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# Judiciary Committee

March 21, 2014

9:00 AM

404 HOB

**Action Packet**

Will Weatherford  
Speaker

Dennis Baxley  
Chair

# COMMITTEE MEETING REPORT

## Judiciary Committee

3/21/2014 9:00:00AM

**Location:** Sumner Hall (404 HOB)

### Summary:

#### Judiciary Committee

Friday March 21, 2014 09:00 am

CS/HB 69	Favorable	Yeas: 15	Nays: 0
CS/HB 409	Favorable With Committee Substitute Amendment 593237 Adopted Without Objection	Yeas: 15	Nays: 0
CS/HB 485	Favorable	Yeas: 16	Nays: 0
CS/HB 569	Favorable With Committee Substitute Amendment 170533 Adopted Without Objection	Yeas: 15	Nays: 0
CS/HB 609	Favorable	Yeas: 14	Nays: 0
CS/HB 697	Favorable	Yeas: 15	Nays: 0
CS/HB 757	Favorable With Committee Substitute Amendment 499717 Adopted Without Objection Amendment 684337 Adopted Without Objection	Yeas: 15	Nays: 0
HB 885	Favorable	Yeas: 15	Nays: 0
CS/HB 1013	Favorable With Committee Substitute Amendment 706973 Adopted Without Objection Amendment 312871 Adopted Without Objection	Yeas: 15	Nays: 0
HB 7035	Favorable With Committee Substitute Amendment 391979 Adopted Without Objection	Yeas: 15	Nays: 0

Committee meeting was reported out: Friday, March 21, 2014 11:29:28AM

# COMMITTEE MEETING REPORT

## Judiciary Committee

3/21/2014 9:00:00AM

**Location:** Sumner Hall (404 HOB)

**Attendance:**

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Dennis Baxley (Chair)	X		
Daphne Campbell	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		
Daniel Raulerson	X		
Kenneth Roberson	X		
Elaine Schwartz			X
Ross Spano	X		
Charlie Stone	X		
<b>Totals:</b>	<b>16</b>	<b>0</b>	<b>2</b>

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# COMMITTEE MEETING REPORT

## Judiciary Committee

3/21/2014 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/HB 69 : Pub. Rec./Names of Spouses and Children of Public Defenders and Criminal Conflict and Civil Regional Counsel

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	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				
Daniel Raulerson			X		
Kenneth Roberson	X				
Elaine Schwartz			X		
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
<b>Total Yeas: 15</b>		<b>Total Nays: 0</b>			

### Appearances:

CS/HB 69

Pitts, Brian - Waive In Support

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: 727-897-9291

CS/HB 69

Payne, Blair (State Employee) (General Public) - Waive In Support

Florida Public Defender Association, Inc.

173 N.E. Hernando Avenue

Lake City Florida 32055

Phone: 386.758.0540

Committee meeting was reported out: Friday, March 21, 2014 11:29:28AM



# COMMITTEE MEETING REPORT

## Judiciary Committee

3/21/2014 9:00:00AM

Location: Sumner Hall (404 HOB)

### CS/HB 409 : Offenses Against Vulnerable Persons

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	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				
Daniel Raulerson			X		
Kenneth Roberson	X				
Elaine Schwartz			X		
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
<b>Total Yeas: 15</b>		<b>Total Nays: 0</b>			

### CS/HB 409 Amendments

#### Amendment 593237

Adopted Without Objection

### Appearances:

CS/HB 409

Cantwell, Laura (Lobbyist) - Waive In Support

AARP

400 Carillon Pky Ste 100

St Petersburg FL 33716

Phone: (850)577-5163

CS/HB 409

Anderson, Robert (State Employee) - Waive In Support

State Director, Adult Protective Services, DCF

1317 Wine Wood Blvd.

Tallahassee FL 32399

Phone: 850-488-2881

Committee meeting was reported out: Friday, March 21, 2014 11:29:28AM



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	—	

*Adopted without  
objection  
3.21.14*

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

4 **Amendment**

5 Remove lines 144-178 and insert:

6 lacks the capacity to consent; ~~or~~

7 (c) Breach of a fiduciary duty to an elderly person or  
8 disabled adult by the person's guardian, trustee who is an  
9 individual, or agent under a power of attorney which results in  
10 an unauthorized appropriation, sale, or transfer of property. An  
11 unauthorized appropriation under this paragraph occurs when the  
12 elderly person or disabled adult does not receive the reasonably  
13 equivalent financial value in goods or services, or when the  
14 fiduciary violates any of these duties:

15 1. For agents appointed under chapter 709:

16 a. Committing fraud in obtaining their appointments;

17 b. Abusing their powers;



Amendment No. 1

- 18        c. Wasting, embezzling, or intentionally mismanaging the  
19 assets of the principal or beneficiary; or
- 20        d. Acting contrary to the principal's sole benefit or best  
21 interest; or
- 22        2. For guardians and trustees who are individuals and who  
23 are appointed under chapter 736 or chapter 744:
- 24            a. Committing fraud in obtaining their appointments;  
25            b. Abusing their powers; or
- 26            c. Wasting, embezzling, or intentionally mismanaging the  
27 assets of the ward or beneficiary of the trust;
- 28            (d) Misappropriating, misusing, or transferring without  
29 authorization money belonging to an elderly person or disabled  
30 adult from an account in which the elderly person or disabled  
31 adult placed the funds, owned the funds, and was the sole  
32 contributor or payee of the funds before the misappropriation,  
33 misuse, or unauthorized transfer. This paragraph only applies to  
34 the following types of accounts:
- 35            1. Personal accounts;
- 36            2. Joint accounts created with the intent that only the  
37 elderly person or disabled adult enjoys all rights, interests,  
38 and claims to moneys deposited into such account; or
- 39            3. Convenience accounts created in accordance with s.  
40 655.80; or
- 41



# COMMITTEE MEETING REPORT

## Judiciary Committee

3/21/2014 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/HB 485 : Sexual Offenses Against Students by Authority Figures

