null and void and
101 may enjoin the person from filing any instrument in an official
102 record absent prior review and approval for filing by a circuit



Amendment No. 1

103 or county court judge. The sentencing court may also order the
104 instrument forming the basis of the conviction sealed from the
105 official record and removed from any applicable electronic
106 database used for recording instruments in the official record.

107 (8) (a) Any person adversely affected by an instrument
108 filed in the official record which contains a materially false,
109 fictitious, or fraudulent statement or representation has a
110 civil cause of action under this section without regard to
111 whether criminal charges are pursued under subsection (2). A
112 notice of lis pendens in accord with s. 48.23 shall be filed
113 which specifically describes the instrument under challenge and
114 the real or personal property affected by the instrument.

115 (b) Upon a finding that the instrument contains a
116 materially false, fictitious, or fraudulent statement or
117 representation such that the instrument does not establish a
118 legitimate property or lien interest in favor of another person:

119 1. The court shall determine whether the entire instrument
120 or certain parts thereof are null and void ab initio. If the
121 court finds the instrument void in its entirety, it may order
122 the instrument sealed from the official record and removed from
123 any electronic database used for indexing or locating
124 instruments in the official record. The court may also,
125 permanently or for a period of time, enjoin the defendant who
126 filed the instrument or who directed the filer to file the
127 instrument from filing or directing a person to file an
128 instrument in the official records without prior review and
129 approval for filing by a circuit or county court judge.

130 However, as it relates to third parties who may have given value



Amendment No. 1

131 for an interest described or granted by any instrument filed in
132 violation of the injunction, the instrument shall be deemed
133 validly filed and provides constructive notice, notwithstanding
134 any failure to comply with the terms of the injunction.

135 2. Upon a finding of intent to defraud or harass, the
136 court or jury shall award actual damages and punitive damages,
137 subject to the criteria in s. 768.72, to the person adversely
138 affected by the instrument. The court may also levy a civil
139 penalty of \$2,500 for each instrument determined to be in
140 violation of this subsection.

141

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143

144

145

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

146

Remove lines 2-3 and insert:

147

An act relating to fraudulent actions; creating s. 817.535,

148

F.S.;

149

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

CS/HB 1097 : School Safety

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell		X			
Marti Coley	X				
Dwight Dudley		X			
Heather Fitzenhagen	X				
Matt Gaetz	X				
Bill Hager	X				
Dave Kerner		X			
Charles McBurney	X				
Kionne McGhee		X			
Larry Metz	X				
Jared Moskowitz		X			
Kathleen Passidomo	X				
Ray Pilon		X			
Kenneth Roberson	X				
Elaine Schwartz		X			
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 11		Total Nays: 7			

CS/HB 1097 Amendments

Amendment 954351

Adopted Without Objection

Appearances:

Blanton, Wayne (Lobbyist) - Opponent
Florida School Boards Association
203 S Monroe St
Tallahassee FL 32301
Phone: (850)414-2578

Mixon, Juhan (Lobbyist) - Opponent
Florida Association of School Administrators
119 E Park Ave
Tallahassee FL 32301
Phone: 850-222-2591

Kearschner, Linda (General Public) - Opponent
Florida PTA

Committee meeting was reported out: Tuesday, April 16, 2013 7:01:22PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

CS/HB 1097 : School Safety (continued)

Appearances: (continued)

Bilbao, Ron (State Employee) - Waive In Opposition
American Civil Liberties Union of Florida
4500 Biscayne Blvd, Suite 340
Miami Florida 33137
Phone: 919-923-7288

Pitts, Brian - Information Only
Justice-2-Jesus
1119 Newton Ave. S.
St. Petersburg FL 33705
Phone: 727-897-9291

Committee meeting was reported out: Tuesday, April 16, 2013 7:01:22PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE 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
4.16.13*

Committee/Subcommittee hearing bill: Judiciary Committee
Representative Steube offered the following:

Amendment

Remove lines 45-61 and insert:

(3) This section does not apply to a member of a school's personnel who has been designated by the school principal of the school where the school's personnel is employed, or, for an administration building, by the district school superintendent, as authorized to carry a concealed weapon or firearm on school property.

(a) A designee authorized to carry a concealed weapon or firearm on such school property under this subsection may only carry such weapon or firearm in a concealed manner. The weapon or firearm must be carried on the designee's person at all times while the designee is performing his or her official school duties. Additionally, the designee must submit to the authorizing principal or authorizing superintendent proof of completion of training or experience as described in ss. 493.6113(3)(b) and 493.6303(4).



Amendment No. 1

21 | (b) Each public or private school principal or, for an
22 | administration building, the superintendent, may designate one
23 | or more such designees pursuant to this subsection.

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

CS/CS/HB 1125 : Employers and Employees

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell		X			
Marti Coley	X				
Dwight Dudley		X			
Heather Fitzenhagen	X				
Matt Gaetz	X				
Bill Hager	X				
Dave Kerner		X			
Charles McBurney	X				
Kionne McGhee		X			
Larry Metz	X				
Jared Moskowitz		X			
Kathleen Passidomo	X				
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz		X			
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 12		Total Nays: 6			

CS/CS/HB 1125 Amendments

Amendment 215537

Adopted Without Objection

Appearances:

Perry, Gail Marie (General Public) - Opponent
Chair, Communications Workers of America Council of Florida
P O Box 1766
Pompano Beach FL 33061
Phone: 954-850-4055

Datz, Amy (General Public) - Waive In Opposition
1130 Crestview Ave.
Tallahassee FL 32303
Phone: (850) 322-7599

Marciano, Anthony (General Public) - Opponent
10221 Dorchester Dr.
Boca Raton FL 33428
Phone: (954) 632-6878

Committee meeting was reported out: Tuesday, April 16, 2013 7:01:22PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

CS/CS/HB 1125 : Employers and Employees (continued)

Appearances: (continued)

Trujillo, Andres (Lobbyist) - Opponent

United Transportation Union

9011 SW 142nd Ave #1414

Miami FL 33186

Phone: 786)348-5771

Roberts, Gayle (General Public) - Waive In Opposition

2265 SW 33rd Way

Ft. Lauderdale FL 33312

Phone: 954-683-7312

Bailey, Willie (General Public) - Waive In Opposition

8681 NW 3rd Street

Pembroke Pines FL 33024

Phone: 954-804-4560

Quinn, Kathy (General Public) - Waive In Opposition

4712 W Fairfield Dr

Pensacola FL 32506

Paul, Jaburi (General Public) - Waive In Opposition

Reverand, Tallahassee Ministerial Alliance

5784 Lumberjack Lane

Tallahassee FL 32303

Phone: 850-509-2853

Rewis, Archie (General Public) - Waive In Opposition

6650 103rd Street

Jacksonville FL 32210

Phone: 904-239-0964

Linton, Glynda (General Public) - Waive In Opposition

1 SW 58 Ave

Plantation FL 33317

Phone: (954) 648-5571

Alvarez, JoAnne (General Public) - Waive In Opposition

FOPE

16659 SW 6 Street

Pembroke Pines FL 33027

Phone: 954-629-9970

Joyner, Travis (General Public) - Waive In Opposition

15853 Wilkinson Dr

Clermont FL

Phone: 229-630-8455

Saint Louis, Christine (General Public) - Waive In Opposition

2319 Meadow Oak Cir

Kissimmee FL 34746

Phone: 407-756-0334

Committee meeting was reported out: Tuesday, April 16, 2013 7:01:22PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

CS/CS/HB 1125 : Employers and Employees (continued)

Appearances: (continued)

Canty, Ellis - Opponent
FLA #1416, Business Agent
866 NW 2nd Ave
Miami FL 33136
Phone: 305-371-6781

King, Tammi (General Public) - Waive In Opposition
Political Coordinator, ATU Local 1596/Bus Operator
5405 Pointe Vista Circle Apt. 205
Orlando FL 32839
Phone: 407-692-3173

Bauza, Rosa (General Public) - Waive In Opposition
1935 S Conway Rd, E7
Orlando FL 32812
Phone: 407-394-6940

Nightingale, Tim (General Public) - Waive In Opposition
152 37th Dr, SW
Vero Beach FL 32968
Phone: 772-978-0107

Padgett, Samantha (Lobbyist) - Proponent
Florida Retail Federation
227 South Adams St.
Tallahassee FL 32301
Phone: 850-222-4082

Rosenberg, Arthur (Lobbyist) - Opponent
Florida Legal Services, Inc
2425 Torreya Dr
Tallahassee FL 32303
Phone: 305)573-0092

Johnson, Carolyn (Lobbyist) - Waive In Support
Policy Director, Florida Chamber of Commerce
136 S Bronough Street
Tallahassee FL 32311
Phone: 850-521-1235

Templin, Rich (Lobbyist) - Opponent
Florida AFL-CIO
135 S. Monroe
Tallahassee FL 32301
Phone: 850-224-6926

Committee meeting was reported out: Tuesday, April 16, 2013 7:01:22PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

CS/CS/HB 1125 : Employers and Employees (continued)

Appearances: (continued)

Reeves, Teye (Lobbyist) - Waive In Support

Associated Industries of Florida

516 N Adams St

Tallahassee FL 32301

Phone: 850)681-0024

Watson, Richard (Lobbyist) - Waive In Support

Associated Builders & Contractors of Florida, Inc

c/o Steve Cona 2008 N Himes Ave

Tampa FL 33607

Phone: (850)222-0000

Brown, Monesia (Lobbyist) - Waive In Support

Florida Restaurant and Lodging Association

PO Box 1779

Tallahassee FL 32302

Phone: 850)205-9000

Committee meeting was reported out: Tuesday, April 16, 2013 7:01:22PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE 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
4.16.13*

Committee/Subcommittee hearing bill: Judiciary Committee
Representative Goodson offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsection (1) of section 34.01, Florida

Statutes, is amended to read:

34.01 Jurisdiction of county court.—

(1) County courts shall have original jurisdiction:

(a) In all misdemeanor cases not cognizable by the circuit courts_;

(b) Of all violations of municipal and county ordinances_;

(c) Of all actions at law in which the matter in controversy does not exceed the sum of \$15,000, exclusive of interest, costs, and attorney's fees, except those within the exclusive jurisdiction of the circuit courts_;

(d) Of disputes occurring in the homeowners' associations as described in s. 720.311(2)(a), which shall be concurrent with jurisdiction of the circuit courts.



Amendment No. 1

20 (e) Of actions for the collection of compensation under s.
21 448.115, notwithstanding the amount in controversy prescribed in
22 paragraph (c).

23 Section 2. Section 448.115, Florida Statutes, is created
24 to read:

25 448.115 Civil action for wage theft; notice; civil
26 penalty; preemption.-

27 (1)(a) As used in this section, the term "wage theft"
28 means an illegal or improper underpayment or nonpayment of an
29 individual employee's wage, salary, commission, or other similar
30 form of compensation within a reasonable time from the date on
31 which the employee performed the work to be compensated.

32 (b) A wage theft occurs when an employer fails to pay a
33 portion of wages, salary, commissions, or other similar form of
34 compensation due to an employee within a reasonable time from
35 the date on which the employee performed the work, according to
36 the already applicable rate and the pay schedule of the employer
37 established by policy or practice. In the absence of an
38 established pay schedule, a reasonable time from the date on
39 which the employee performed the work is 2 weeks.

40 (2)(a) If an employer commits wage theft as defined in
41 paragraph (1)(a), an aggrieved employee may initiate a civil
42 action as provided in this section.

43 (b) County courts shall have original and exclusive
44 jurisdiction in all actions involving wage theft, as provided in
45 s. 34.01. Notwithstanding section 34.041, the filing fee for a
46 claim brought pursuant to this section may not exceed \$50.

47 (c) The action shall:



Amendment No. 1

48 1. Be brought in the county court in the county where the
49 employee performed the work; and

50 2. Be governed by the Florida Small Claims Rules.

51 (3) (a) Before bringing an action, the claimant must notify
52 the employer who is alleged to have engaged in wage theft of an
53 intent to initiate a civil action orally or in writing.

54 (b) The notice must identify the amount that the claimant
55 alleges is owed, the actual or estimated work dates and hours
56 for which compensation is sought, and the total amount of
57 compensation unpaid through the date of the notice.

58 (c) The employer has 7 days after the date of service of
59 the notice to pay the total amount of unpaid compensation or
60 otherwise resolve the action to the satisfaction of the
61 claimant.

62 (4) The action must be filed within 1 year after the last
63 date that the alleged unpaid work was performed by the employee.

64 (5) The claimant must prove wage theft by a preponderance
65 of the evidence. A prevailing claimant is entitled to damages
66 limited to twice the amount of compensation due and owing. The
67 court may only award economic damages expressly authorized in
68 this subsection, and may not award noneconomic or punitive
69 damages, or attorney fees to a prevailing party notwithstanding
70 section 448.08.

71 (6) (a) A county, municipality, or political subdivision
72 may establish an administrative, nonjudicial process under which
73 an assertion of unpaid compensation may be submitted by, or on
74 behalf of, an employee in order to assist in the collection of
75 compensation owed to the employee. Any such process, at a



Amendment No. 1

76 minimum, shall afford the parties involved an opportunity to
77 negotiate a resolution regarding the compensation in question.
78 The county, municipality, or political subdivision may, as part
79 of the process, assist the employee in completing an application
80 for a determination of civil indigent status under s. 57.082 and
81 may pay the filing fee under s. 34.041 on behalf of the
82 employee, if applicable. The process may not adjudicate a
83 compensation dispute between an employee and an employer nor
84 award damages to the employee.

85 (b) A county, municipality, or political subdivision may
86 not adopt or maintain in effect any law, ordinance, or rule that
87 creates requirements or regulations for the purpose of
88 addressing unpaid compensation claims other than to establish
89 the administrative, nonjudicial process provided for in this
90 subsection.

91 (c) Notwithstanding paragraph (b), a local ordinance
92 governing wage theft enacted on or before January 2, 2013, is
93 not preempted by this section.

94 (d) Any other regulation, ordinance, or provision for the
95 recovery of unpaid compensation by a county, municipality, or
96 political subdivision is expressly prohibited and is preempted
97 to the state.

98 Section 3. This act shall take effect upon becoming a law.
99

100 -----
101
102 **T I T L E A M E N D M E N T**

103 Remove everything before the enacting clause and insert:



Amendment No. 1

104 An act relating to employers and employees; amending s. 34.01,
105 F.S.; providing jurisdiction of county courts over wage theft
106 civil actions; creating s. 448.115, F.S.; providing a definition
107 for the term "wage theft"; creating a civil cause of action for
108 wage theft; providing the procedure for filing of a civil action
109 for wage theft; providing jurisdiction; limiting the filing fee
110 to no more than \$50; requiring a claimant to notify the employer
111 of the employee's intention to initiate a civil action;
112 allotting the employer a specific time to resolve the action;
113 providing a statute of limitations; requiring a claimant to
114 prove wage theft by a preponderance of the evidence; limiting
115 compensatory damages to twice the amount owed; prohibiting
116 certain damages; authorizing a county, municipality, or
117 political subdivision to establish a process by which a claim
118 may be filed; prohibiting a local government from adopting or
119 maintaining in effect a law, ordinance, or rule for the purpose
120 of addressing unpaid wage claims; prohibiting the preemption of
121 certain local ordinances governing wage theft; providing that
122 any regulation, ordinance, or other provision for recovery of
123 unpaid wages by counties, municipalities, or political
124 subdivisions is prohibited and preempted to the state; providing
125 an effective date.