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Daphne Campbell	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				
Daniel Raulerson	X				
Kenneth Roberson	X				
Elaine Schwartz			X		
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
<b>Total Yeas: 16</b>		<b>Total Nays: 0</b>			

### Appearances:

CS/HB 485

Pitts, Brian - Information Only

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: 727-897-9291

Committee meeting was reported out: Friday, March 21, 2014 11:29:28AM



# COMMITTEE MEETING REPORT

## Judiciary Committee

3/21/2014 9:00:00AM

**Location:** Sumner Hall (404 HOB)

**CS/HB 569 : Nursing Home Litigation**

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	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				
Daniel Raulerson			X		
Kenneth Roberson	X				
Elaine Schwartz			X		
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
<b>Total Yeas: 15</b>		<b>Total Nays: 0</b>			

### CS/HB 569 Amendments

#### Amendment 170533

Adopted Without Objection

#### Appearances:

CS/HB 569 Amendment 170533  
Jess, Paul (Lobbyist) - Waive In Support  
Florida Justice Association  
218 S Monroe St  
Tallahassee FL 32301  
Phone: (850)224-9403

CS/HB 569 Amendment 170533  
McRay, Jack (Lobbyist) - Waive In Support  
AARP  
200 W College Ave Ste 304  
Tallahassee FL 32301  
Phone: (850)577-5187

Committee meeting was reported out: Friday, March 21, 2014 11:29:28AM

# COMMITTEE MEETING REPORT

## Judiciary Committee

3/21/2014 9:00:00AM

**Location:** Sumner Hall (404 HOB)

**CS/HB 569 : Nursing Home Litigation (continued)**

**Appearances: (continued)**

CS/HB 569

Bevis, Brewster (Lobbyist) - Waive In Support  
Associated Industries of Florida  
516 N Adams St  
Tallahassee FL 32301  
Phone: 850)224-7173

CS/HB 569

Christian, David (Lobbyist) - Waive In Support  
Vice President, Government Affairs, Florida Chamber of Commerce  
136 S Bronough  
Tallahassee FL 32301  
Phone: 850-521-1211

CS/HB 569

Mitchell, Cindy (General Public) - Proponent  
Marianna Health and Rehabilitation Center  
4427 Woodbrook Dr  
Marianna FL 32446  
Phone: 850-209-3296

CS/HB 569

Large, William (Lobbyist) - Waive In Support  
Florida Justice Reform Institute  
210 S Monroe St  
Tallahassee FL 32301-1824  
Phone: (850)222-0170

CS/HB 569

Reed, Emmett (Lobbyist) - Waive In Support  
Executive Director, Florida Health Care Association  
307 W Park Ave  
Tallahassee FL 32302  
Phone: 850-224-3907

CS/HB 569

Devane, Barabara A. (Lobbyist) - Opponent  
FL Alliance for Retired Americans  
625 E. Brevard St.  
Tallahassee FL 32309  
Phone: (850) 222-3969

CS/HB 569

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

Committee meeting was reported out: Friday, March 21, 2014 11:29:28AM

# COMMITTEE MEETING REPORT

## Judiciary Committee

3/21/2014 9:00:00AM

**Location:** Sumner Hall (404 HOB)

**CS/HB 569 : Nursing Home Litigation (continued)**

**Appearances: (continued)**

CS/HB 569

Van Name, Matthew (General Public) - Waive In Opposition

Political Director, 1199SEIU

14645 NW 77th Ave Suite 201

Miami Lakes FL 33014

Phone: 786-459-1798

Committee meeting was reported out: Friday, March 21, 2014 11:29:28AM





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 \_\_\_\_\_

*Adopted without  
objection  
3-21-14*

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

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

Section 1. Section 400.023, Florida Statutes, is amended to read:

400.023 Civil enforcement.—

(1) An exclusive cause of action for negligence or a violation of residents' ~~Any resident whose~~ rights as specified under in this part which alleges direct or vicarious liability for the personal injury or death of a nursing home resident arising from such negligence or violation of rights and which seeks damages for such injury or death may be brought only against the licensee, the licensee's management or consulting company, the licensee's managing employees, and any direct caregivers, whether employees or contractors are violated shall



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18 ~~have a cause of action. A passive investor is not liable under~~  
19 ~~this section. An action against any other individual or entity~~  
20 ~~may be brought only pursuant to subsection (3).~~

21 (a) The action may be brought by the resident or his or  
22 her guardian, by a person or organization acting on behalf of a  
23 resident with the consent of the resident or his or her  
24 guardian, or by the personal representative of the estate of a  
25 deceased resident regardless of the cause of death.

26 (b) If the action alleges a claim for the resident's  
27 rights or for negligence that caused the death of the resident,  
28 the claimant shall, after the verdict, but before the judgment  
29 is entered, be required to elect either survival damages  
30 pursuant to s. 46.021 or wrongful death damages pursuant to s.  
31 768.21. If the action alleges a claim for the resident's rights  
32 or for negligence that did not cause the death of the resident,  
33 the personal representative of the estate may recover damages  
34 for the negligence that caused injury to the resident.

35 (c) The action may be brought in any court of competent  
36 jurisdiction to enforce such rights and to recover actual and  
37 punitive damages for the any violation of the rights of a  
38 resident or for negligence.

39 (d) A Any resident who prevails in seeking injunctive  
40 relief or ~~a claim for~~ an administrative remedy is entitled to  
41 recover the costs of the action, and a reasonable attorney fees  
42 ~~attorney's fee~~ assessed against the defendant of up to not to  
43 ~~exceed~~ \$25,000. Fees shall be awarded solely for the injunctive





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44 or administrative relief and not for any claim or action for  
45 damages whether such claim or action is brought together with a  
46 request for an injunction or administrative relief or as a  
47 separate action, except as provided under s. 768.79 or the  
48 Florida Rules of Civil Procedure. ~~Sections 400.023-400.0238~~  
49 ~~provide the exclusive remedy for a cause of action for recovery~~  
50 ~~of damages for the personal injury or death of a nursing home~~  
51 ~~resident arising out of negligence or a violation of rights~~  
52 ~~specified in s. 400.022.~~

53 (e) This section does not preclude theories of recovery  
54 not arising out of negligence or s. 400.022 which are available  
55 to a resident or to the agency. ~~The provisions of Chapter 766~~  
56 ~~does de~~ not apply to a any cause of action brought under ss.  
57 400.023-400.0238.

58 (2) As used in this section, the term:

59 (a) "Licensee" means an individual, corporation,  
60 partnership, firm, association, governmental entity, or other  
61 entity that is issued a permit, registration, certificate, or  
62 license by the agency, and that is legally responsible for all  
63 aspects of the operation of the nursing home facility.

64 (b) "Management or consulting company" means an individual  
65 or entity who contracts with, or receives a fee from, a licensee  
66 to provide any of the following services for a nursing home  
67 facility:

68 1. Hiring or firing of the administrator or director of  
69 nursing;

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70 2. Controlling or having control over the staffing levels  
71 at the facility;

72 3. Having control over the budget of the facility; or

73 4. Implementing and enforcing the policies and procedures  
74 of the facility.

75 (c) "Passive investor" means an individual or entity that  
76 has an interest in a facility but does not participate in the  
77 decisionmaking or operations of the facility.

78 (3) A cause of action may not be asserted against an  
79 individual or entity other than the licensee, the licensee's  
80 management or consulting company, the licensee's managing  
81 employees, and any direct caregivers, whether employees or  
82 contractors, unless, after a motion for leave to amend hearing,  
83 the court or an arbitration panel determines that there is  
84 sufficient evidence in the record or proffered by the claimant  
85 to establish a reasonable showing that:

86 (a) The individual or entity owed a duty of reasonable  
87 care to the resident and that the individual or entity breached  
88 that duty; and

89 (b) The breach of that duty is a legal cause of loss,  
90 injury, death, or damage to the resident.

91  
92 For purposes of this subsection, if, in a proposed amended  
93 pleading, it is asserted that such cause of action arose out of  
94 the conduct, transaction, or occurrence set forth or attempted



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95 to be set forth in the original pleading, the proposed amendment  
96 relates back to the original pleading.

97 ~~(4)(2)~~ In a ~~any~~ claim brought pursuant to this part  
98 alleging a violation of residents' ~~resident's~~ rights or  
99 negligence causing injury to or the death of a resident, the  
100 claimant has ~~shall have~~ the burden of proving, by a  
101 preponderance of the evidence, that:

- 102 (a) The defendant owed a duty to the resident;  
103 (b) The defendant breached the duty to the resident;  
104 (c) The breach of the duty is a legal cause of loss,  
105 injury, death, or damage to the resident; and  
106 (d) The resident sustained loss, injury, death, or damage  
107 as a result of the breach.

108  
109 ~~Nothing in~~ This part does not ~~shall be interpreted to~~ create  
110 strict liability. A violation of the rights set forth in s.  
111 400.022, ~~or~~ in any other standard or guidelines specified in  
112 this part, or in any applicable administrative standard or  
113 guidelines of this state or a federal regulatory agency is ~~shall~~  
114 ~~be~~ evidence of negligence but is ~~shall~~ not be considered  
115 negligence per se.

116 ~~(5)(3)~~ In a ~~any~~ claim brought pursuant to this section, a  
117 licensee, individual ~~person~~, or entity has ~~shall have~~ a duty to  
118 exercise reasonable care. Reasonable care is that degree of care  
119 which a reasonably careful licensee, individual ~~person~~, or  
120 entity would use under like circumstances.

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121        ~~(6)(4)~~ In a any claim for a residents' ~~resident's~~ rights  
122 violation or negligence by a nurse licensed under part I of  
123 chapter 464, such nurse has ~~shall have~~ the duty to exercise care  
124 consistent with the prevailing professional standard of care for  
125 a nurse. The prevailing professional standard of care for a  
126 nurse is ~~shall be~~ that level of care, skill, and treatment  
127 which, in light of all relevant surrounding circumstances, is  
128 recognized as acceptable and appropriate by reasonably prudent  
129 similar nurses.

130        ~~(7)(5)~~ A licensee is ~~shall~~ not be liable for the medical  
131 negligence of a any physician rendering care or treatment to the  
132 resident except for the administrative services of a medical  
133 director as required under ~~in~~ this part. ~~Nothing in~~ This  
134 subsection does not ~~shall be construed to~~ protect a licensee,  
135 individual person, or entity from liability for failure to  
136 provide a resident with appropriate observation, assessment,  
137 nursing diagnosis, planning, intervention, and evaluation of  
138 care by nursing staff.

139        ~~(8)(6)~~ The resident or the resident's legal representative  
140 shall serve a copy of a any complaint alleging in whole or in  
141 part a violation of any rights specified in this part to the  
142 agency ~~for Health Care Administration~~ at the time of filing the  
143 initial complaint with the clerk of the court for the county in  
144 which the action is pursued. The requirement of providing a copy  
145 of the complaint to the agency does not impair the resident's  
146 legal rights or ability to seek relief for his or her claim.

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147        ~~(9)(7)~~ An action under this part for a violation of rights  
148 or negligence recognized herein is not a claim for medical  
149 malpractice, and ~~the provisions of s. 768.21(8)~~ does ~~de~~ not  
150 apply to a claim alleging death of the resident.

151        Section 2. Section 400.0237, Florida Statutes, is amended  
152 to read:

153        400.0237 Punitive damages; pleading; burden of proof.—

154        (1) ~~A In any action for damages brought under this part,~~  
155 ~~no claim for punitive damages may not be brought under this part~~  
156 ~~shall be permitted unless there is a reasonable showing by~~  
157 ~~admissible evidence that has been submitted by the parties that~~  
158 ~~provides in the record or proffered by the claimant which would~~  
159 ~~provide a reasonable basis for recovery of such damages when the~~  
160 ~~criteria in this section are applied.~~

161        (a) The claimant may move to amend her or his complaint to  
162 assert a claim for punitive damages as allowed by the rules of  
163 civil procedure in accordance with evidentiary requirements set  
164 forth in this section.