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

CS/HB 1147 : Office of Attorney General

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	X				
Marti Coley	X				
Dwight Dudley	X				
Heather Fitzenhagen	X				
Matt Gaetz	X				
Bill Hager	X				
Dave Kerner	X				
Charles McBurney	X				
Kionne McGhee	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 18		Total Nays: 0			

CS/HB 1147 Amendments

Amendment 807577

Adopted Without Objection

Appearances:

Fay, Andrew (Lobbyist) (State Employee) - Waive In Support
Attorney General's Office
PL 02 Plaza
Tallahassee FL 32301
Phone: (850) 245-0187

Committee meeting was reported out: Tuesday, April 16, 2013 7:01:22PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE 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
4.16.13*

Committee/Subcommittee hearing bill: Judiciary Committee
Representative Fitzenhagen offered the following:

Amendment (with directory and title amendments)

Remove lines 69-126 and insert:

(19) "Reasonable offset for use" means the number of miles attributable to a consumer up to the date of a settlement agreement or arbitration hearing, whichever occurs first, multiplied by the base selling or sale purchase price of the vehicle as reflected on the purchase invoice, exclusive of taxes, government fees, and dealer fees, or in the case of a lease, the agreed upon value as reflected in the lease agreement and divided by 120,000, except in the case of a recreational vehicle, in which event it shall be divided by 60,000.

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



Amendment No. 1

20 Remove lines 66-67 and insert:

21 Section 5. Subsection (19) of section 681.102, Florida

22 Statutes, is amended to read:

23

24

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26

27

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

28

Remove lines 11-12 and insert:

29

amending s. 681.108, F.S.; revising

30

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

HB 1167 : Relief/Abbott/Palm Beach County School Board

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	X				
Marti Coley	X				
Dwight Dudley	X				
Heather Fitzenhagen	X				
Matt Gaetz		X			
Bill Hager		X			
Dave Kerner	X				
Charles McBurney	X				
Kionne McGhee	X				
Larry Metz	X				
Jared Moskowitz			X		
Kathleen Passidomo	X				
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 15		Total Nays: 2			

Appearances:

Block, Lance (Lobbyist) - Waive In Support

Carl Abbott

P O Box 840

Tallahassee FL 32302

Phone: 850-599-1980

Committee meeting was reported out: Tuesday, April 16, 2013 7:01:22PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

CS/CS/HB 1325 : Victims of Human Trafficking

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	X				
Marti Coley	X				
Dwight Dudley	X				
Heather Fitzenhagen	X				
Matt Gaetz	X				
Bill Hager	X				
Dave Kerner	X				
Charles McBurney	X				
Kionne McGhee	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 18		Total Nays: 0			

Appearances:

Feeney, Thomas - Waive In Support
Major, Hillsborough County Sheriffs Office
2008 E. 8th Avenue
Tampa FL 33605
Phone: (813)363-0375

Book, Ron (Lobbyist) - Waive In Support
Lauren's Kids and FL Council Against Sexual Violence
104 W. Jefferson
Tallahassee FL 32301
Phone: 850-224-3427

Kearschner, Linda (General Public) - Waive In Support
Florida PTA

Brodsky, Ed (State Employee) - Waive In Support
Florida Prosecuting Attorney's Association
2071 Ringling Blvd
Sarasota FL
Phone: 941-861-4460

Sekula, Adrianna (Lobbyist) - Waive In Support
PACE Center for Girls, Inc.
Phone: 904--553-7850

Committee meeting was reported out: Tuesday, April 16, 2013 7:01:22PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

HB 1327 : Pub. Rec./Crim. Hist./Human Trafficking Victims

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	X				
Marti Coley	X				
Dwight Dudley	X				
Heather Fitzenhagen	X				
Matt Gaetz	X				
Bill Hager	X				
Dave Kerner	X				
Charles McBurney	X				
Kionne McGhee	X				
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 18		Total Nays: 0			

HB 1327 Amendments

Amendment 351365

Adopted Without Objection

Amendment 530423

Adopted Without Objection

Appearances:

Sekula, Adrianna (Lobbyist) - Waive In Support
PACE Center for Girls, Inc.
Phone: 904--553-7850

Committee meeting was reported out: Tuesday, April 16, 2013 7:01:22PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE 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
4.16.13*

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative Spano offered the following:

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Amendment

Remove line 20 and insert:

Constitution, except that the record shall be made available to
criminal justice agencies for their respective criminal justice
purposes. Otherwise such record shall not be disclosed to any
person or entity



Amendment No. 2

COMMITTEE/SUBCOMMITTEE 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
4-16-13*

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative Spano offered the following:

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Amendment

Remove lines 28-29 and insert:

Section 2. The Legislature finds that it is a public necessity that a criminal history record ordered expunged under s. 943.0583, Florida Statutes, that is retained by the Department of Law Enforcement be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Art. I of the State Constitution. Persons who are victims of human trafficking and

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

CS/CS/HB 1379 : Service of Process

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	X				
Marti Coley	X				
Dwight Dudley	X				
Heather Fitzenhagen	X				
Matt Gaetz	X				
Bill Hager	X				
Dave Kerner	X				
Charles McBurney	X				
Kionne McGhee		X			
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 17		Total Nays: 1			

CS/CS/HB 1379 Amendments

Amendment 627269

Adopted Without Objection

Amendment 932713

Adopted Without Objection

Appearances:

Rayborn, Keri (Lobbyist) - Waive In Support
Florida Sheriffs Association
PO Box 12519
Tallahassee FL 32317
Phone: (850)524-2394

Committee meeting was reported out: Tuesday, April 16, 2013 7:01:22PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE 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
4.16.13*

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative Mayfield offered the following:

3

4 **Amendment (with title amendment)**

5 Remove lines 40-58 and insert:

6 48.031 Service of process generally; service of witness
7 subpoenas.—

8 (1)

9 (b) Employers, when contacted by an individual authorized
10 to make service of process, must allow ~~shall permit~~ the
11 authorized individual to make service on employees in a private
12 area designated by the employer. An employer who fails to comply
13 with this paragraph is guilty of a non-criminal violation,
14 punishable by a fine of up to \$1,000.

15 (2)

16 (b) Substitute service may be made on an individual doing
17 business as a sole proprietorship at his or her place of
18 business, during regular business hours, by serving the person
19 in charge of the business at the time of service if two ~~or more~~



Amendment No. 1

20 attempts to serve the owner have been made at the place of
21 business.

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

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Remove lines 5-11 and insert:

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requiring an employer to allow an authorized individual to make

30

service on an employee in a private area designated by the

31

employer; providing a civil fine for employers failing to comply

32

with the process; authorizing substitute service during the

33

second attempt of service at a business that is a sole

34



Amendment No. 2

COMMITTEE/SUBCOMMITTEE 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
4.16.13*

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative Mayfield offered the following:

Amendment (with title amendment)

5 Remove lines 76-88 and insert:

6 Section 4. Subsection (5) of section 56.27, Florida
7 Statutes, is amended, and subsection (6) is added to that
8 section, to read:

9 56.27 Executions; payment of money collected.—

10 (5) A sheriff may rely upon the affidavit submitted as
11 required by this section, and a sheriff paying money received
12 under an execution in accordance with the information contained
13 in the affidavit under subsection (4) is not liable to anyone
14 for damages arising from a wrongful levy or wrongful
15 distribution of funds.

16 (6) Nothing in this section shall preclude a sheriff who
17 is uncertain as to whom to disburse the proceeds of the levy
18 sale from applying for instructions from the court that entered
19 the judgment that is the basis of the judgment lien or the
20 appropriate court where the property subject to the levy was



Amendment No. 2

21 located at the time of the levy, provided the sheriff serves by
22 process permitted under chapter 48, Florida Statutes, or
23 certified mail, return receipt requested, a copy of any such
24 application and notice of hearing on the levying creditor,
25 judgment debtor, and any other parties identified in the
26 affidavit.

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

Remove lines 16-21 and insert:

relating to service on a corporation; amending s. 56.27, F.S.;
providing that a sheriff may rely on the affidavit submitted by
the levying creditor; providing that the sheriff may apply for
instructions from the court regarding the distribution of
proceeds from a levy sale; providing an effective date.

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

CS/HB 1413 : Relief/Acosta/Miami-Dade County

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	X				
Marti Coley	X				
Dwight Dudley	X				
Heather Fitzenhagen	X				
Matt Gaetz		X			
Bill Hager		X			
Dave Kerner	X				
Charles McBurney	X				
Kionne McGhee	X				
Larry Metz	X				
Jared Moskowitz			X		
Kathleen Passidomo		X			
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 14		Total Nays: 3			

Appearances:

Block, Lance (Lobbyist) - Waive In Support

Acosta Family

P O Box 840

Tallahassee FL

Phone: 850-599-1980

Committee meeting was reported out: Tuesday, April 16, 2013 7:01:22PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

HB 1415 : Relief/Miller/City of Hollywood

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Daphne Campbell	X				
Marti Coley	X				
Dwight Dudley	X				
Heather Fitzenhagen	X				
Matt Gaetz		X			
Bill Hager		X			
Dave Kerner	X				
Charles McBurney	X				
Kionne McGhee	X				
Larry Metz	X				
Jared Moskowitz			X		
Kathleen Passidomo		X			
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 14		Total Nays: 3			

Appearances:

Unger, Jason (Lobbyist) - Waive In Support
 City of Hollywood
 2600 Hollywood Blvd
 Hollywood FL 33020
 Phone: (850)577-9090

Committee meeting was reported out: Tuesday, April 16, 2013 7:01:22PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

CS/HB 7083 : Postconviction Capital Case Proceedings

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell		X			
Marti Coley	X				
Dwight Dudley		X			
Heather Fitzenhagen	X				
Matt Gaetz	X				
Bill Hager	X				
Dave Kerner	X				
Charles McBurney	X				
Kionne McGhee		X			
Larry Metz	X				
Jared Moskowitz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz		X			
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 14		Total Nays: 4			

CS/HB 7083 Amendments

Amendment 466693

Adopted Without Objection

Appearances:

Nelson, Jeff (General Public) - Proponent
.1930 Florida Ave
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Brodsky, Ed (State Employee) - Waive In Support
Florida Prosecuting Attorney's Association
2071 Ringling Blvd
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Pitts, Brian - Information Only
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St. Petersburg FL 33705
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Committee meeting was reported out: Tuesday, April 16, 2013 7:01:22PM



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COMMITTEE/SUBCOMMITTEE 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
4-16-13*

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative Gaetz offered the following:

Amendment (with title amendment)

5 Remove everything after the enacting clause and insert:

6 Section 1. This act may be cited as the "Timely Justice
7 Act of 2013."

8 Section 2. Subsection (1) of section 27.40, Florida
9 Statutes, is amended to read:

10 27.40 Court-appointed counsel; circuit registries; minimum
11 requirements; appointment by court.-

12 (1) Counsel shall be appointed to represent any individual
13 in a criminal or civil proceeding entitled to court-appointed
14 counsel under the Federal or State Constitution or as authorized
15 by general law. The court shall appoint a public defender to
16 represent indigent persons as authorized in s. 27.51. The office
17 of criminal conflict and civil regional counsel shall be
18 appointed to represent persons in those cases in which provision
19 is made for court-appointed counsel but the public defender is
20 unable to provide representation due to a conflict of interest



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21 or is not authorized to provide representation. Capital
22 collateral regional counsel shall be appointed to represent
23 persons as provided in s. 27.702.

24 Section 3. Paragraph (a) of subsection (5) of section
25 27.51, Florida Statutes, is amended to read:

26 27.51 Duties of public defender.—

27 (5)(a) When direct appellate proceedings prosecuted by a
28 public defender on behalf of an accused and challenging a
29 judgment of conviction and sentence of death terminate in an
30 affirmance of such conviction and sentence, whether by the
31 Florida Supreme Court or by the United States Supreme Court or
32 by expiration of any deadline for filing such appeal in a state
33 or federal court, the public defender shall notify the accused
34 of his or her rights pursuant to Rule 3.850, Florida Rules of
35 Criminal Procedure, including any time limits pertinent thereto,
36 and shall advise such person that representation in any
37 collateral proceedings is the responsibility of the capital
38 collateral regional counsel. The public defender shall then
39 forward all original files on the matter to the capital
40 collateral regional counsel, retaining such copies for his or
41 her files as may be desired. ~~However, the trial court shall~~
42 ~~retain the power to appoint the public defender or other~~
43 ~~attorney not employed by the capital collateral regional counsel~~
44 ~~to represent such person in proceedings for relief by executive~~
45 ~~elemency pursuant to ss. 27.40 and 27.5303.~~

46 Section 4. Subsection (9) of section 27.511, Florida
47 Statutes, is amended to read:



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48 27.511 Offices of criminal conflict and civil regional
49 counsel; legislative intent; qualifications; appointment;
50 duties.-

51 (9) When direct appellate proceedings prosecuted by the
52 office of criminal conflict and civil regional counsel on behalf
53 of an accused and challenging a judgment of conviction and
54 sentence of death terminate in an affirmance of such conviction
55 and sentence, whether by the Supreme Court or by the United
56 States Supreme Court or by expiration of any deadline for filing
57 such appeal in a state or federal court, the office of criminal
58 conflict and civil regional counsel shall notify the accused of
59 his or her rights pursuant to Rule 3.850, Florida Rules of
60 Criminal Procedure, including any time limits pertinent thereto,
61 and shall advise such person that representation in any
62 collateral proceedings is the responsibility of the capital
63 collateral regional counsel. The office of criminal conflict and
64 civil regional counsel shall forward all original files on the
65 matter to the capital collateral regional counsel, retaining
66 such copies for his or her files as may be desired or required
67 by law. ~~However, the trial court shall retain the power to~~
68 ~~appoint the office of criminal conflict and civil regional~~
69 ~~counsel or other attorney not employed by the capital collateral~~
70 ~~regional counsel to represent such person in proceedings for~~
71 ~~relief by executive clemency pursuant to ss. 27.40 and 27.5303.~~

72 Section 5. Subsection (4) of section 27.5303, Florida
73 Statutes, is amended to read:

74 27.5303 Public defenders; criminal conflict and civil
75 regional counsel; conflict of interest.-



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76 (4) (a) If a defendant is convicted and the death sentence
77 is imposed, the appointed attorney shall continue representation
78 through appeal to the Supreme Court. The attorney shall be
79 compensated as provided in s. 27.5304. If the attorney first
80 appointed is unable to handle the appeal, the court shall
81 appoint another attorney and that attorney shall be compensated
82 as provided in s. 27.5304.

83 ~~(b) The public defender or an attorney appointed pursuant~~
84 ~~to this section may be appointed by the court rendering the~~
85 ~~judgment imposing the death penalty to represent an indigent~~
86 ~~defendant who has applied for executive clemency as relief from~~
87 ~~the execution of the judgment imposing the death penalty.~~

88 ~~(b)(e)~~ When the appointed attorney in a capital case has
89 completed the duties imposed by this section, the attorney shall
90 file a written report in the trial court stating the duties
91 performed by the attorney and apply for discharge.

92 Section 6. Paragraph (b) of subsection (5) of section
93 27.5304, Florida Statutes, is amended to read:

94 27.5304 Private court-appointed counsel; compensation;
95 notice.—

96 (5) The compensation for representation in a criminal
97 proceeding shall not exceed the following:

98 (b) If a death sentence is imposed and affirmed on appeal
99 to the Supreme Court, the appointed attorney shall be allowed
100 compensation, not to exceed \$1,000, for attorney fees and costs
101 incurred in representing the defendant as to an application for
102 executive clemency, with compensation to be paid out of general



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103 revenue from funds budgeted to the Justice Administrative
104 Commission Department of Corrections.