165        (b) The court shall conduct a hearing to determine whether  
166 there is sufficient admissible evidence submitted by the parties  
167 to ensure that there is a reasonable basis to believe that the  
168 claimant, at trial, will be able to demonstrate by clear and  
169 convincing evidence that the recovery of such damages is  
170 warranted under a claim for direct liability as specified in  
171 subsection (2) or under a claim for vicarious liability as  
172 specified in subsection (3).

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173           (c) The rules of civil procedure shall be liberally  
174 construed so as to allow the claimant discovery of evidence  
175 which appears reasonably calculated to lead to admissible  
176 evidence on the issue of punitive damages. ~~Discovery of~~  
177 financial worth may not ~~shall~~ proceed until after the pleading  
178 on concerning punitive damages is approved by the court  
179 permitted.

180           (2) A defendant may be held liable for punitive damages  
181 only if the trier of fact, by ~~based on~~ clear and convincing  
182 evidence, finds that a specific person or corporate defendant  
183 actively and knowingly participated in intentional misconduct or  
184 engaged in conduct that constitutes gross negligence and  
185 contributed to the loss, damages, or injury suffered by the  
186 claimant ~~the defendant was personally guilty of intentional~~  
187 ~~misconduct or gross negligence~~. As used in this section, the  
188 term:

189           (a) "Intentional misconduct" means that the defendant  
190 against whom punitive damages are sought had actual knowledge of  
191 the wrongfulness of the conduct and the high probability that  
192 injury or damage to the claimant would result and, despite that  
193 knowledge, intentionally pursued that course of conduct,  
194 resulting in injury or damage.

195           (b) "Gross negligence" means that a ~~the~~ defendant's  
196 conduct was so reckless or wanting in care that it constituted a  
197 conscious disregard or indifference to the life, safety, or  
198 rights of persons exposed to such conduct.





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199 (3) In the case of vicarious liability of an individual,  
200 employer, principal, corporation, or other legal entity,  
201 punitive damages may not be imposed for the conduct of an  
202 employee or agent unless ~~only if~~ the conduct of the employee or  
203 agent meets the criteria specified in subsection (2) and an  
204 officer, director, or manager of the actual employer,  
205 corporation, or legal entity condoned, ratified, or consented to  
206 the specific conduct as provided in subsection (2):

207 ~~(a) The employer, principal, corporation, or other legal~~  
208 ~~entity actively and knowingly participated in such conduct;~~

209 ~~(b) The officers, directors, or managers of the employer,~~  
210 ~~principal, corporation, or other legal entity condoned,~~  
211 ~~ratified, or consented to such conduct; or~~

212 ~~(c) The employer, principal, corporation, or other legal~~  
213 ~~entity engaged in conduct that constituted gross negligence and~~  
214 ~~that contributed to the loss, damages, or injury suffered by the~~  
215 ~~claimant.~~

216 (4) The plaintiff shall ~~must~~ establish at trial, by clear  
217 and convincing evidence, its entitlement to an award of punitive  
218 damages. The "greater weight of the evidence" burden of proof  
219 applies to a determination of the amount of damages.

220 ~~(5) This section is remedial in nature and shall take~~  
221 ~~effect upon becoming a law.~~

222 Section 3. Section 400.024, Florida Statutes, is created  
223 to read:





Amendment No. 1

224 400.024 Failure to satisfy a judgment or settlement  
225 agreement.-

226 (1) Upon the entry by a Florida court of an adverse final  
227 judgment against a licensee as defined in s. 400.023(2) which  
228 arises from an award pursuant to s. 400.023, including an  
229 arbitration award, for a claim of negligence or a violation of  
230 residents' rights, in contract or tort, or from noncompliance  
231 with the terms of a settlement agreement as determined by a  
232 court or arbitration panel, which arises from a claim pursuant  
233 to s. 400.023, the licensee shall pay the judgment creditor the  
234 entire amount of the judgment, award, or settlement and all  
235 accrued interest within 60 days after the date such judgment,  
236 award, or settlement becomes final and subject to execution  
237 unless otherwise mutually agreed to in writing by the parties.  
238 Failure to make such payment shall result in additional grounds  
239 that may be used by the agency for revoking a license or for  
240 denying a renewal application or a related party change of  
241 ownership application as provided in this section.

242 (2) The agency is deemed notified of an unsatisfied  
243 judgment or settlement under subsection (1) when a certified  
244 copy of the judgment and a certified copy of a valid judgment  
245 lien certificate, filed in accordance with ss. 55.202 and  
246 55.203, are served to the agency by process server or received  
247 by certified mail, return receipt requested. Within 60 days  
248 after receiving such documents, the agency shall notify the  
249 licensee by certified mail, return receipt requested, that it is

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250 subject to disciplinary action unless, within 30 days after the  
251 date of mailing the notice, the licensee:

252 (a) Shows proof that the unsatisfied judgment or  
253 settlement has been paid in the amount specified;

254 (b) Shows proof of the existence of a payment plan  
255 mutually agreed upon by the parties in writing;

256 (c) Furnishes the agency with a copy of a timely filed  
257 notice of appeal;

258 (d) Furnishes the agency with a copy of a court order  
259 staying execution of the final judgment; or

260 (e) Shows proof by submitting an order from a court or  
261 arbitration panel that is overseeing any action seeking  
262 indemnification from an insurance carrier or other party that  
263 the licensee believes is required to pay the award.

264 (3) If the agency is placed on notice pursuant to  
265 subsection (2) and proof pursuant to subsection (2) is not  
266 provided by the licensee, the agency shall issue an emergency  
267 order pursuant to s. 120.60 declaring that the facility lacks  
268 financial ability to operate and a notice of intent to revoke or  
269 deny a license.

270 (4) If, after the agency is placed on notice pursuant to  
271 subsection (2) and:

272 (a) The license is subject to renewal, the agency may deny  
273 the license renewal unless compliance with this section is  
274 achieved; and





Amendment No. 1

275 (b) A change of ownership application for the facility at  
276 issue is submitted by the licensee, by a person or entity  
277 identified as having a controlling interest in the licensee, or  
278 by a related party, the agency shall deny the change of  
279 ownership application unless compliance with this section is  
280 achieved.

281 Section 4. Section 400.145, Florida Statutes, is amended  
282 to read:

283 (Substantial rewording of section. See  
284 s. 400.145, F.S., for present text.)

285 400.145 Copies of records of care and treatment of  
286 resident.-

287 (1) Upon receipt of a written request that complies with  
288 the federal Health Insurance Portability and Accountability Act  
289 of 1996 (HIPAA) and this section, a nursing home facility shall  
290 furnish to a competent resident, or to a representative of that  
291 resident who is authorized to make requests for the resident's  
292 records under HIPAA or subsection (2), copies of the resident's  
293 paper and electronic records that are in possession of the  
294 facility. Such records must include any medical records and  
295 records concerning the care and treatment of the resident  
296 performed by the facility, except for progress notes and  
297 consultation report sections of a psychiatric nature. The  
298 facility shall provide the requested records within 14 working  
299 days after receipt of a request relating to a current resident



Amendment No. 1

300 or within 30 working days after receipt of a request relating to  
301 a former resident.

302 (2) Requests for a deceased resident's medical records  
303 under this section may be made by:

304 (a) A person appointed by a court to act as the personal  
305 representative, executor, administrator, curator, or temporary  
306 administrator of the deceased resident's estate;

307 (b) If a judicial appointment has not been made as  
308 provided in paragraph (a), a person designated by the resident  
309 to act as his or her personal representative in a last will that  
310 is self-proved under s. 732.503; or

311 (c) If no judicial appointment has been made as provided  
312 in paragraph (a) or no person has been designated by the  
313 resident in a last will as provided in paragraph (b), only the  
314 following individuals:

315 1. A surviving spouse.

316 2. If there is no surviving spouse, a surviving child of  
317 the resident.

318 3. If there is no surviving spouse or child, a parent of  
319 the resident.

320 (3) All requests for a deceased resident's records made by  
321 a person authorized under:

322 (a) Paragraph (2) (a) must include a copy of the letter of  
323 administration and a copy of the court order appointing such  
324 person as the representative of the resident's estate.





Amendment No. 1

325 (b) Paragraph (2)(b) must include a copy of the self-  
326 proved last will designating the person as the resident's  
327 representative.

328 (c) Paragraph (2)(c) must be accompanied by a letter from  
329 the person's attorney verifying the person's relationship to the  
330 resident and the absence of a court-appointed representative and  
331 self-proved last will.

332 (4) A nursing home facility may charge a reasonable fee  
333 for the copying of resident records. Such fee may not exceed \$1  
334 per page for the first 25 pages and 25 cents per page for each  
335 additional page. The facility shall allow a person who is  
336 authorized to act on behalf of the resident to examine the  
337 original records, microfilms, or other suitable reproductions of  
338 the records in its possession upon any reasonable terms imposed  
339 by the facility to ensure that the records are not damaged,  
340 destroyed, or altered.

341 (5) If a nursing home facility determines that disclosure  
342 of the records to the resident would be detrimental to the  
343 physical or mental health of the resident, the facility may  
344 refuse to furnish the record directly to the resident; however,  
345 upon such refusal, the resident's records shall, upon written  
346 request by the resident, be furnished to any other medical  
347 provider designated by the resident.

348 (6) A nursing home facility that in good faith and in  
349 reliance upon this section releases copies of records shall be  
350 indemnified by the party who requested the records pursuant to



Amendment No. 1

351 subsection (2) for any damages resulting from such release, and  
352 may not be found to have violated any criminal or civil laws,  
353 and is not civilly liable to the resident, the resident's  
354 estate, or any other person for any damages resulting from such  
355 release.

356 (7) A nursing home facility is not required to provide  
357 copies of a resident's records requested pursuant to this  
358 section more than once per month, except that copies of  
359 physician reports in the resident's records must be provided as  
360 often as necessary to allow the effective monitoring of the  
361 resident's condition.

362 (8) A nursing home facility may not be cited by the agency  
363 through the survey process for any alleged or actual  
364 noncompliance with any of the requirements of this section.

365 (9) This section does not limit any right to obtain  
366 records by subpoena or other court process.

367 Section 5. The amendments to ss. 400.023 and 400.0237,  
368 Florida Statutes, made by this act apply to causes of action  
369 accruing on or after the effective date of this act.

370 Section 6. This act shall take effect upon becoming a law.

371

372

373

374

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

375

Remove everything before the enacting clause and insert:

376

A bill to be entitled





## Amendment No. 1

377 An act relating to nursing home litigation; amending s. 400.023,  
378 F.S.; specifying that a cause of action for negligence or  
379 violation of residents' rights alleging direct or vicarious  
380 liability for the injury or death of a nursing home resident may  
381 be brought against a licensee, its management or consulting  
382 company, its managing employees, and any direct caregiver  
383 employees or contractors; providing that a cause of action may  
384 not be asserted against other individuals or entities except  
385 under certain circumstances; revising related judicial  
386 procedures; defining terms; amending s. 400.0237, F.S.;  
387 providing that a claim for punitive damages may not be brought  
388 unless there is a showing of evidence that provides a reasonable  
389 basis for recovery of such damages when certain criteria are  
390 applied; requiring the court to conduct a hearing to determine  
391 whether there is sufficient evidence to demonstrate that the  
392 recovery of punitive damages is warranted; requiring the trier  
393 of fact to find that a specific person or corporate defendant  
394 participated in or engaged in conduct that constituted gross  
395 negligence and contributed to the damages or injury suffered by  
396 the claimant before a defendant may be held liable for punitive  
397 damages; requiring an officer, director, or manager of the  
398 employer, corporation, or legal entity to condone, ratify, or  
399 consent to specified conduct before holding such person or  
400 entity vicariously liable for punitive damages; creating s.  
401 400.024, F.S.; authorizing the Agency for Health Care  
402 Administration to revoke the license or deny a license renewal