105 Section 7. Section 27.7001, Florida Statutes, is amended
106 to read:

107 27.7001 Legislative intent and findings.—It is the intent
108 of the Legislature to create part IV of this chapter, consisting
109 of ss. 27.7001-27.711, inclusive, to provide for the collateral
110 representation of any person convicted and sentenced to death in
111 this state, so that collateral legal proceedings to challenge
112 any Florida capital conviction and sentence may be commenced in
113 a timely manner and so as to assure the people of this state
114 that the judgments of its courts may be regarded with the
115 finality to which they are entitled in the interests of justice.
116 It is the further intent of the Legislature that collateral
117 representation shall not include representation during retrials,
118 resentencings, ~~proceedings commenced under chapter 940~~, or civil
119 litigation.

120 Section 8. Section 27.701, Florida Statutes, is amended to
121 read:

122 27.701 Capital collateral regional counsel.—

123 ~~(1)~~ There are created three regional offices of capital
124 collateral counsel, which shall be located in a northern,
125 middle, and southern region of the state. The northern region
126 shall consist of the First, Second, Third, Fourth, Eighth, and
127 Fourteenth Judicial Circuits; the middle region shall consist of
128 the Fifth, Sixth, Seventh, Ninth, Tenth, Twelfth, Thirteenth,
129 and Eighteenth Judicial Circuits; and the southern region shall
130 consist of the Eleventh, Fifteenth, Sixteenth, Seventeenth,



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131 Nineteenth, and Twentieth Judicial Circuits. Each regional
132 office shall be administered by a regional counsel. A regional
133 counsel must be, and must have been for the preceding 5 years, a
134 member in good standing of The Florida Bar or a similar
135 organization in another state. Each capital collateral regional
136 counsel shall be appointed by the Governor, and is subject to
137 confirmation by the Senate. The Supreme Court Judicial
138 Nominating Commission shall recommend to the Governor three
139 qualified candidates for each appointment as regional counsel.
140 The Governor shall appoint a regional counsel for each region
141 from among the recommendations, or, if it is in the best
142 interest of the fair administration of justice in capital cases,
143 the Governor may reject the nominations and request submission
144 of three new nominees by the Supreme Court Judicial Nominating
145 Commission. Each capital collateral regional counsel shall be
146 appointed to a term of 3 years. Vacancies in the office of
147 capital collateral regional counsel shall be filled in the same
148 manner as appointments. A person appointed as a regional counsel
149 may not run for or accept appointment to any state office for 2
150 years following vacation of office.

151 ~~(2) Notwithstanding the provisions of subsection (1), the~~
152 ~~responsibilities of the regional office of capital collateral~~
153 ~~counsel for the northern region of the state shall be met~~
154 ~~through a pilot program using only attorneys from the registry~~
155 ~~of attorneys maintained pursuant to s. 27.710. Each attorney~~
156 ~~participating in the pilot must be qualified to provide~~
157 ~~representation in federal court. The Auditor General shall~~
158 ~~schedule a performance review of the pilot program to determine~~



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159 ~~the effectiveness and efficiency of using attorneys from the~~
160 ~~registry compared to the capital collateral regional counsel.~~
161 ~~The review, at a minimum, shall include comparisons of the~~
162 ~~timeliness and costs of the pilot and the counsel and shall be~~
163 ~~submitted to the President of the Senate and the Speaker of the~~
164 ~~House of Representatives by January 30, 2007. The Legislature~~
165 ~~may determine whether to convert the pilot program to a~~
166 ~~permanent program after receipt of the Auditor General's review.~~

167 Section 9. Subsections (1) and (2) and paragraph (b) of
168 subsection (4) of section 27.702, Florida Statutes, are amended
169 to read:

170 27.702 Duties of the capital collateral regional counsel;
171 reports.—

172 (1) The capital collateral regional counsel shall
173 represent each person convicted and sentenced to death in this
174 state for the sole purpose of instituting and prosecuting
175 collateral actions challenging the legality of the judgment and
176 sentence imposed against such person in the state courts,
177 federal courts in this state, the United States Court of Appeals
178 for the Eleventh Circuit, and the United States Supreme Court;
179 and in proceedings commenced under chapter 940. ~~The capital~~
180 ~~collateral regional counsel and the attorneys appointed pursuant~~
181 ~~to s. 27.710 shall file only those postconviction or collateral~~
182 ~~actions authorized by statute.~~ The three capital collateral
183 regional counsel's offices shall function independently and be
184 separate budget entities, and the regional counsel shall be the
185 office heads for all purposes. The Justice Administrative
186 Commission shall provide administrative support and service to



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187 the three offices to the extent requested by the regional
188 counsel. The three regional offices shall not be subject to
189 control, supervision, or direction by the Justice Administrative
190 Commission in any manner, including, but not limited to,
191 personnel, purchasing, transactions involving real or personal
192 property, and budgetary matters.

193 (2) The capital collateral regional counsel shall represent
194 persons convicted and sentenced to death within the region in
195 collateral postconviction proceedings and proceedings under
196 chapter 940, unless a court appoints or permits other counsel to
197 appear as counsel of record.

198 (4)

199 (b) Each capital collateral regional counsel ~~and each~~
200 ~~attorney participating in the pilot program in the northern~~
201 ~~region pursuant to s. 27.701(2)~~ shall provide a quarterly report
202 to the President of the Senate and the Speaker of the House of
203 Representatives which details the number of hours worked by
204 investigators and legal counsel per case and the amounts per
205 case expended during the preceding quarter in investigating and
206 litigating capital collateral cases.

207 Section 10. Section 27.703, Florida Statutes, is amended
208 to read:

209 27.703 Conflict of interest and substitute counsel.—

210 (1) The capital collateral regional counsel shall not
211 accept an appointment or take any other action that will create
212 an actual conflict of interest. If, at any time during the
213 representation of a person, the capital collateral regional
214 counsel alleges ~~determines~~ that the continued representation of



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215 that person creates an actual conflict of interest, the
216 sentencing court shall, upon determining that an actual conflict
217 exists ~~application by the regional counsel~~, designate another
218 regional counsel. If the replacement regional counsel alleges
219 that an actual conflict of interest exists, the sentencing court
220 shall, upon determining that an actual conflict exists and, only
221 ~~if a conflict exists with the other two counsel~~, appoint one or
222 more members of The Florida Bar who meets the requirements of s.
223 27.710 and who is not disqualified pursuant to s. 27.7045 to
224 represent the person one or more of such persons. An actual
225 conflict of interest exists when an attorney actively represents
226 conflicting interests. A possible, speculative, or merely
227 hypothetical conflict is insufficient to support an allegation
228 that a conflict of interest exists.

229 (2) Appointed counsel shall be paid from funds
230 appropriated to the Chief Financial Officer. The hourly rate may
231 not exceed \$100. However, all appointments of private counsel
232 under this section shall be in accordance with ss. 27.710 and
233 27.711.

234 (3) Capital collateral regional ~~Prior to employment,~~
235 counsel appointed pursuant to this section must have
236 participated in at least five felony jury trials, five felony
237 appeals, or five capital postconviction evidentiary hearings, or
238 any combination of at least five of such proceedings, and must
239 not be disqualified pursuant to s. 27.7045.

240 Section 11. Section 27.7045, Florida Statutes, is created
241 to read:

242 27.7045 Capital case proceedings; constitutionally



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243 deficient representation.— Notwithstanding any other provision
244 of law, an attorney employed by the state of Florida or
245 appointed pursuant to s. 27.711 may not represent a person
246 charged with a capital offense at trial or on direct appeal, or
247 a person sentenced to death in a postconviction proceeding if,
248 in two separate instances, a court, in a capital postconviction
249 proceeding, determined that such attorney provided
250 constitutionally deficient representation and relief was granted
251 as a result. This prohibition on representation shall be for a
252 period of five years, which commences at the time relief is
253 granted after the highest court having jurisdiction to review
254 the deficient representation determination has issued its final
255 order affirming the second such determination.

256 Section 12. Section 27.7081, Florida Statutes, is amended
257 to read:

258 (Substantial rewording of section. See
259 s. 27.7081, F.S., for present text.)

260 27.7081 Capital postconviction public records production.—

261 (1) DEFINITIONS.—As used in this section, the term:

262 (a) "Agency" has the same meaning as provided in s.
263 119.011.

264 (b) "Collateral counsel" means a capital collateral
265 regional counsel from one of the three regions in Florida, a
266 private attorney who has been appointed to represent a capital
267 defendant for postconviction litigation, or a private attorney
268 who has been hired by the capital defendant or who has agreed to
269 work pro bono for a capital defendant for postconviction
270 litigation.



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271 (c) "Public records" has the same meaning as provided in
272 s. 119.011.

273 (d) "Trial court" means:

274 1. The judge who entered the judgment and imposed the
275 sentence of death; or

276 2. If a motion for postconviction relief in a capital case
277 has been filed and a different judge has already been assigned
278 to that motion, the judge who is assigned to rule on that
279 motion.

280 (2) APPLICABILITY AND SCOPE.—This section only applies to
281 the production of public records for capital postconviction
282 defendants and does not change or alter the time periods
283 specified in Rule 3.851, Florida Rules of Criminal Procedure.
284 Furthermore, this section does not affect, expand, or limit the
285 production of public records for any purpose other than use in a
286 proceeding held pursuant to Rule 3.850 or Rule 3.851, Florida
287 Rules of Criminal Procedure. This section shall not be a basis
288 for renewing public records requests that have been initiated
289 previously or for relitigating issues pertaining to production
290 of public records upon which a court has ruled before July 1,
291 2013. Public records requests made in postconviction proceedings
292 in capital cases in which the conviction and sentence of death
293 have been affirmed on direct appeal before July 1, 2013, shall
294 be governed by the rules and laws in effect immediately before
295 July 1, 2013.

296 (3) RECORDS REPOSITORY.—The Secretary of State shall
297 establish and maintain a records repository to archive capital
298 postconviction public records as provided for in this section.



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299 (4) FILING AND SERVICE.—

300 (a) The original of all notices, requests, or objections
301 filed under this section must be filed with the clerk of the
302 trial court. Copies must be served on the trial court, the
303 attorney general, the state attorney, collateral counsel, and
304 any affected person or agency, unless otherwise required by this
305 section.

306 (b) Service shall be made pursuant to Rule 3.030, Florida
307 Rules of Criminal Procedure.

308 (c) In all instances requiring written notification or
309 request, the party who has the obligation of providing a
310 notification or request shall provide proof of receipt.

311 (d) Persons and agencies receiving postconviction public
312 records notifications or requests pursuant to this section are
313 not required to furnish records filed in a trial court before
314 the receipt of the notice.

315 (5) ACTION UPON ISSUANCE OF THE MANDATE ON DIRECT APPEAL.—

316 (a) Within 15 days after receiving written notification of
317 the Florida Supreme Court's mandate affirming the sentence of
318 death, the attorney general shall file with the trial court a
319 written notice of the mandate and serve a copy of the notice
320 upon the state attorney who prosecuted the case, the Department
321 of Corrections, and the defendant's trial counsel. The notice to
322 the state attorney shall direct the state attorney to submit
323 public records to the records repository within 90 days after
324 receipt of written notification and to notify each law
325 enforcement agency involved in the investigation of the capital
326 offense to submit public records to the records repository



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327 within 90 days after receipt of written notification. The notice
328 to the Department of Corrections shall direct the department to
329 submit public records to the records repository within 90 days
330 after receipt of written notification.

331 (b) Within 90 days after receiving written notification of
332 issuance of the Florida Supreme Court's mandate affirming a
333 death sentence, the state attorney shall provide written
334 notification to the attorney general of the name and address of
335 an additional person or agency that has public records pertinent
336 to the case.

337 (c) Within 90 days after receiving written notification of
338 issuance of the Florida Supreme Court's mandate affirming a
339 death sentence, the defendant's trial counsel shall provide
340 written notification to the attorney general of the name and
341 address of a person or agency with information pertinent to the
342 case which has not previously been provided to collateral
343 counsel.

344 (d) Within 15 days after receiving written notification of
345 any additional person or agency pursuant to paragraph (b) or
346 paragraph (c), the attorney general shall notify all persons or
347 agencies identified pursuant to paragraph (b) or paragraph (c)
348 that these persons or agencies are required by law to copy,
349 index, and deliver to the records repository all public records
350 pertaining to the case that are in their possession. The person
351 or agency shall bear the costs related to copying, indexing, and
352 delivering the records.

353 (6) ACTION UPON RECEIPT OF NOTICE OF MANDATE.—

354 (a) Within 15 days after receipt of a written notice of



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355 the mandate from the attorney general, the state attorney shall
356 provide written notification to each law enforcement agency
357 involved in the specific case to submit public records to the
358 records repository within 90 days after receipt of written
359 notification. A copy of the notice shall be served upon the
360 defendant's trial counsel.

361 (b) Within 90 days after receipt of a written notice of
362 the mandate from the attorney general, the state attorney shall
363 copy, index, and deliver to the records repository all public
364 records that were produced in the state attorney's investigation
365 or prosecution of the case. The state attorney shall bear the
366 costs. The state attorney shall also provide written
367 notification to the attorney general of compliance with this
368 section, including certifying that, to the best of the state
369 attorney's knowledge or belief, all public records in the state
370 attorney's possession have been copied, indexed, and delivered
371 to the records repository as required by this section.

372 (c) Within 90 days after receipt of written notification
373 of the mandate from the attorney general, the Department of
374 Corrections shall, at its own expense, copy, index, and deliver
375 to the records repository all public records determined by the
376 department to be relevant to the subject matter of a proceeding
377 under Rule 3.851, Florida Rules of Criminal Procedure, unless
378 such copying, indexing, and delivering would be unduly
379 burdensome. The secretary of the department shall provide
380 written notification to the attorney general of compliance with
381 this paragraph certifying that, to the best of the secretary of
382 the department's knowledge or belief, all such public records in



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383 the possession of the secretary of the department have been
384 copied, indexed, and delivered to the records repository.

385 (d) Within 90 days after receipt of written notification
386 of the mandate from the state attorney, a law enforcement agency
387 shall, at its own expense, copy, index, and deliver to the
388 records repository all public records that were produced in the
389 investigation or prosecution of the case. The chief law
390 enforcement officer of each law enforcement agency shall provide
391 written notification to the attorney general of compliance with
392 this paragraph including certifying that, to the best of the
393 chief law enforcement officer's knowledge or belief, all such
394 public records in possession of the agency or in possession of
395 an employee of the agency, have been copied, indexed, and
396 delivered to the records repository.

397 (e) Within 90 days after receipt of written notification
398 of the mandate from the attorney general, each additional person
399 or agency identified pursuant to paragraph (5)(b) or paragraph
400 (5)(c) shall copy, index, and deliver to the records repository
401 all public records which were produced during the prosecution of
402 the case. The person or agency shall bear the costs. The person
403 or agency shall provide written notification to the attorney
404 general of compliance with this subdivision and shall certify,
405 to the best of the person or agency's knowledge and belief, all
406 such public records in the possession of the person or agency
407 have been copied, indexed, and delivered to the records
408 repository.

409 (7) EXEMPT OR CONFIDENTIAL PUBLIC RECORDS.—

410 (a) Public records delivered to the records repository



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411 pursuant to this section that are confidential or exempt from
412 the requirements of s. 119.07(1) or article I, section 24(a), of
413 the Constitution, must be separately contained, without being
414 redacted, and sealed. The outside of the container must clearly
415 identify that the public record is confidential or exempt and
416 that the seal may not be broken without an order of the trial
417 court. The outside of the container must identify the nature of
418 the public records and the legal basis for the exemption.

419 (b) Upon the entry of an appropriate court order, sealed
420 containers subject to an inspection by the trial court shall be
421 shipped to the clerk of court. The containers may be opened only
422 for inspection by the trial court. The moving party shall bear
423 all costs associated with the transportation and inspection of
424 such records by the trial court.

425 (8) DEMAND FOR ADDITIONAL PUBLIC RECORDS.-

426 (a) Within 240 days after collateral counsel is appointed,
427 retained, or appears pro bono, such counsel shall send a written
428 demand for additional public records to each person or agency
429 submitting public records or identified as having information
430 pertinent to the case under subsection (5).

431 (b) Within 90 days after receipt of the written demand,
432 each person or agency notified under this subsection shall
433 deliver to the records repository additional public records in
434 the possession of the person or agency that pertain to the case
435 and shall certify to the best of the person or agency's
436 knowledge and belief that all additional public records have
437 been delivered to the records repository or, if no additional
438 public records are found, shall recertify that the public



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439 records previously delivered are complete.

440 (c) Within 60 days after receipt of the written demand, a
441 person or agency may file with the trial court an objection to
442 the written demand described in paragraph (a). The trial court
443 may order a person or agency to produce additional public
444 records if the court determines that:

445 1. Collateral counsel has made a timely and diligent
446 search as provided in this section.

447 2. Collateral counsel's written demand identifies, with
448 specificity, those additional public records that are not at the
449 records repository.

450 3. The additional public records sought are relevant to
451 the subject matter of a postconviction proceeding under Rule
452 3.851, Florida Rules of Criminal Procedure, or appear reasonably
453 calculated to lead to the discovery of admissible evidence.

454 4. The additional public records request is not overly
455 broad or unduly burdensome.

456 (9) LIMITATION ON POSTPRODUCTION REQUEST FOR ADDITIONAL
457 RECORDS.—

458 (a) In order to obtain public records in addition to those
459 provided under subsections (6), (7), and (8), collateral counsel
460 must file an affidavit in the trial court which:

461 1. Attests that collateral counsel has made a timely and
462 diligent search of the records repository.

463 2. Identifies with specificity those public records not at
464 the records repository.

465 3. Establishes that the additional public records are
466 either relevant to the subject matter of the postconviction



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467 proceeding or are reasonably calculated to lead to the discovery
468 of admissible evidence.

469 4. Must be served in accordance with subsection (4).

470 (b) The trial court may order a person or agency to
471 produce additional public records only upon finding that:

472 1. Collateral counsel has made a timely and diligent
473 search of the records repository.

474 2. Collateral counsel's affidavit identifies with
475 specificity those additional public records that are not at the
476 records repository.

477 3. The additional public records sought are either
478 relevant to the subject matter of a capital postconviction
479 proceeding or appear reasonably calculated to lead to the
480 discovery of admissible evidence.

481 4. The additional records request is not overly broad or
482 unduly burdensome.

483 (10) COPYING RECORDS.— The Secretary of State shall
484 provide the personnel, supplies, and any necessary equipment to
485 copy records held at the records repository.

486 (11) AUTHORITY OF THE COURT.—In proceedings under this
487 section the trial court may:

488 (a) Compel or deny disclosure of records.

489 (b) Conduct an inspection in camera.

490 (c) Extend the time periods in this section upon a showing
491 of good cause.

492 (d) Impose sanctions upon a party, person, or agency
493 affected by this section, including initiating contempt
494 proceedings, taxing expenses, extending time periods, ordering



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495 facts to be established, and granting other relief.

496 (e) Resolve a dispute arising under this section unless
497 jurisdiction is in an appellate court.

498 (12) SCOPE OF PRODUCTION AND RESOLUTION OF PRODUCTION
499 ISSUES.—

500 (a) Unless otherwise limited, the scope of production
501 under any part of this section shall be that the public records
502 sought are not privileged or immune from production and are
503 either relevant to the subject matter of a postconviction
504 proceeding under Rule 3.851, Florida Rules of Criminal
505 Procedure, or are reasonably calculated to lead to the discovery
506 of admissible evidence.

507 (b) Counsel for a party objecting or moving to compel
508 production of public records pursuant to this section must file
509 a copy of the objection or motion directly with the trial court.

510 (c) The trial court may order mediation for a controversy
511 as to public records production pursuant to this section in
512 accord with Rules 1.700, 1.710, 1.720, and 1.730, Florida Rules
513 of Civil Procedure, or the trial court may refer such
514 controversy to a magistrate in accord with Rule 1.490, Florida
515 Rules of Civil Procedure.

516 (13) DESTRUCTION OF RECORDS.—Sixty days after a capital
517 sentence is carried out, after a defendant is released from
518 incarceration after the granting of a pardon or reversal of the
519 sentence, or after a defendant has been resentenced to a term of
520 years, the attorney general shall provide written notification
521 of this occurrence to the Secretary of State. After the
522 expiration of the 60 days, the Secretary of State may destroy



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523 the copies of the records held by the records repository that
524 pertain to that case, unless an objection to the destruction is
525 filed in the trial court and served upon the Secretary of State.
526 If no objection is served within the 60-day period, the records
527 may then be destroyed. If an objection is served, the records
528 shall not be destroyed until a final disposition of the
529 objection.

530 Section 13. Subsections (1), (2), (3), and (4) of section
531 27.710, Florida Statutes, are amended to read:

532 27.710 Registry of attorneys applying to represent persons
533 in postconviction capital collateral proceedings; certification
534 of minimum requirements; appointment by trial court.—

535 (1) The executive director of the Justice Administrative
536 Commission shall compile and maintain a statewide registry of
537 attorneys in private practice who have certified that they meet
538 the minimum requirements of s. 27.704(2), who have participated
539 in at least two capital trials or two capital sentencing
540 proceedings, who are available for appointment by the court
541 under this section to represent persons convicted and sentenced
542 to death in this state in postconviction collateral proceedings,
543 and who have attended within the last year a continuing legal
544 education program of at least 10 hours' duration devoted
545 specifically to the defense of capital cases, if available.
546 Continuing legal education programs meeting the requirements of
547 this rule offered by The Florida Bar or another recognized
548 provider and approved for continuing legal education credit by
549 The Florida Bar shall satisfy this requirement. The failure to
550 comply with this requirement may be cause for removal from the



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551 list until the requirement is fulfilled. To ensure that
552 sufficient attorneys are available for appointment by the court,
553 when the number of attorneys on the registry falls below 50, the
554 executive director shall notify the chief judge of each circuit
555 by letter and request the chief judge to promptly submit the
556 names of at least three private attorneys who regularly practice
557 criminal law in that circuit and who appear to meet the minimum
558 requirements to represent persons in postconviction capital
559 collateral proceedings. The executive director shall send an
560 application to each attorney identified by the chief judge so
561 that the attorney may register for appointment as counsel in
562 postconviction capital collateral proceedings. As necessary, the
563 executive director may also advertise in legal publications and
564 other appropriate media for qualified attorneys interested in
565 registering for appointment as counsel in postconviction capital
566 collateral proceedings. Not later than September 1 of each year,
567 and as necessary thereafter, the executive director shall
568 provide to the Chief Justice of the Supreme Court, the chief
569 judge and state attorney in each judicial circuit, and the
570 Attorney General a current copy of its registry of attorneys who
571 are available for appointment as counsel in postconviction
572 capital collateral proceedings. The registry must be indexed by
573 judicial circuit and must contain the requisite information
574 submitted by the applicants in accordance with this section.

575 (2) To be eligible for court appointment as counsel in
576 postconviction capital collateral proceedings, an attorney must
577 certify on an application provided by the executive director
578 that he or she satisfies the minimum requirements for private



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579 counsel set forth in s. 27.704(2) and that he or she has
580 participated in at least two capital trials or two capital
581 sentencing proceedings.

582 (3) An attorney who applies for registration and court
583 appointment as counsel in postconviction capital collateral
584 proceedings must certify that he or she is counsel of record in
585 not more than nine ~~four~~ such proceedings and, if appointed to
586 represent a person in postconviction capital collateral
587 proceedings, shall continue such representation under the terms
588 and conditions set forth in s. 27.711 until the sentence is
589 reversed, reduced, or carried out or unless permitted to
590 withdraw from representation by the trial court. The court may
591 not permit an attorney to withdraw from representation without a
592 finding of sufficient good cause. The court may impose
593 appropriate sanctions if it finds that an attorney has shown bad
594 faith with respect to continuing to represent a defendant in a
595 postconviction capital collateral proceeding. This section does
596 not preclude the court from reassigning a case to a capital
597 collateral regional counsel following discontinuation of
598 representation if a conflict of interest no longer exists with
599 respect to the case.

600 (4) Each private attorney who is appointed by the court to
601 represent a capital defendant must enter into a contract with
602 the Justice Administrative Commission ~~Chief Financial Officer~~.
603 If the appointed attorney fails to execute the contract within
604 30 days after the date the contract is mailed to the attorney,
605 the executive director shall notify the trial court. The Justice
606 Administrative Commission ~~Chief Financial Officer~~ shall develop



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607 ~~the form of the contract,~~ function as contract manager, and
608 enforce performance of the terms and conditions of the contract.
609 The Justice Administrative Commission shall approve uniform
610 contract forms for use in procuring the services of private
611 court-appointed counsel and uniform procedures and forms for use
612 by a court-appointed attorney in support of billing for attorney
613 fees, costs, and related expenses to demonstrate attorney
614 completion of specified duties. By signing such contract, the
615 attorney certifies that he or she intends to continue the
616 representation under the terms and conditions set forth in the
617 contract until the sentence is reversed, reduced, or carried out
618 or until released by order of the trial court.

619 Section 14. Subsections (3), (4), (5), (6), (7), (9),
620 (12), (13), and (14) of section 27.711, Florida Statutes, are
621 amended to read:

622 27.711 Terms and conditions of appointment of attorneys as
623 counsel in postconviction capital collateral proceedings.—

624 (3) An attorney appointed to represent a capital defendant
625 is entitled to payment of the fees set forth in this section
626 only upon full performance by the attorney of the duties
627 specified in this section and approval of payment by the trial
628 court, and the submission of a payment request by the attorney,
629 subject to the availability of sufficient funding specifically
630 appropriated for this purpose. ~~An attorney may not be~~
631 ~~compensated under this section for work performed by the~~
632 ~~attorney before July 1, 2003, while employed by the northern~~
633 ~~regional office of the capital collateral counsel.~~ The Justice
634 Administrative Commission Chief Financial Officer shall notify



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635 ~~the executive director~~ and the court if it appears that
636 sufficient funding has not been specifically appropriated for
637 this purpose to pay any fees which may be incurred. The attorney
638 shall maintain appropriate documentation, including a current
639 and detailed hourly accounting of time spent representing the
640 capital defendant. The fee and payment schedule in this section
641 is the exclusive means of compensating a court-appointed
642 attorney who represents a capital defendant. When appropriate, a
643 court-appointed attorney must seek further compensation from the
644 Federal Government, as provided in 18 U.S.C. s. 3006A or other
645 federal law, in habeas corpus litigation in the federal courts.

646 (4) Upon approval by the trial court, an attorney
647 appointed to represent a capital defendant under s. 27.710 is
648 entitled to payment of the following fees by the Justice
649 Administrative Commission ~~Chief Financial Officer~~:

650 (a) Regardless of the stage of postconviction capital
651 collateral proceedings, the attorney is entitled to \$100 per
652 hour, up to a maximum of \$2,500, after accepting appointment and
653 filing a notice of appearance.

654 (b) The attorney is entitled to \$100 per hour, up to a
655 maximum of \$20,000, after timely filing in the trial court the
656 capital defendant's complete original motion for postconviction
657 relief under the Florida Rules of Criminal Procedure. The motion
658 must raise all issues to be addressed by the trial court.
659 However, an attorney is entitled to fees under this paragraph if
660 the court schedules a hearing on a matter that makes the filing
661 of the original motion for postconviction relief unnecessary or
662 if the court otherwise disposes of the case.



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663 (c) The attorney is entitled to \$100 per hour, up to a
664 maximum of \$20,000, after the trial court issues a final order
665 granting or denying the capital defendant's motion for
666 postconviction relief.

667 (d) The attorney is entitled to \$100 per hour, up to a
668 maximum of \$20,000, after timely filing in the Supreme Court the
669 capital defendant's brief or briefs that address the trial
670 court's final order granting or denying the capital defendant's
671 motion for postconviction relief and the state petition for writ
672 of habeas corpus.

673 (e) The attorney is entitled to \$100 per hour, up to a
674 maximum of \$10,000, after the trial court issues an order,
675 pursuant to a remand from the Supreme Court, which directs the
676 trial court to hold further proceedings on the capital
677 defendant's motion for postconviction relief.

678 (f) The attorney is entitled to \$100 per hour, up to a
679 maximum of \$4,000, after the appeal of the trial court's denial
680 of the capital defendant's motion for postconviction relief and
681 the capital defendant's state petition for writ of habeas corpus
682 become final in the Supreme Court.

683 (g) At the conclusion of the capital defendant's
684 postconviction capital collateral proceedings in state court,
685 the attorney is entitled to \$100 per hour, up to a maximum of
686 \$2,500, after filing a petition for writ of certiorari in the
687 Supreme Court of the United States.

688 (h) If, at any time, a death warrant is issued, the
689 attorney is entitled to \$100 per hour, up to a maximum of
690 \$5,000. This payment shall be full compensation for attorney's



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691 fees and costs for representing the capital defendant throughout
692 the proceedings before the state courts of Florida.

693

694 The hours billed by a contracting attorney under this subsection
695 may include time devoted to representation of the defendant by
696 another attorney who is qualified under s. 27.710 and who has
697 been designated by the contracting attorney to assist him or
698 her.

699 (5) An attorney who represents a capital defendant may use
700 the services of one or more investigators to assist in
701 representing a capital defendant. Upon approval by the trial
702 court, the attorney is entitled to payment from the Justice
703 Administrative Commission ~~Chief Financial Officer~~ of \$40 per
704 hour, up to a maximum of \$15,000, for the purpose of paying for
705 investigative services.

706 (6) An attorney who represents a capital defendant is
707 entitled to a maximum of \$15,000 for miscellaneous expenses,
708 such as the costs of preparing transcripts, compensating expert
709 witnesses, and copying documents. Upon approval by the trial
710 court, the attorney is entitled to payment by the Justice
711 Administrative Commission ~~Chief Financial Officer~~ of up to
712 \$15,000 for miscellaneous expenses, except that, if the trial
713 court finds that extraordinary circumstances exist, the attorney
714 is entitled to payment in excess of \$15,000.

715 (7) An attorney who is actively representing a capital
716 defendant is entitled to a maximum of \$500 per fiscal year for
717 tuition and expenses for continuing legal education that
718 pertains to the representation of capital defendants. Upon



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719 approval by the trial court, the attorney is entitled to payment
720 by the Justice Administrative Commission ~~Chief Financial Officer~~
721 for expenses for such tuition and continuing legal education.

722 (9) An attorney may not represent more than ten five
723 defendants in capital postconviction litigation at any one time.

724 (12) The court shall monitor the performance of assigned
725 counsel to ensure that the capital defendant is receiving
726 quality representation. The court shall also receive and
727 evaluate allegations that are made regarding the performance of
728 assigned counsel. The Justice Administrative Commission ~~Chief~~
729 ~~Financial Officer~~, the Department of Legal Affairs, ~~the~~
730 ~~executive director~~, or any interested person may advise the
731 court of any circumstance that could affect the quality of
732 representation, including, but not limited to, false or
733 fraudulent billing, misconduct, failure to meet continuing legal
734 education requirements, solicitation to receive compensation
735 from the capital defendant, or failure to file appropriate
736 motions in a timely manner.