170533 - h0569-strike.docx

Published On: 3/20/2014 6:16:03 PM





## Amendment No. 1

403 or change of ownership application of a nursing home facility  
404 that fails to pay a judgment or settlement agreement; providing  
405 for notification to the agency of such failure and for agency  
406 notification to the licensee of disciplinary action; providing  
407 licensee grounds for overcoming failure to pay; authorizing the  
408 agency to issue an emergency order and notice of intent to  
409 revoke or deny a license; authorizing the agency to deny a  
410 license renewal and requiring the agency to deny a change of  
411 ownership; amending s. 400.145, F.S.; revising procedures for  
412 obtaining the records of a resident; specifying which records  
413 may be obtained and who may obtain them; providing immunity from  
414 liability to a facility that provides such records in good  
415 faith; providing that the agency may not cite a facility that  
416 does not meet these records requirements; providing  
417 applicability; providing an effective date.

# COMMITTEE MEETING REPORT

## Judiciary Committee

3/21/2014 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/HB 609 : Article V Constitutional Convention

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	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				
Daniel Raulerson	X				
Kenneth Roberson	X				
Elaine Schwartz			X		
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
<b>Total Yeas: 14</b>		<b>Total Nays: 0</b>			

### Appearances:

CS/HB 609

Webb, Spider (General Public) - Proponent  
CEO and Founder, Single Subject Amendment  
267 John Knox Rd  
Tallahassee FL 32303  
Phone: 850-694-2607

Committee meeting was reported out: Friday, March 21, 2014 11:29:28AM

# COMMITTEE MEETING REPORT

## Judiciary Committee

3/21/2014 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/HB 697 : Controlled Substances

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	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				
Daniel Raulerson	X				
Kenneth Roberson	X				
Elaine Schwartz			X		
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
<b>Total Yeas: 15</b>		<b>Total Nays: 0</b>			

### Appearances:

CS/HB 697

Hurley, Lisa (Lobbyist) - Waive In Support

Florida Association of Counties

100 S Monroe St

Tallahassee FL 32301

Phone: 850-922-4310

Committee meeting was reported out: Friday, March 21, 2014 11:29:28AM



# COMMITTEE MEETING REPORT

## Judiciary Committee

3/21/2014 9:00:00AM

Location: Sumner Hall (404 HOB)

CS/HB 757 : Estates

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	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				
Daniel Raulerson			X		
Kenneth Roberson	X				
Elaine Schwartz			X		
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
<b>Total Yeas: 15</b>		<b>Total Nays: 0</b>			

### CS/HB 757 Amendments

#### Amendment 499717

Adopted Without Objection

#### Amendment 684337

Adopted Without Objection

### Appearances:

CS/HB 757

Edenfield, Martha (Lobbyist) - Waive In Support

Real Property, Probate  
215 S Monroe St, #815  
Tallahassee FL 32301  
Phone: 850-999-4100

CS/HB 757

Pitts, Brian - Information Only

Justice-2-Jesus  
1119 Newton Ave. S.  
St. Petersburg FL 33705  
Phone: 727-897-9291

Committee meeting was reported out: Friday, March 21, 2014 11:29:28AM



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	_____	

*Adopted without objection 3.21.14*

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

4 **Amendment (with title amendment)**

5 Between lines 51 and 52, insert:

6 Section 4. The changes made by this act to s. 733.107,  
7 Florida Statutes, are intended to clarify existing law, are  
8 remedial in nature, and shall apply retroactively to all  
9 proceedings pending on or before this act becomes a law and all  
10 cases commenced on or after the effective date.

12 -----  
13 **T I T L E A M E N D M E N T**

14 Remove line 9 and insert:

15 influence; providing retroactive applicability; amending s.  
16 733.808, F.S.; requiring that a  
17



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	_____	

*Adopted without  
objection  
3-21-14*

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

4 **Amendment (with title amendment)**

5 Between lines 83 and 84, insert:

6 Section 7. The changes made by this act to s. 736.0207,  
7 Florida Statutes, apply to all cases commenced on or after the  
8 effective date.

10 -----  
11 **T I T L E A M E N D M E N T**

12 Remove line 16 and insert:

13 trust; providing for application to all cases commenced on or  
14 after the effective date; amending s. 736.05053, F.S.; requiring  
15 a



# COMMITTEE MEETING REPORT

## Judiciary Committee

3/21/2014 9:00:00AM

Location: Sumner Hall (404 HOB)

HB 885 : Manatee County

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	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				
Daniel Raulerson			X		
Kenneth Roberson	X				
Elaine Schwartz			X		
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
	<b>Total Yeas: 15</b>	<b>Total Nays: 0</b>			

Committee meeting was reported out: Friday, March 21, 2014 11:29:28AM

# COMMITTEE MEETING REPORT

## Judiciary Committee

3/21/2014 9:00:00AM

**Location:** Sumner Hall (404 HOB)

**CS/HB 1013 : Court-Ordered Expunction of Criminal History Records**

*Favorable With Committee Substitute*

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	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				
Daniel Raulerson			X		
Kenneth Roberson	X				
Elaine Schwartz			X		
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
<b>Total Yeas: 15</b>		<b>Total Nays: 0</b>			

### CS/HB 1013 Amendments

#### Amendment 706973

*Adopted Without Objection*

#### Amendment 312871

*Adopted Without Objection*

### Appearances:

CS/HB 1013, Amendment 312871  
Malaney, Wayne (Lobbyist) - Waive In Support  
American Lawyer Media, L.P.  
1 SE 3rd Ave Ste 900  
Miami FL 33131  
Phone: (850)906-9069

CS/HB 1013  
Pitts, Brian - Waive In Support  
Justice-2-Jesus  
1119 Newton Ave. S.  
St. Petersburg FL 33705  
Phone: 727-897-9291

Committee meeting was reported out: Friday, March 21, 2014 11:29:28AM

# COMMITTEE MEETING REPORT

## Judiciary Committee

3/21/2014 9:00:00AM

**Location:** Sumner Hall (404 HOB)

**CS/HB 1013 : Court-Ordered Expunction of Criminal History Records (continued)**

**Appearances: (continued)**

CS/HB 1013

Payne, Blair (State Employee) (General Public) - Waive In Support

Florida Public Defender Association, Inc.