737 (13) Prior to the filing of a motion for order approving
738 payment of attorney's fees, costs, or related expenses, the
739 assigned counsel shall deliver a copy of his intended billing,
740 together with supporting affidavits and all other necessary
741 documentation, to the Justice Administrative Commission ~~Chief~~
742 ~~Financial Officer's named contract manager~~. The Justice
743 Administrative Commission shall review the intended billing
744 ~~contract manager shall have 10 business days from receipt to~~
745 ~~review the billings, affidavit, and documentation for~~
746 completeness and compliance with contractual and statutory



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747 requirements. If the Justice Administrative Commission ~~contract~~
748 ~~manager~~ objects to any portion of the proposed billing, the
749 objection and reasons therefor shall be communicated to the
750 assigned counsel. The assigned counsel may thereafter file his
751 or her motion for order approving payment of attorney's fees,
752 costs, or related expenses together with supporting affidavits
753 and all other necessary documentation. The motion must specify
754 whether the Justice Administrative Commission ~~Chief Financial~~
755 ~~Officer's contract manager~~ objects to any portion of the billing
756 or the sufficiency of documentation and, if so, the reason
757 therefor. A copy of the motions and attachments shall be served
758 on the Justice Administrative Commission at least 5 business
759 days before the date of a hearing. The Justice Administrative
760 Commission has standing to appear before the court to contest
761 any motion for an order approving payment of attorney fees,
762 costs, or related expenses and may participate in a hearing on
763 the motion by use of telephonic or other communication
764 equipment. A copy of the motion and attachments shall be served
765 on the Chief Financial Officer's contract manager, who shall
766 have standing to file pleadings and appear before the court to
767 contest any motion for order approving payment. The fact that
768 the Justice Administrative Commission ~~Chief Financial Officer's~~
769 ~~contract manager~~ has not objected to any portion of the billing
770 or to the sufficiency of the documentation is not binding on the
771 court, which retains primary authority and responsibility for
772 determining the reasonableness of all billings for fees, costs,
773 and related expenses, subject to statutory limitations.



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774 ~~(14) Each attorney participating in the pilot program in~~
775 ~~the northern region pursuant to s. 27.701(2), as a condition of~~
776 ~~payment pursuant to this section, shall report on the~~
777 ~~performance measures adopted by the Legislature for the capital~~
778 ~~collateral regional counsel.~~

779 Section 15. Section 922.095, Florida Statutes, is amended
780 to read:

781 922.095 Grounds for death warrant; limitations of
782 actions.—A person who is convicted and sentenced to death must
783 pursue all possible collateral remedies in state court in
784 accordance with the Florida Rules of Criminal Procedure within
785 ~~the time limits provided by statute. Failure to seek relief~~
786 ~~within the statutory time limits constitutes grounds for~~
787 ~~issuance of a death warrant under s. 922.052 or s. 922.14. Any~~
788 ~~claim not pursued within the statutory time limits is barred. No~~
789 ~~claim filed after the time required by law shall be grounds for~~
790 ~~a judicial stay of any warrant.~~

791 Section 16. Section 922.052, Florida Statutes, is amended
792 to read:

793 922.052 Issuance of warrant of execution.—

794 (1) When a person is sentenced to death, the clerk of the
795 court shall prepare a certified copy of the record of the
796 conviction and sentence, and the sheriff shall send the record
797 to the Governor and the clerk of the Florida Supreme Court. The
798 sentence shall not be executed until the Governor, or the
799 Secretary of the Department of Corrections pursuant to s.
800 922.14, issues a warrant, attaches it to the copy of the record,



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801 and transmits it to the warden, directing the warden to execute
802 the sentence at a time designated in the warrant.

803 (2) If, for any reason, the sentence is not executed
804 during the week designated, the warrant shall remain in full
805 force and effect and the sentence shall be carried out as
806 provided in s. 922.06.

807 Section 17. Subsection (1) of section 922.11, Florida
808 Statutes, is amended to read:

809 922.11 Regulation of execution.—

810 (1) The warden of the state prison or a deputy designated
811 by him or her shall be present at the execution. The warden
812 shall set the day for execution within the week designated ~~by~~
813 ~~the Governor~~ in the warrant.

814 Section 18. Section 922.14, Florida Statutes, is amended
815 to read:

816 922.14 Issuance of warrant of execution ~~Sentence of death~~
817 ~~unexecuted for unjustifiable reasons.—~~

818 (1) (a) The clerk of the Florida Supreme Court shall send a
819 letter to the Secretary of the Department of Corrections
820 certifying that a person convicted and sentenced to death,
821 before or after the effective date of this act, has:

822 1. Completed such person's direct appeal and initial
823 postconviction proceeding in state court, and habeas corpus
824 proceeding and appeal therefrom in federal court; or

825 2. Allowed the time permitted for filing an initial
826 postconviction motion in state court, and habeas corpus petition
827 in federal court to expire.



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828 (b) Upon receiving the letter of certification from the
829 clerk of the Florida Supreme Court, the Secretary of the
830 Department of Corrections shall immediately issue a warrant for
831 execution, directing the warden to execute the sentence within
832 180 days, at a time designated in the warrant. The Secretary
833 may not issue more than three warrants in any 90-day period,
834 regardless of how many letters of certification he or she
835 receives. If in any 90-day period the Secretary receives more
836 than three letters of certification, the Secretary shall issue
837 warrants on the three persons who were sentenced to death
838 earliest.

839 (2) If a death sentence is not executed because of
840 unjustified failure of the the Secretary of the Department of
841 Corrections or the Governor to issue a warrant, or for any other
842 unjustifiable reason, on application of the Department of Legal
843 Affairs, the Supreme Court shall issue a warrant directing the
844 sentence to be executed during a week designated in the warrant.

845 Section 19. Section 924.055, Florida Statutes, is amended
846 to read:

847 924.055 Postconviction review in capital cases;
848 legislative findings and intent.—

849 (1) It is the intent of the Legislature to reduce delays
850 in capital cases and to ensure that all appeals and
851 postconviction actions in capital cases are resolved as soon as
852 possible ~~within 5 years~~ after the date a sentence of death is
853 imposed in the circuit court. ~~All capital postconviction actions~~
854 ~~must be filed as early as possible after the imposition of a~~
855 ~~sentence of death which may be during a direct appeal of the~~



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856 ~~conviction and sentence.~~ A person sentenced to death or that
857 person's capital postconviction counsel must file any
858 postconviction legal action in compliance with the Florida Rules
859 of Criminal Procedure ~~statutes of limitation established in s.~~
860 ~~924.056 and elsewhere in this chapter. Except as expressly~~
861 ~~allowed by s. 924.056(5), a person sentenced to death or that~~
862 ~~person's capital postconviction counsel may not file more than~~
863 ~~one postconviction action in a sentencing court and one appeal~~
864 ~~therefrom to the Florida Supreme Court, unless authorized by~~
865 ~~law.~~

866 ~~(2) It is the further intent of the Legislature that no~~
867 ~~state resources be expended in violation of this act. In the~~
868 ~~event that any state employee or party contracting with the~~
869 ~~state violates the provisions of this act, the Attorney General~~
870 ~~shall deliver to the Speaker of the House of Representatives and~~
871 ~~the President of the Senate a copy of any court pleading or~~
872 ~~order that describes or adjudicates a violation.~~

873 Section 20. Section 924.056, Florida Statutes, is amended
874 to read:

875 (Substantial rewording of section. See

876 s. 924.056, F.S., for present text.)

877 924.056 Capital postconviction proceedings; reporting
878 requirements.-

879 (1) The Florida Supreme Court shall annually report to the
880 Speaker of the House of Representatives and the President of the
881 Senate the status of each capital case in which a postconviction
882 action has been filed that has been continuously pending for
883 more than 3 years. The report must include the name of the state



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884 court judge involved in the case.

885 (2) In a capital postconviction proceeding in which it has
886 been determined that an attorney of record provided
887 constitutionally deficient representation and relief has been
888 granted as a result of such determination, after the highest
889 court having jurisdiction to review such determination has
890 issued its final order affirming the determination, the court
891 making such determination shall furnish a copy of the findings
892 to The Florida Bar for appropriate disciplinary action.

893 Section 21. Section 924.057, Florida Statutes, is amended
894 to read:

895 (Substantial rewording of section. See
896 s. 924.057, F.S., for present text.)

897 924.057 Capital postconviction proceedings; legislative
898 intent.--The legislature acknowledges the past efforts made by
899 the judicial branch in establishing rules of criminal procedure
900 that make the capital postconviction process fair and more
901 efficient. The legislature also recognizes and commends the
902 judicial branch for continuing these efforts by issuing
903 Administrative Order AOSC13-11, which creates a Capital
904 Postconviction Proceedings Subcommittee of the Criminal Court
905 Steering Committee, and directs the Subcommittee to undertake a
906 comprehensive review of capital postconviction proceedings, and
907 to make recommendations to the Florida Supreme Court whether
908 court rules should be amended to improve the overall efficiency
909 of the capital postconviction process. In support of these
910 efforts, the legislature expresses its intent that capital
911 postconviction proceedings be conducted in accordance with court



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912 rules, and that courts strictly adhere to the timeframes and
913 postconviction motion content requirements established therein.

914 Section 22. Sections 924.058, 924.059, and 924.395,
915 Florida Statutes, are repealed.

916 Section 23. If any provision of this act or the
917 application thereof to any person or circumstance is held
918 invalid, the invalidity does not affect other provisions or
919 applications of the act which can be given effect without the
920 invalid provision or application, and to this end the provisions
921 of this act are declared severable.

922 Section 24. Effective July 1, 2013, four full-time
923 equivalent positions with associated salary and rate of 220,000
924 are authorized and \$417,338 in recurring funds from the General
925 Revenue Fund and \$14,832 in nonrecurring general revenue is
926 appropriated to the Justice Administration Commission for the
927 creation of the northern region office of the Capital Collateral
928 Regional Counsel as provided in this act.

929 Section 25. This act shall take effect July 1, 2013.
930

931 -----

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

933 Remove everything before the enacting clause and insert:
934 An act relating to the death penalty; providing a short title;
935 amending s. 27.40, F.S.; requiring the court to appoint the
936 capital collateral regional counsel to represent persons
937 convicted and sentenced to death in clemency proceedings;
938 amending s. 27.51, F.S.; removing the court's authority to
939 appoint a public defender to represent a person convicted and



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940 sentenced to death in clemency proceedings; amending s. 27.511,
941 F.S., removing the court's authority to appoint the office of
942 criminal conflict and civil regional counsel to represent a
943 person convicted and sentenced to death in clemency proceedings;
944 amending s. 27.5303, F.S., removing the court's authority to
945 appoint a public defender to represent an indigent person
946 convicted and sentenced to death in clemency proceedings;
947 amending s. 27.5304, F.S.; requiring funds used to compensate
948 court-appointed attorneys who represent a person convicted and
949 sentenced to death in clemency proceedings to be paid by the
950 Justice Administrative Commission rather than the Department of
951 Corrections; amending s. 27.7001, F.S.; removing legislative
952 intent language indicating that collateral representation of
953 persons convicted and sentenced to death should not include
954 representation during clemency proceedings; repealing s.
955 27.701(2), F.S., relating to a pilot project using registry
956 attorneys to provide capital collateral counsel services in the
957 northern region of the Capital Collateral Regional Counsel;
958 amending s. 27.702, F.S., authorizing the capital collateral
959 regional counsel to represent persons convicted and sentenced to
960 death in clemency proceedings; removing language requiring the
961 capital collateral regional counsel to only file postconviction
962 actions authorized by statute; amending s. 27.703, F.S.;
963 prohibiting the capital collateral regional counsel and
964 replacement regional counsel from accepting an appointment or
965 taking an action that creates an actual conflict of interest;
966 describing actual conflict of interest; amending s. 27.7045,
967 F.S.; prohibiting an attorney from representing a person charged



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968 with a capital offense in specified proceedings for five years
969 if in two separate instances a court, in a capital
970 postconviction proceeding, determined that the attorney provided
971 constitutionally deficient representation and relief was
972 granted; amending s. 27.7081, F.S.; providing definitions;
973 establishing procedures for public records production in
974 postconviction capital cases proceedings; amending s. 27.710,
975 F.S.; requiring private registry attorneys appointed by the
976 court to represent persons in postconviction capital proceedings
977 to meet certain criteria; requiring private registry attorneys
978 appointed by the court to represent persons in postconviction
979 capital proceedings to contract with the Justice Administrative
980 Commission rather than the Chief Financial Officer; specifying
981 that the Justice Administrative Commission is the contract
982 manager and requiring the Justice Administrative Commission to
983 approve uniform contract forms and procedures; amending s.
984 27.711, F.S.; replacing references to the "Chief Financial
985 Officer" with "Justice Administrative Commission" for purposes
986 of paying private registry attorneys appointed by the court to
987 represent persons in postconviction capital proceedings;
988 permitting private registry attorneys appointed by the court to
989 represent persons in postconviction capital proceedings to
990 represent no more than ten, rather than five, defendants in
991 capital postconviction litigation at any one time; amending s.
992 922.095, F.S.; requiring persons convicted and sentenced to
993 death to pursue all possible collateral remedies in state court
994 in accordance with the Florida Rules of Criminal Procedure
995 rather than in accordance with statute; amending s. 922.052,



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996 F.S.; requiring the sheriff to send the record of a person's
997 conviction and death sentence to the clerk of the Florida
998 Supreme Court; specifying that a sentence shall not be executed
999 until the Governor or Secretary of the Department of Corrections
1000 issues a warrant; amending s. 922.11, F.S.; requiring the warden
1001 to set the day for execution within the week designated in the
1002 warrant; amending s. 922.14, F.S.; requiring the clerk of the
1003 Florida Supreme Court to send a letter to the Secretary of the
1004 Department of Corrections certifying that a person convicted and
1005 sentenced to death meets certain criteria; requiring the
1006 Secretary to immediately issue a warrant upon receipt of the
1007 clerk's letter of certification directing the warden to execute
1008 the sentence within 180 days; prohibiting the Secretary from
1009 issuing more than three warrants in a 90-day period; specifying
1010 how the Secretary shall select which warrants to issue if he or
1011 she receives more than three letters of certification within a
1012 90-day period; amending s. 924.055, F.S.; removing obsolete
1013 language requiring capital postconviction motions to be filed in
1014 accordance with statute; requiring capital postconviction
1015 motions to be filed in accordance with the Florida Rules of
1016 Criminal Procedure; amending s. 924.056, F.S.; requiring the
1017 Florida Supreme Court to annually report certain information
1018 regarding capital postconviction cases to the Legislature;
1019 requiring courts to report specified findings of ineffective
1020 assistance of counsel to The Florida Bar; amending s. 924.057,
1021 F.S.; creating legislative intent regarding postconviction
1022 proceedings in capital cases; repealing sections 924.058,
1023 924.059, and 924.395, F.S.; relating to postconviction capital



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1024 case proceedings; providing for severability; providing an
1025 appropriation; providing an effective date.