173 N.E. Hernando Street

Lake City Florida

Phone: 386.758.0540

Committee meeting was reported out: Friday, March 21, 2014 11:29:28AM





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	_____	

*Adopted without  
objection  
3.21.14*

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

3

4 **Amendment (with title amendment)**

5 Between lines 20 and 21, insert:

6 Section 1. Paragraphs (c), (e), and (f) of subsection (3)

7 and subsection (5) of section 943.0582, Florida Statutes, are

8 amended to read:

9 943.0582 Prearrest, postarrest, or teen court diversion

10 program expunction.—

11 (3) The department shall expunge the nonjudicial arrest

12 record of a minor who has successfully completed a prearrest or

13 postarrest diversion program if that minor:

14 (c) Submits to the department, with the application, an

15 official written statement from the state attorney for the

16 county in which the arrest occurred certifying that he or she

17 has successfully completed that county's prearrest or postarrest



Amendment No. 1

18 diversion program, that his or her participation in the program  
19 was based on an arrest for a nonviolent misdemeanor, or for a  
20 felony that does not relate to a violation of s. 393.135, s.  
21 394.4593, s. 787.025, chapter 794, s. 796.03, s. 800.04, s.  
22 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s.  
23 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s. 916.1075, a  
24 violation enumerated in s. 907.041, or any violation specified  
25 as a predicate offense for registration as a sexual predator  
26 pursuant to s. 775.21, without regard to whether that offense  
27 alone is sufficient to require such registration, or for  
28 registration as a sexual offender pursuant to s. 943.0435, and  
29 that he or she has not otherwise been charged with or found to  
30 have committed any criminal offense or comparable ordinance  
31 violation.

32 (e) ~~Participated in a prearrest or postarrest diversion~~  
33 ~~program based on an arrest for a nonviolent misdemeanor that~~  
34 ~~would not qualify as an act of domestic violence as that term is~~  
35 ~~defined in s. 741.28.~~

36 (f) Has never, prior to filing the application for  
37 expunction, been charged with or been found to have committed  
38 any criminal offense or comparable ordinance violation.

39 (5) In the case of a minor whose completion of the program  
40 occurred before the effective date of this section, the  
41 application for prearrest or postarrest diversion expunction  
42 must be submitted within 6 months after the effective date of  
43 this section.



Amendment No. 1

44        (6) Expunction or sealing granted under this section does  
45 not prevent the minor who receives such relief from petitioning  
46 for the expunction or sealing of a later criminal history record  
47 as provided for in ss. 943.0583, 943.0585, and 943.059, if the  
48 minor is otherwise eligible under those sections.

49

50

-----

51

**T I T L E   A M E N D M E N T**

52

Remove lines 2-3 and insert:

53

An act relating to expunction; amending 943.0582, F.S.; allowing  
54 minors who have certain felony arrests to have the Department of  
55 Law Enforcement expunge their nonjudicial arrest record upon  
56 successful completion of a prearrest or postarrest diversion  
57 program; extending the application submission date for minors  
58 who completed the program before a certain date; amending s.  
59 943.0585, F.S.;

60





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	___	

*Adopted without objection 3.21.14*

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

4 **Amendment (with title amendment)**

5 Remove lines 149-226 and insert:

6 is found to be incompetent to stand trial, the expunction of the  
7 criminal history record shall not prevent entry of the finding  
8 in state and national databases for use in determining  
9 eligibility to purchase or possess a firearm or to carry a  
10 concealed firearm, as authorized in s. 790.065(2)(a)4.c. and 18  
11 U.S.C. s. 922(t), nor shall it prevent a governmental agency  
12 that is authorized by state or federal law to determine  
13 eligibility to purchase or possess a firearm or to carry a  
14 concealed firearm from accessing or using the record of the  
15 finding in the course of such agency's official duties.

16 (a) The person who is the subject of a criminal history  
17 record that is expunged under this section or under other



Amendment No. 2

18 provisions of law, including former s. 893.14, former s. 901.33,  
19 and former s. 943.058, may lawfully deny or fail to acknowledge  
20 the arrests covered by the expunged record, except when the  
21 subject of the record:

22 1. Is a candidate for employment with a criminal justice  
23 agency;

24 2. Is a defendant in a criminal prosecution;

25 3. Concurrently or subsequently petitions for relief under  
26 this section, s. 943.0583, or s. 943.059;

27 4. Is a candidate for admission to The Florida Bar;

28 5. Is seeking to be employed or licensed by or to contract  
29 with the Department of Children and Families, the Division of  
30 Vocational Rehabilitation within the Department of Education,  
31 the Agency for Health Care Administration, the Agency for  
32 Persons with Disabilities, the Department of Health, the  
33 Department of Elderly Affairs, or the Department of Juvenile  
34 Justice or to be employed or used by such contractor or licensee  
35 in a sensitive position having direct contact with children, the  
36 disabled, or the elderly; or

37 6. Is seeking to be employed or licensed by the Department  
38 of Education, any district school board, any university  
39 laboratory school, any charter school, any private or parochial  
40 school, or any local governmental entity that licenses child  
41 care facilities.

42 (b) Subject to the exceptions in paragraph (a), a person  
43 who has been granted an expunction under this section, former s.





Amendment No. 2

44 893.14, former s. 901.33, or former s. 943.058 may not be held  
45 under any provision of law of this state to commit perjury or to  
46 be otherwise liable for giving a false statement by reason of  
47 such person's failure to recite or acknowledge an expunged  
48 criminal history record.