**Statement by Jeffrey D. Nelson,
brother of Elisa Vera Nelson (murdered in
November 1980)
on the 32+ years it took to bring a confessed
pedophile and murderer to justice**

April 16, 2013

Introduction

- On November 4, 1980 my sister, 10 year old Elisa Nelson was abducted by a pedophile and murdered.
- On November 8, 1980, Larry Eugene Mann was arrested, charged with and eventually confessed to the crime.
- On April 10, 2013, the State of Florida executed Larry Mann for this crime

While his death does not lessen our sorrow over Elisa's loss, it does enable us to exit a dysfunctional legal system that is in dire need of improvement which leads to two simple questions-

- Why did it take 32 years to bring a confessed pedophile and murderer to justice?

And,

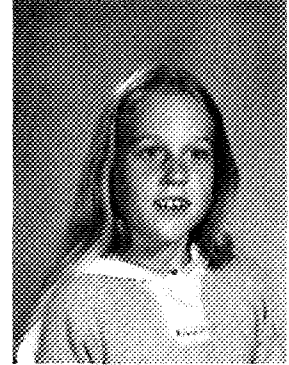
- What are we doing so it doesn't happen again? (both the murder and the length of time)

I have been asked to read from the statement we released after the execution.

April 10, 2013

**Statement from the family of Elisa Nelson
regarding the execution of a
confessed pedophile and murderer**

First, we would like to thank all of the friends, family and even complete strangers who have offered us their thoughts, prayers and support over the last 32+ years. We would also like to thank the Pinellas County Sheriff's Department, the FDLE, and the State Attorney's Office for their tireless pursuit of justice for Elisa as well as the Victim Services Program for keeping us informed of this case's progress through the legal system. And finally we would like to thank Governor Rick Scott for having the courage to follow the laws of the State of Florida even when they require difficult choices.



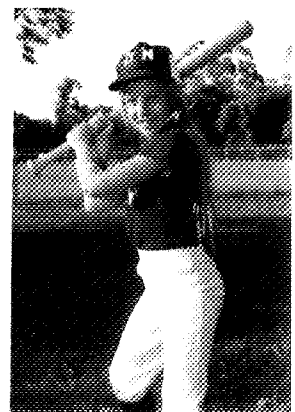
However, it is glaringly apparent that there is something fundamentally flawed with a justice system that takes over 32 years to bring to justice, a pedophile who confessed to kidnapping and murdering a 10 year old girl. Elisa was only in our lives for less than 3,800 days and yet this pedophile and his lawyers have spent nearly 12,000 days (over three times her entire life) making a mockery of our legal system. It makes no sense to us how a man can admit to a crime as terrible as this one, be found guilty for that crime, then be able to argue for 32 years that he didn't get a fair trial. Where's the logic in that?

There are no winners here. His death does not bring Elisa back nor does it end our sorrow, but we will no longer be tortured by his defense attorneys' endless legal wrangling or seeing his picture in the paper. Also, we must admit, there is a profound sense of relief at being able lay down at least a little of the weight we have been carrying.

We would give anything to still have Elisa in our lives. We didn't ask to be a part of this and there are times when we wish we could just wake up and this will all have just been a bad dream, but we know better. We have been forced to spend the last 32 years listening to what a great person Larry Mann was but we want to tell you a little bit about Elisa.

Elisa Vera Nelson was a bright, funny, caring, beautiful little girl-

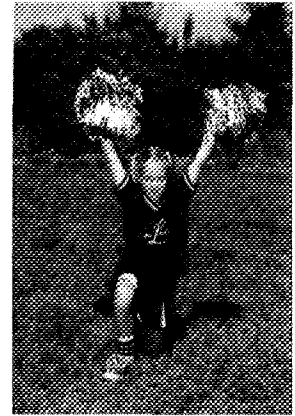
- She was born in Greenville, Michigan on July 7, 1970
- She grew up in Largo, then Palm Harbor, Florida
- She attended Mildred Helms Elementary, Ozona Elementary and Palm Harbor Middle
- She turned the age of 7 on 7/7/77
- She was a Girl Scout (we still have her sash)
- She played Little League Baseball at Dunedin National (and was one of



April 10, 2013

the best on her team full of boys)

- She took in every stray pet she found
- She donated her own money to the MDA telethon because she wanted to help others
- She loved horses (she dreamed of saving up her money to buy a horse and naming it Black Beauty)
- She loved to play teacher (we had a chalkboard in our house where she would conduct class with neighborhood kids)
- She loved cheerleading
- She loved to dance
- She loved to sing



- in a few horrifying moments it was all taken away by an evil man who had previous convictions for abducting a 7 year old girl from a church parking lot and was out on parole for threatening to kill a 1 year old baby if the babysitter didn't do what he wanted.



When he met Elisa on the day that irreparably altered so many lives, he had been waiting in a school zone, looking for his next victim. When he saw her, she was less than 100 yards from the safety of Palm Harbor Middle School. He hit her with his pickup truck to knock her off her bike. One can only imagine the ferocity of the battle that took place in the cab of his truck. The beating she took resulted in her hair and blood being left everywhere...as well as the note our mother had written for her tardiness because she had gotten her braces put on her teeth that morning. She fought so hard he could only take her less than a mile from her school. He was so enraged that he had to pull over at an abandoned orange grove and drag her from the truck (ironically, the same orange grove where the new Palm Harbor Middle School now stands). He grabbed an old vine from a nearby tree and tried to bind her hands so she couldn't resist. But still she fought. By now he realized he wasn't going to get what he wanted so he would have to kill her. He cut her throat twice, hoping she would bleed to death. She didn't; but she kept trying to crawl away. When she wouldn't die fast enough, he picked up a pipe with a block of concrete on the end and crushed her skull.

In less than a few minutes it was over and our lives would be changed forever.

We just watched that man slip into a peaceful sleep. That is a far cry from how my sister passed. Not a day goes by that we don't think about Elisa. Unfortunately, no matter what sparks the memory, whether it is the recollection of an inside joke, a song on the radio, or stumbling across an old photograph, our thoughts



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ultimately race towards those last few horrifying moments of her life and how she must have felt.

What was she thinking as she lay there defenseless on the ground, with the life running out of her? How terrified must this little girl have been? Could she see that this monster was about to crush her child size skull because she wouldn't die? Those are the images that come to mind whenever we think about Elisa.

Imagine what it is like to have these thoughts echo through your head every day and you are helpless to do anything about it. Any parent who has lived through something as terrible as this, is going to be consumed by the guilt that they could have and should have done something to prevent it. Nothing is ever going to lessen those feelings. It is said that no parent should ever have to bury their child; but knowing how your child dies, be it in an abandoned orange grove, in a canal in the everglades or in a garbage bag under a trailer, when the circumstances are as horrific as this, the pain is so raw and searing that unless you have lived it, you can't fully understand it. To then be dragged through 32 years of a legal quagmire it makes it even worse.



Recently, we have been inundated with requests for interviews regarding how the last 32 years have been so we decided to share some thoughts. In the beginning the milestones were difficult. Her "Sweet 16" party she never got to have; her first Homecoming and Prom dates that never happened; her would-have-been high school and college graduation days came and passed with an uncomfortable silence. My mother never got to help her plan her wedding; my father never got to walk her down the aisle. The birth of her children that we never got to meet (my nieces and nephews, my children's cousins, my parents' grand-children). Can you envision sitting down with your parents and having a discussion like "if Elisa were alive she would be ... now?" Imagine the pain of having to answer the question "Daddy, who's the little girl in the picture?" coming from another little girl who bears a striking resemblance to her, followed by "what happened to her and how come I haven't met her?"



Every year her birthday and the anniversary of her murder come and go but it never really gets any easier. Even now, we find ourselves revisiting all of those milestones and grieving once again for a young life lost.

I struggle with trying to protect my daughters from the harsh realities of the world versus telling them the truth. I want them to experience the innocence of childhood that was taken from me; but they need to know to be careful because there is evil in the world. I pray that I don't pass my burden on to my children, yet at every dance recital and soccer game I think about Elisa. With

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every story about Carlie Brucia, Jessica Lunsford, or any of the growing number of child victims, we relive our own nightmare. And through all of this, we as a society have still not done enough to better protect our children than we were doing over 30 years ago.

This pedophile admitted that he killed Elisa. There has never been a question about guilt or innocence. Several juries of his peers decided that his crime was so heinous that he should die for it. Yet some Florida Legislators think (and some editorial boards agree) that there is a "Flaw" in the legal system because Florida does not require unanimous jury recommendations in Capital Cases. Have they not been paying attention for the last 32 years? Even in this horrific case, the jury recommendation for death was only 9-3. The real "flaw" is that defense lawyers can stall in filing their appeal, can literally make something up, throw it against a wall and hope that it sticks. Then because some judges are under no obligation to make timely rulings we are further victimized by an ineffective judicial system.

Both the State of Florida and the Federal Government need legislative and judicial reform that protects the convicted murderer's rights to Due Process while, at the same time, expediting justice by eliminating legal "gamesmanship" and establishing strict timelines for appeals and rulings that are unnecessarily delaying the process. It only took six years to bring Timothy McVay to justice in the Federal court system. If we as a society are sincere in our claim that our children are our most precious resource, maybe we should consider making the abduction and murder of a child a Federal crime.

For the last 12,000 days there have been arguments about pieces of paper that have no bearing on the facts in this case, how he kneels in prayer every day, how he paints, how he is remorseful for his actions (he had a chance today to apologize face-to-face with my father, but instead when asked if he had any final words chose to say "no sir" with the flippant tone of one declining another cup of coffee); and we have also heard how he is a changed man, undeserving of such a cruel fate. And through it all, there is never any deliberation about what he did to Elisa in that orange grove on that November morning.



Instead, we have had to listen defense attorneys vilify Elisa's mother because her mere presence in the court room "may have" intimidated the jury and the judge into sentencing him to death; that she "may have" used her influence to intimidate the Governor into signing the Death Warrant; that her quest for justice for her murdered daughter and her fight for Victim's Rights in the State of Florida "may have" violated Larry Mann's Civil Rights and Due Process. What was a mother supposed to do? The Nelson women are fighters. Larry Mann learned that the hard way and he paid with his life, permanently deterred from harming another soul. In 1995, the St. Petersburg Times told of a Canadian couple who had committed some of their country's worst kidnappings, rapes, and murders. The wife, Karla Homolka, testified under oath that they had planned to do the same to a

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woman they met at Walt Disney World but decided not to, in fear of Florida's Death Penalty. At least one young lady lives, and who knows how many others also live because the Death Penalty does deter.

We can't help but think that Elisa, Carlie and Jessica might still be alive today had the state long ago sent the message to those that prey upon our weakest and most defenseless: We value our children and if you hurt them, you will pay the ultimate price. If just one child is allowed to grow up because someone thinks twice about that penalty, isn't it worth it? It is to us.



Larry Mann alone made the decisions that dragged us all into this Hell. We certainly did not ask to be a part it. He alone set in motion the wheels of his own destruction. The world is now a better place without him.

After 32 years, we can finally close this chapter in our lives but all of us should be concerned for the families coming through the system behind us and the legal nightmare they are going to have to endure.

It shouldn't have to be like this.

Epilogue

Over the past week, we have had some time to reflect. In November 1980, we were handed a ton of bricks to carry including the weight of knowing how horrifically Elisa died. In the days that have followed the execution, we have been able to lay some of those bricks down, such as-

- The knowledge that a monster walks among us.
- That we are feeding and supporting that monster
- The helplessness to do anything
- The fear that he will outlive Elisa's parents (he already outlived 3 of her grandparents)

One brick that we did not acquire in November 1980, but rather soon after; and it continued to grow for over 32 years until it was almost as heavy as the weight of knowing how Elisa died, was watching our Justice system stumble over itself every step along the way. We had just assumed that our Justice system was the best in the world but after wading through the minefield, we know we have a long way to go.

We have also learned that we have not been alone in our journey having been contacted by people we haven't heard from in years. People we have never even met have sent cards and emails and even quietly built a shrine at our door one night. Some of Elisa's classmates have shared with me how they have been carrying many of the same bricks as we have and how relieved they are that this monster has finally been brought to justice.

But that doesn't solve the ongoing problem of our justice system. Just the other day there was an article in the paper about another killer on Death Row for a murder he committed in 1986. Numerous juries have convicted him in retrial after retrial yet those families (yes there were multiple victims) have no end in sight.

I have been asked by countless people, "what can I do to help?" I tell them to get in touch with their State and Federal elected lawmakers and ask for a change.

As an elected leader, you are in unique position to take action to prevent this from happening to another family.

What can I do to help you make this happen?

Letter to the Editor of the Tampa Bay Times

On March 5, 2013 the Tampa Bay Times ran a column by John Romano entitled "After 32 years, isn't it time for justice?" regarding the length of time it has taken to get Elisa's killer to justice.

On March 18, 2013 the Tampa Bay Times ran an editorial entitled "Fix this Flaw in Capital Punishment" supporting a House Bill 961 that would require a unanimous jury recommendation for sentencing in Capital Offense cases

On March 21, 2013 the Nelson Family submitted the following letter to the Editor that, to our knowledge, has yet to be printed-

Dear Editor,

We read the editorial "Fix this Flaw in Capital Punishment" and find it interesting that it comes on the heels of John Romano's column of March 5, 2013 titled "After 32 years, isn't it time for justice?" We agree that there is a pressing need to fix a "flaw" in the Justice System when it comes to the issue of Capital Punishment but it is not in the requirement of a unanimous jury recommendation for the sentence. What we really need is legislative reform that expedites justice by eliminating the legal "gamesmanship" of the appeal process while protecting the convicted murder's rights to Due Process. Over three decades after Larry Eugene Mann confessed to being a pedophile, kidnapping 10 year old Elisa Nelson, binding her hands, slashing her throat and finally crushing her skull to murder her, we are still listening to lawyers argue over pieces of paper and points of law that have no bearing on guilt or innocence.

Why does it take this long for justice to be carried out? There is no doubt that Larry Mann's crime was one of the most horrific ever committed in Pinellas County and anyone who knows the facts in this case would agree that it meets the "worst of the worst" criteria set forth in your editorial, yet the first jury recommended Death by a vote of 7-5 and at the resentencing in 1990, a second jury voted 9-3 in favor of a Death Sentence.

This is not to say that the Death Penalty should be handed down lightly. In fact, it is the singular most serious deliberation one can make and all due care should be taken to ensure that an innocent person is not sentenced to death. However, the jury's recommendation is just that, a recommendation. A prudent judge can take the jury's recommendation under advisement using his discretion to remove any emotional prejudice, fully weighing any mitigating circumstances to ensure that the sentence is just and appropriate. According to Gallup, over the last 77 years, the American people's support of the Death Penalty has averaged 63% while roughly 30% are opposed to it under any circumstances, which is about where it currently stands.

The jury selection process should be based upon whether or not individuals can be fair and impartial, not a litmus test on their political views regarding Capital Punishment. If we were to require a unanimous jury recommendation in Capital Cases, the defense would only have to find one person who is opposed to the Death Penalty under any circumstances and even the "worst of the worst" would not receive the justice that might be warranted in the case.

Should the proponents of making it necessary for the jury to be unanimous be victorious, you will have effectively outlawed capital punishment. That is clearly not a unanimous or even majority desire of the public.

The Family of Elisa Nelson

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

HB 7137 : Juvenile Sentencing

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell					X
Marti Coley	X				
Dwight Dudley	X				
Heather Fitzenhagen	X				
Matt Gaetz	X				
Bill Hager	X				
Dave Kerner	X				
Charles McBurney				X	
Kionne McGhee		X			
Larry Metz	X				
Jared Moskowitz		X			
Kathleen Passidomo	X				
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz		X			
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 13		Total Nays: 3			

HB 7137 Amendments

Amendment 177473

Adopted

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell			X		
Marti Coley	X				
Dwight Dudley	X				
Heather Fitzenhagen	X				
Matt Gaetz	X				
Bill Hager	X				
Dave Kerner	X				
Charles McBurney	X				
Kionne McGhee		X			
Larry Metz	X				
Jared Moskowitz		X			
Kathleen Passidomo	X				
Ray Pilon	X				
Kenneth Roberson	X				
Elaine Schwartz		X			
Ross Spano	X				
Charlie Stone	X				

Committee meeting was reported out: Tuesday, April 16, 2013 7:01:22PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

HB 7137 : Juvenile Sentencing (continued)

Amendment 177473

Adopted

Dennis Baxley (Chair)	X	
Total Yays: 14	Total Nays: 3	

Amendment 885737

Failed to Adopt

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell				X	
Marti Coley		X			
Dwight Dudley	X				
Heather Fitzenhagen		X			
Matt Gaetz		X			
Bill Hager		X			
Dave Kerner	X				
Charles McBurney		X			
Kionne McGhee	X				
Larry Metz		X			
Jared Moskowitz	X				
Kathleen Passidomo		X			
Ray Pilon		X			
Kenneth Roberson		X			
Elaine Schwartz	X				
Ross Spano		X			
Charlie Stone		X			
Dennis Baxley (Chair)		X			
Total Yays: 5	Total Nays: 12				

Amendment 273005

Withdrawn

Committee meeting was reported out: Tuesday, April 16, 2013 7:01:22PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/16/2013 2:00:00PM

Location: 404 HOB

HB 7137 : Juvenile Sentencing (continued)

Appearances:

Amendment 885737

Hopkins, Sheila (Lobbyist) - Proponent
Florida Conference of Catholic Bishops
201 W Park Ave
Tallahassee FL 32301-7715
Phone: (850)205-6826

Amendment 885737

Daniels, Nancy (State Employee) - Proponent
Public Defender, 2nd circuit
Leon County Courthouse 301 S Monroe Street
Tallahassee FL 32301
Phone: 850-606-1010

Amendment 885737

King, Brad (State Employee) - Opponent
State Attorney 5th Circuit
110 NW 1st Ave. Suite 5000
Ocala FL 34480
Phone: (352)671-5914

Amendment 885737

Bilbao, Ron (State Employee) - Waive In Support
American Civil Liberties Union of Florida
4500 Biscayne Blvd, Suite 340
Miami Florida 33137
Phone: 919-923-7288

Johnson, Rob (Lobbyist) (State Employee) - Waive In Support

Legislative Affairs Director, Office of the Attorney General
PL-01, The Capitol
Tallahassee FL 32399
Phone: 850-245-0145

Committee meeting was reported out: Tuesday, April 16, 2013 7:01:22PM



Amendment No. 2

COMMITTEE/SUBCOMMITTEE 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
4.16.13*

Committee/Subcommittee hearing bill: Judiciary Committee
Representative Pilon offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsections (1) and (3) of section 775.082, Florida Statutes, are amended to read:

775.082 Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reoffenders previously released from prison.—

(1)(a) Except as provided in paragraph (b), A person who has been convicted of a capital felony shall be punished by death if the proceeding held to determine sentence according to the procedure set forth in s. 921.141 results in findings by the court that such person shall be punished by death, otherwise such person shall be punished by life imprisonment and shall be ineligible for parole.

(b) A person who is convicted of a capital felony, or an offense that was reclassified as a capital felony, that was committed before the person was 18 years of age shall be



Amendment No. 2

21 punished by life imprisonment and is ineligible for parole if
22 the judge at a mandatory sentencing hearing concludes that life
23 imprisonment is an appropriate sentence. In determining whether
24 life imprisonment is an appropriate sentence, the judge shall
25 consider factors relevant to the offense and to the defendant's
26 age and attendant circumstances, including, but not limited to:

27 1. The nature and circumstances of the offense committed
28 by the defendant.

29 2. The effect of the crime on the victim's family and on
30 the community.

31 3. The defendant's age, maturity, intellectual capacity,
32 and mental and emotional health at the time of the offense.

33 4. The defendant's background, including his or her
34 family, home, and community environment.

35 5. The effect, if any, of immaturity, impetuosity, or
36 failure to appreciate risks and consequences on the defendant's
37 participation in the offense.

38 6. The extent of the defendant's participation in the
39 offense.

40 7. The effect, if any, of familial pressure or peer
41 pressure on the defendant's actions.

42 8. The nature and extent of the defendant's prior criminal
43 history.

44 9. The effect, if any, of characteristics attributable to
45 the defendant's age on the defendant's judgment at the time of
46 the offense.

47 10. The possibility of rehabilitating the defendant.
48



Amendment No. 2

49 If the judge concludes that life imprisonment is not an
50 appropriate sentence, the defendant shall be punished by
51 imprisonment for a term of not less than 50 years.

52 (3) A person who has been convicted of any other
53 designated felony may be punished as follows:

54 (a)1. For a life felony committed before ~~prior to~~ October
55 1, 1983, by a term of imprisonment for life or for a term of
56 years not less than 30.

57 2. For a life felony committed on or after October 1,
58 1983, by a term of imprisonment for life or by a term of
59 imprisonment not exceeding 40 years.

60 3. Except as provided in subparagraph 4., for a life
61 felony committed on or after July 1, 1995, by a term of
62 imprisonment for life or by imprisonment for a term of years not
63 exceeding life imprisonment.

64 4.a. Except as provided in sub-subparagraph b., for a life
65 felony committed on or after September 1, 2005, which is a
66 violation of s. 800.04(5)(b), by:

67 (I) A term of imprisonment for life; or

68 (II) A split sentence that is a term of not less than 25
69 years' imprisonment and not exceeding life imprisonment,
70 followed by probation or community control for the remainder of
71 the person's natural life, as provided in s. 948.012(4).

72 b. For a life felony committed on or after July 1, 2008,
73 which is a person's second or subsequent violation of s.
74 800.04(5)(b), by a term of imprisonment for life.

75 5. Notwithstanding subparagraphs 1.-4., a person convicted
76 under s. 782.04 for an offense that was reclassified as a life



Amendment No. 2

77 felony that was committed before the person was 18 years of age
78 is eligible to be punished by a term of imprisonment for life or
79 by a term of years equal to life imprisonment if the judge at a
80 mandatory sentencing hearing considers factors relevant to the
81 offense and to the defendant's age and attendant circumstances,
82 including, but not limited to, the factors listed in paragraph
83 (1)(b) and concludes that imprisonment for life or a term of
84 years equal to life imprisonment is an appropriate sentence.

85 (b)1. For a felony of the first degree, by a term of
86 imprisonment not exceeding 30 years or, when specifically
87 provided by statute, by imprisonment for a term of years not
88 exceeding life imprisonment.

89 2. Notwithstanding subparagraph 1., a person convicted
90 under s. 782.04 of a first-degree felony punishable by a term of
91 years not exceeding life imprisonment, or an offense that was
92 reclassified as a first-degree felony punishable by a term of
93 years not exceeding life, that was committed before the person
94 was 18 years of age is eligible for a term of years equal to
95 life imprisonment if the judge at a mandatory sentencing hearing
96 considers factors relevant to the offense and to the defendant's
97 age and attendant circumstances, including, but not limited to,
98 the factors listed in paragraph (1)(b) and concludes that a term
99 of years equal to life imprisonment is an appropriate sentence.

100 (c) For a felony of the second degree, by a term of
101 imprisonment not exceeding 15 years.

102 (d) For a felony of the third degree, by a term of
103 imprisonment not exceeding 5 years.



Amendment No. 2

104 (e) Notwithstanding paragraphs (a)-(d), for an offense
105 committed on or after July 1, 2013, a person convicted of a life
106 felony or an offense punishable by a term of years not exceeding
107 life imprisonment, other than an offense listed in s. 782.04, or
108 an offense, other than an offense listed in s. 782.04, that was
109 reclassified as a life felony or an offense punishable by a term
110 of years not exceeding life, that was committed before the
111 person was 18 years of age shall be punished by a term of
112 imprisonment not to exceed 50 years.

113 Section 2. This act shall take effect July 1, 2013.

114

115

116

117

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

118

Remove lines 8-9 and insert:

119

providing an effective date.

120



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

*unfavorable
4.16.13*

Committee/Subcommittee hearing bill: Judiciary Committee
Representative McGhee offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsections (1) and (3) of section 775.082, Florida Statutes, are amended to read:

775.082 Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reoffenders previously released from prison.—

(1)(a) Except as provided in paragraph (b), A person who has been convicted of a capital felony shall be punished by death if the proceeding held to determine sentence according to the procedure set forth in s. 921.141 results in findings by the court that such person shall be punished by death, otherwise such person shall be punished by life imprisonment and shall be ineligible for parole.

(b) A person who is convicted of a capital felony, or an offense that was reclassified as a capital felony, that was committed before the person was 18 years of age shall be



Amendment No. 1

21 punished by life imprisonment and is ineligible for parole if
22 the judge at a mandatory sentencing hearing concludes that life
23 imprisonment is an appropriate sentence. In determining whether
24 life imprisonment is an appropriate sentence, the judge shall
25 consider factors relevant to the offense and to the defendant's
26 age and attendant circumstances, including, but not limited to:

27 1. The nature and circumstances of the offense committed
28 by the defendant.

29 2. The effect of the crime on the victim's family and on
30 the community.

31 3. The defendant's age, maturity, intellectual capacity,
32 and mental and emotional health at the time of the offense.

33 4. The defendant's background, including his or her
34 family, home, and community environment.

35 5. The effect, if any, of immaturity, impetuosity, or
36 failure to appreciate risks and consequences on the defendant's
37 participation in the offense.

38 6. The extent of the defendant's participation in the
39 offense.

40 7. The effect, if any, of familial pressure or peer
41 pressure on the defendant's actions.

42 8. The nature and extent of the defendant's prior criminal
43 history.

44 9. The effect, if any, of characteristics attributable to
45 the defendant's age on the defendant's judgment at the time of
46 the offense.

47 10. The possibility of rehabilitating the defendant.
48



Amendment No. 1

49 If the judge concludes that life imprisonment is not an
50 appropriate sentence, the defendant shall be punished by
51 imprisonment for a term of not less than 30 years. This
52 paragraph applies retroactively only to the extent necessary to
53 meet constitutional requirements for imposing a life sentence on
54 a defendant who is convicted of committing a murder that was
55 committed before the person was 18 years of age as set forth by
56 the United States Supreme Court in Miller v. Alabama, 132 S. Ct.
57 2455 (2012).

58 (c)1. A person who is sentenced under paragraph (b) shall
59 have his or her sentence reviewed after 15 years. The
60 sentencing court shall retain original jurisdiction for the
61 duration of the sentence for this purpose. The Department of
62 Corrections shall notify juvenile offenders who are committed to
63 the department of their eligibility to participate in a
64 resentencing hearing 18 months prior to the beginning of their
65 15th year of incarceration. The juvenile offender may apply to
66 the court of original jurisdiction requesting that a
67 resentencing hearing be held.

68 2. A juvenile offender is entitled to be represented by
69 counsel, and the court shall appoint a public defender to
70 represent the juvenile offender if the juvenile offender cannot
71 afford an attorney.

72 3. The court shall hold a resentencing hearing to
73 determine whether the juvenile offender's sentence should be
74 modified. The resentencing court shall consider all of the
75 following:



Amendment No. 1

76 a. Whether the juvenile offender demonstrates maturity and
77 rehabilitation.

78 b. Whether the juvenile offender remains at the same level
79 of risk to society as he or she did at the time of the initial
80 sentencing.

81 c. The opinion of the victim's next of kin. The absence of
82 the victim's next of kin from the resentencing hearing may not
83 be a factor in the courts determination under this section.

84 d. Whether the juvenile offender was a relatively minor
85 participant in the criminal offense or acted under extreme
86 duress or the domination of another person.

87 e. Whether the juvenile has shown sincere and sustained
88 remorse for the criminal offense.

89 f. Whether the juvenile offender's age, maturity, and
90 psychological development at the time of the offense affected
91 his or her behavior.

92 g. Whether the juvenile offender has successfully obtained
93 a general educational development certificate or completed
94 another educational, technical, work, vocational, or self-
95 rehabilitation program.

96 h. Whether the juvenile offender was a victim of sexual,
97 physical, or emotional abuse before he or she committed the
98 offense.

99 i. The results of any mental health assessment, risk
100 assessment, or evaluation of the juvenile offender as to
101 rehabilitation.

102 4. If the court determines at the resentencing hearing that
103 the juvenile offender has been rehabilitated and is reasonably



Amendment No. 1

104 believed to be fit to reenter society, the court shall issue an
105 order modifying the sentence imposed and place the offender on
106 probation for a term of at least 5 years. If the court
107 determines that the juvenile offender has not demonstrated
108 rehabilitation and is not fit to reenter society based on these
109 factors, the court shall issue an order in writing stating why
110 the sentence is not being modified.

111 5. A juvenile offender who is not resentenced under this
112 paragraph at the initial resentencing hearing is eligible for a
113 resentencing hearing 5 years after the date of the denial and
114 every 5 years after that.

115 (3) A person who has been convicted of any other
116 designated felony may be punished as follows:

117 (a)1. For a life felony committed before ~~prior to~~ October
118 1, 1983, by a term of imprisonment for life or for a term of
119 years not less than 30.

120 2. For a life felony committed on or after October 1,
121 1983, by a term of imprisonment for life or by a term of
122 imprisonment not exceeding 40 years.

123 3. Except as provided in subparagraph 4., for a life
124 felony committed on or after July 1, 1995, by a term of
125 imprisonment for life or by imprisonment for a term of years not
126 exceeding life imprisonment.

127 4.a. Except as provided in sub-subparagraph b., for a life
128 felony committed on or after September 1, 2005, which is a
129 violation of s. 800.04(5)(b), by:

130 (I) A term of imprisonment for life; or



Amendment No. 1

131 (II) A split sentence that is a term of not less than 25
132 years' imprisonment and not exceeding life imprisonment,
133 followed by probation or community control for the remainder of
134 the person's natural life, as provided in s. 948.012(4).

135 b. For a life felony committed on or after July 1, 2008,
136 which is a person's second or subsequent violation of s.
137 800.04(5)(b), by a term of imprisonment for life.

138 5.a. Notwithstanding subparagraphs 1.-4., a person
139 convicted under s. 782.04 for an offense that was reclassified
140 as a life felony that was committed before the person was 18
141 years of age is eligible to be punished by a term of
142 imprisonment for life or by a term of years equal to life
143 imprisonment if the judge at a mandatory sentencing hearing
144 considers factors relevant to the offense and to the defendant's
145 age and attendant circumstances, including, but not limited to,
146 the factors listed in paragraph (1)(b) and concludes that
147 imprisonment for life or a term of years equal to life
148 imprisonment is an appropriate sentence.

149 b. A person sentenced under paragraph (b)2. shall have his
150 or her sentence reviewed after 10 years. The sentencing court
151 shall retain original jurisdiction for the duration of the
152 sentence for this purpose. The Department of Corrections shall
153 notify juvenile offenders who are committed to the department of
154 their eligibility to participate in a resentencing hearing 18
155 months prior to the beginning of their 10th year of
156 incarceration. The juvenile offender may apply to the court of
157 original jurisdiction requesting that a resentencing hearing be



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158 held. This section does not apply to those sentenced to a term
159 of 10 years or less.

160 c. If the court determines at the resentencing hearing that
161 the juvenile offender has been rehabilitated and is reasonably
162 believed to be fit to reenter society, the court shall issue an
163 order modifying the sentence imposed and place the offender on
164 probation for a term of at least 5 years. If the court
165 determines that the juvenile offender has not demonstrated
166 rehabilitation and is not fit to reenter society based on these
167 factors, the court shall issue an order in writing stating why
168 the sentence is not being modified.

169 d. A juvenile offender who is not resentenced under this
170 paragraph at the initial resentencing hearing is eligible for a
171 resentencing hearing 5 years after the date of the denial and
172 every 5 years after that.

173
174 This subparagraph applies retroactively only to the extent
175 necessary to meet constitutional requirements for imposing a
176 life sentence on a defendant who is convicted of committing a
177 murder that was committed before the person was 18 years of age
178 as set forth by the United States Supreme Court in Miller v.
179 Alabama, 132 S. Ct. 2455 (2012).

180 (b)1. For a felony of the first degree, by a term of
181 imprisonment not exceeding 30 years or, when specifically
182 provided by statute, by imprisonment for a term of years not
183 exceeding life imprisonment.

184 2. Notwithstanding subparagraph 1., a person convicted
185 under s. 782.04 of a first-degree felony punishable by a term of



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186 years not exceeding life imprisonment, or an offense that was
187 reclassified as a first-degree felony punishable by a term of
188 years not exceeding life, that was committed before the person
189 was 18 years of age shall be punished by a term of imprisonment
190 not to exceed 25 years.

191 3. A person sentenced under paragraph (b)2. shall have his
192 or her sentence reviewed after 10 years. The sentencing court
193 shall retain original jurisdiction for the duration of the
194 sentence for this purpose. The Department of Corrections shall
195 notify juvenile offenders who are committed to the department of
196 their eligibility to participate in a resentencing hearing 18
197 months prior to the beginning of their 10th year of
198 incarceration. The juvenile offender may apply to the court of
199 original jurisdiction requesting that a resentencing hearing be
200 held. This section does not apply to those sentenced to a term
201 of 10 years or less.

202 4. If the court determines at the resentencing hearing that
203 the juvenile offender has been rehabilitated and is reasonably
204 believed to be fit to reenter society, the court shall issue an
205 order modifying the sentence imposed and place the offender on
206 probation for a term of at least 5 years. If the court
207 determines that the juvenile offender has not demonstrated
208 rehabilitation and is not fit to reenter society based on these
209 factors, the court shall issue an order in writing stating why
210 the sentence is not being modified.

211 5. A juvenile offender who is not resentenced under this
212 paragraph at the initial resentencing hearing is eligible for a



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213 resentencing hearing 5 years after the date of the denial and
214 every 5 years after that.

215
216 This subparagraph applies retroactively only to the extent
217 necessary to meet constitutional requirements for imposing a
218 life sentence on a defendant who is convicted of committing a
219 murder that was committed before the person was 18 years of age
220 as set forth by the United States Supreme Court in Miller v.
221 Alabama, 132 S. Ct. 2455 (2012).

222 (c) For a felony of the second degree, by a term of
223 imprisonment not exceeding 15 years.

224 (d) For a felony of the third degree, by a term of
225 imprisonment not exceeding 5 years.

226 (e)1. Notwithstanding paragraphs (a)-(d), for an offense
227 committed on or after July 1, 2013, a person convicted of a life
228 felony or an offense punishable by a term of years not exceeding
229 life imprisonment, other than an offense listed in s. 782.04, or
230 an offense, other than an offense listed in s. 782.04, that was
231 reclassified as a life felony or an offense punishable by a term
232 of years not exceeding life, that was committed before the
233 person was 18 years of age shall be punished by a term of
234 imprisonment not to exceed 25 years.

235 2. A person sentenced under this subparagraph shall have
236 his or her sentence reviewed after 10 years. The sentencing
237 court shall retain original jurisdiction for the duration of the
238 sentence for this purpose. The Department of Corrections shall
239 notify juvenile offenders who are committed to the department of
240 their eligibility to participate in a resentencing hearing 18



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241 months prior to the beginning of their 10th year of
242 incarceration. The juvenile offender may apply to the court of
243 original jurisdiction requesting that a resentencing hearing be
244 held. This section does not apply to those sentenced to a term
245 of 10 years or less.

246 3. If the court determines at the resentencing hearing that
247 the juvenile offender has been rehabilitated and is reasonably
248 believed to be fit to reenter society, the court shall issue an
249 order modifying the sentence imposed and place the offender on
250 probation for a term of at least 5 years. If the court
251 determines that the juvenile offender has not demonstrated
252 rehabilitation and is not fit to reenter society based on these
253 factors, the court shall issue an order in writing stating why
254 the sentence is not being modified.

255 4. A juvenile offender who is not resentenced under this
256 paragraph at the initial resentencing hearing is eligible for a
257 resentencing hearing 5 years after the date of the denial and
258 every 5 years after that.

259 Section 2. This act shall take effect July 1, 2013.

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

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264

Remove line 9 and insert:

265

circumstances; providing for a review after a specified number
266 of years of the juvenile's sentence; providing for eligibility
267 screening; providing for a hearing; providing factors for

268

consideration; providing for modification of sentence; providing



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269 | for future review hearings for juveniles who are not
270 | resentenced; providing an effective date.

271



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COMMITTEE/SUBCOMMITTEE ACTION

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

*Withdrawn
4.16.13*

Committee/Subcommittee hearing bill: Judiciary Committee
Representative Schwartz offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsections (1) and (3) of section 775.082, Florida Statutes, are amended to read:

775.082 Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reoffenders previously released from prison.—

(1) (a) Except as provided in paragraph (b), a person who has been convicted of a capital felony shall be punished by death if the proceeding held to determine sentence according to the procedure set forth in s. 921.141 results in findings by the court that such person shall be punished by death, otherwise such person shall be punished by life imprisonment and shall be ineligible for parole.

(b) A person who is convicted of a capital felony, or an offense that was reclassified as a capital felony, that was committed before the person was 18 years of age may be punished



Amendment No. 3

21 by life in prison, if such a sentence is authorized for the
22 offense if the judge at a mandatory sentencing hearing concludes
23 that life imprisonment is an appropriate sentence. In
24 determining whether life imprisonment is an appropriate
25 sentence, the judge shall consider factors relevant to the
26 offense and to the defendant's youth and attendant
27 circumstances, including, but not limited to, the following:

28 1. The effect of the crime on the victim's family and on
29 the community.

30 2. The nature and circumstances of the offense committed
31 by the defendant.

32 3. The defendant's age, maturity, intellectual capacity,
33 and mental and emotional health at the time of the offense.

34 4. The defendant's background, including his or her
35 family, home, and community environment.

36 5. The effect, if any, of immaturity, impetuosity, or
37 failure to appreciate risks and consequences on the defendant's
38 participation in the offense.

39 6. The extent of the defendant's participation in the
40 offense.

41 7. The effect, if any, of familiar pressure or peer
42 pressure on the defendant's actions.

43 8. The nature and extent of the defendant's prior criminal
44 history.

45 9. The effect, if any, of characteristics attributable to
46 the defendant's youth on the defendant's judgment.

47 10. The defendant's capacity for rehabilitation.
48



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49 If the judge concludes that life imprisonment is not an
50 appropriate sentence, the defendant shall be punished by
51 imprisonment for a term of not less than 50 years. This
52 paragraph shall apply retroactively to the extent necessary to
53 meet constitutional requirements for imposing a life sentence on
54 a defendant who is convicted of committing a murder that
55 occurred before the defendant was 18 years of age as set forth
56 by the United States Supreme Court in Miller v. Alabama, 132 S.
57 Ct. 2455 (2012)

58 (c)1. A person who is sentenced under paragraph (b) shall
59 have his or her sentence reviewed after 25 years. The sentencing
60 court shall retain original jurisdiction for the duration of the
61 sentence for this purpose. The Department of Corrections shall
62 notify juvenile offenders who are committed to the department of
63 their eligibility to participate in a resentencing hearing 18
64 months prior to the beginning of their 25th year of
65 incarceration. The juvenile offender may apply to the court of
66 original jurisdiction requesting that a resentencing hearing be
67 held.

68 2. A juvenile offender is entitled to be represented by
69 counsel, and the court shall appoint a public defender to
70 represent the juvenile offender if the juvenile cannot afford an
71 attorney.

72 3. The court shall hold a resentencing hearing to
73 determine whether the juvenile offender's sentence should be
74 modified. The resentencing court shall consider all of the
75 following:



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76 a. Whether the juvenile offender demonstrates maturity and
77 rehabilitation.

78 b. Whether the juvenile offender remains at the same level
79 of risk to society as he or she did at the time of the initial
80 sentencing.

81 c. The opinion of the victim's next of kin. The absence of
82 the victim's next of kin from the resentencing hearing may not
83 be a factor in the courts determination under this section.

84 d. Whether the juvenile offender was a relatively minor
85 participant in the criminal offense or acted under extreme
86 duress or the domination of another person.

87 e. Whether the juvenile has shown sincere and sustained
88 remorse for the criminal offense.

89 f. Whether the juvenile offender's age, maturity, and
90 psychological development at the time of the offense affected
91 his or her behavior.

92 g. Whether the juvenile offender has successfully obtained
93 a general educational development certificate or completed
94 another educational, technical, work, vocational, or self-
95 rehabilitation program.

96 h. Whether the juvenile offender was a victim of sexual,
97 physical, or emotional abuse before he or she committed the
98 offense.

99 i. The results of any mental health assessment, risk
100 assessment, or evaluation of the juvenile offender as to
101 rehabilitation.

102 4. If the court determines at the resentencing hearing
103 that the juvenile offender has been rehabilitated and is



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104 reasonably believed to be fit to reenter society based on these
105 factors, then a term of probation of at least 5 years, shall be
106 imposed. If the court determines that the juvenile offender has
107 not demonstrated rehabilitation and is not fit to reenter
108 society based on these factors, the court shall issue an order
109 in writing stating why the sentence is not being modified.

110 5. A juvenile offender who is not resentenced under this
111 paragraph at the initial resentencing hearing is eligible for a
112 resentencing hearing every 5 years after the date of the denial
113 and every 5 years after that.

114 (3) A person who has been convicted of any other
115 designated felony may be punished as follows:

116 (a)1. For a life felony committed before prior to October
117 1, 1983, by a term of imprisonment for life or for a term of
118 years not less than 30.

119 2. For a life felony committed on or after October 1,
120 1983, by a term of imprisonment for life or by a term of
121 imprisonment not exceeding 40 years.

122 3. Except as provided in subparagraph 4., for a life
123 felony committed on or after July 1, 1995, by a term of
124 imprisonment for life or by imprisonment for a term of years not
125 exceeding life imprisonment.

126 4.a. Except as provided in sub-subparagraph b., for a life
127 felony committed on or after September 1, 2005, which is a
128 violation of s. 800.04(5)(b), by:

129 (I) A term of imprisonment for life; or

130 (II) A split sentence that is a term of not less than 25
131 years' imprisonment and not exceeding life imprisonment,



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132 followed by probation or community control for the remainder of
133 the person's natural life, as provided in s. 948.012(4).

134 b. For a life felony committed on or after July 1, 2008,
135 which is a person's second or subsequent violation of s.
136 800.04(5)(b), by a term of imprisonment for life.

137 5.a. A person convicted of a life felony or an offense
138 punishable by a term of years not exceeding life imprisonment,
139 other than an offense listed in 782.04, or an offense, other
140 than offense listed in 782.04 that was reclassified as a life
141 felony or an offense punishable by a term of years not exceeding
142 life, that was committed before the person was 18 years of age
143 shall be punished by a term of imprisonment not to exceed 50
144 years. This paragraph shall apply retroactively to the extent
145 necessary to meet constitutional requirements as set forth by
146 the United States Supreme Court in Graham v. Florida, 560 US.
147 _____ (2010).

148 b. A person sentenced under paragraph (a) shall have his
149 or her sentence reviewed after 15 years. The sentencing court
150 shall retain original jurisdiction for the duration of the
151 sentence for the purpose. The Department of Corrections shall
152 notify juvenile offenders who are committed to the department of
153 their eligibility to participate in a resentencing hearing 18
154 months prior to the beginning of their 15th year of
155 incarceration. The juvenile offender may apply to the court of
156 original jurisdiction requesting that a resentencing hearig be
157 held. This section does not apply to those sentenced to a term
158 of 15 years or less.



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159 6. A juvenile offender is entitled to be represented by
160 counsel, and the court shall appoint a public defender to
161 represent the juvenile offender if the juvenile offender cannot
162 afford an attorney.

163 7. The court shall hold a resentencing hearing to
164 determine whether the juvenile offender's sentence should be
165 modified. The resentencing court shall consider all of the
166 following:

167 a. Whether the juvenile offender demonstrates maturity and
168 rehabilitation.

169 b. Whether the juvenile offender remains at the same level
170 of risk to society as he or she did at the time of the initial
171 sentencing.

172 c. The opinion of the victim or the victim,'s next of kin.
173 The absence of the victim or the victim's next of kin from the
174 resentencing hearing may not be a factor in the court's
175 determination under this section.

176 d. Whether the juvenile offender was a relatively minor
177 participant in the criminal offense or acted under extreme
178 duress or the domination of another person.

179 e. Whether the juvenile has shown sincere and sustained
180 remorse for the criminal offense.

181 f. Whether the juvenile offender's age, maturity, and
182 psychological development at the time of the offense affected
183 his or her behavior.

184 g. Whether the juvenile offender has successfully obtained
185 a general educational development certificate or completed



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186 another educational, technical, work, vocational, or self-
187 rehabilitation program.

188 h. Whether the juvenile offender was a victim of sexual,
189 physical, or emotional abuse before he or she committed the
190 offense.

191 i. The results of any mental health assessment, risk
192 assessment, or evaluation of the juvenile offender as to
193 rehabilitation.

194 8. If the court determines at the resentencing hearing
195 that the juvenile offender has been rehabilitated and is
196 reasonably believed to be fit to reenter society based on these
197 factors, then a term of probation of at least 5 years, shall be
198 imposed. If the court determines that the juvenile offender has
199 not demonstrated rehabilitation and is not fit to reenter
200 society based on these factors, the court shall issue an order
201 in writing stating why the sentence is not being modified.

202 9. A juvenile offender who is not resentenced under this
203 paragraph at the initial resentencing hearing is eligible for a
204 resentencing hearing 5 years after the date of the denial and
205 every 5 years after that.

206 (b) For a felony of the first degree, by a term of
207 imprisonment not exceeding 30 years or, when specifically
208 provided by statute, by imprisonment for a term of years not
209 exceeding life imprisonment.

210 (c) For a felony of the second degree, by a term of
211 imprisonment not exceeding 15 years.

212 (d) For a felony of the third degree, by a term of
213 imprisonment not exceeding 5 years.



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214 Section 2. This act shall take effect July 1, 2013.

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

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Remove everything before the enacting clause and insert:

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An act relating to juvenile sentencing; amending s. 775.082,

222

F.S.; providing sentencing alternatives for offenses committed

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by minors who would otherwise only be punishable by life in

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prison; authorizing life sentences if specified factors are

225

considered; providing that certain offenses committed after a

226

specified date punishable by a term of years not exceeding life

227

imprisonment by an offender who was younger than 18 years of age

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at the time of the offense are punishable by terms of

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imprisonment not exceeding specified numbers of years; providing

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for a review after a specified number of years of the sentence

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of a juvenile sentenced to life; providing for eligibility

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screening; providing for a hearing; providing factors for

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consideration; providing for modification of sentence; providing

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for future review hearings for juveniles who are not

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resentenced; providing an effective date.