49 (c) Information relating to the existence of an expunged  
50 criminal history record which is provided in accordance with  
51 paragraph (a) is confidential and exempt from the provisions of  
52 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,  
53 except that the department shall disclose the existence of a  
54 criminal history record ordered expunged to the entities set  
55 forth in subparagraphs (a)1., 4., 5., 6., and 7. for their  
56 respective licensing, access authorization, and employment  
57 purposes, and to criminal justice agencies for their respective  
58 criminal justice purposes, and with respect to a governmental  
59 agency that is authorized by state or federal law to determine  
60 eligibility to purchase or possess a firearm or to carry a  
61 concealed firearm, the department shall disclose the record of a  
62 finding of incompetence to stand trial for use in the course of  
63 such agency's official duties. It is unlawful for any employee  
64 of an entity set forth in subparagraph (a)1., subparagraph  
65 (a)4., subparagraph (a)5., subparagraph (a)6., or subparagraph  
66 (a)7. to disclose information relating to the existence of an  
67 expunged criminal history record of a person seeking employment,  
68 access authorization, or licensure with such entity or  
69 contractor, except to the person to whom the criminal history





Amendment No. 2

70 record relates or to persons having direct responsibility for  
71 employment, access authorization, or licensure decisions. Any  
72 person who violates this paragraph commits a misdemeanor of the  
73 first degree, punishable as provided in s. 775.082 or s.  
74 775.083.

75

76

77

78

-----

79

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

80

Remove lines 13-16 and insert:

81

governmental entities;

82

# COMMITTEE MEETING REPORT

## Judiciary Committee

3/21/2014 9:00:00AM

**Location:** Sumner Hall (404 HOB)

**HB 7035 : Juvenile Sentencing**

*Favorable With Committee Substitute*

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	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				
Daniel Raulerson	X				
Kenneth Roberson	X				
Elaine Schwartz			X		
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
<b>Total Yeas: 15</b>		<b>Total Nays: 0</b>			

### HB 7035 Amendments

#### Amendment 391979

*Adopted Without Objection*

#### Appearances:

HB 7035 Amendment 391979

Kato, Natalie (Lobbyist) - Proponent

Human Rights Watch

1948 Greenwood Dr

Tallahassee FL

Phone: 763-221-3151

HB 7035

Payne, Blair (General Public) - Opponent

Florida Public Defender Association

173 NE Hernando Ave

Lake City FL 32055

Phone: 386-758-0540

Committee meeting was reported out: Friday, March 21, 2014 11:29:28AM

# COMMITTEE MEETING REPORT

## Judiciary Committee

3/21/2014 9:00:00AM

**Location:** Sumner Hall (404 HOB)

**HB 7035 : Juvenile Sentencing (continued)**

**Appearances: (continued)**

HB 7035

Pitts, Brian - Information Only

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: 727-897-9291

Committee meeting was reported out: Friday, March 21, 2014 11:29:28AM





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	___	

*Adopted without  
objection  
3-21-14*

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

**Amendment**

5 Remove lines 50-205 and insert:

6 (b)1. A person who is convicted under s. 782.04 of a  
7 capital felony or an offense that was reclassified as a capital  
8 felony, which was committed before the person attained 18 years  
9 of age, who participated in the physical killing of the victim,  
10 shall be punished by a term of imprisonment for life if, after a  
11 sentencing hearing conducted by the court in accordance with s.  
12 921.140, the court finds that life imprisonment is an  
13 appropriate sentence. If the court finds that life imprisonment  
14 is not an appropriate sentence, such person shall be punished by  
15 a term of imprisonment of at least 40 years. A person sentenced  
16 pursuant to this subsection is entitled to a review of his or  
17 her sentence in accordance with s. 921.1401.



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18       2. A person who is convicted under s. 782.04 of a capital  
19 felony or an offense that was reclassified as a capital felony,  
20 which was committed before the person attained 18 years of age,  
21 who did not participate in the physical killing of the victim,  
22 may be punished by a term of imprisonment for life or by a term  
23 of years equal to life if, after a sentencing hearing conducted  
24 by the court in accordance with s. 921.140, the court finds that  
25 life imprisonment is an appropriate sentence. A person that is  
26 sentenced to a term of imprisonment of 15 years or more is  
27 entitled to a review of his or her sentence in accordance with  
28 s. 921.1401.

29       3. The court shall make a written finding as to whether a  
30 person is eligible for a sentence review hearing under s.  
31 921.1401(2)(a) or 921.1401(2)(c). Such a finding shall be based  
32 upon whether the defendant participated in the physical killing  
33 of the victim. The court is permitted to find that multiple  
34 defendants contributed to the physical killing of the victim.

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

37       (a)1. For a life felony committed before ~~prior to~~ October  
38 1, 1983, by a term of imprisonment for life or for a term of at  
39 least years not less than 30 years.

40       2. For a life felony committed on or after October 1,  
41 1983, by a term of imprisonment for life or by a term of  
42 imprisonment not exceeding 40 years.





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43 3. Except as provided in subparagraph 4., for a life  
44 felony committed on or after July 1, 1995, by a term of  
45 imprisonment for life or by imprisonment for a term of years not  
46 exceeding life imprisonment.

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

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

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

55 b. For a life felony committed on or after July 1, 2008,  
56 which is a person's second or subsequent violation of s.  
57 800.04(5)(b), by a term of imprisonment for life.

58 5. Notwithstanding subparagraphs 1.-4., a person who is  
59 convicted under s. 782.04 of an offense that was reclassified as  
60 a life felony, which was committed before the person attained 18  
61 years of age, may be punished by a term of imprisonment for life  
62 or by a term of years equal to life imprisonment if the judge  
63 conducts a sentencing hearing in accordance with s. 921.140 and  
64 finds that life imprisonment or a term of years equal to life  
65 imprisonment is an appropriate sentence.

66 a. A person who participated in the physical killing of  
67 the victim that is sentenced to a term of imprisonment of 20





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68 years or more is entitled to a review of his or her sentence in  
69 accordance with s. 921.1401.

70 b. A person who did not participate in the physical  
71 killing of the victim that is sentenced to a term of  
72 imprisonment of 15 years or more is entitled to a review of his  
73 or her sentence in accordance with s. 921.1401.

74 c. The court shall make a written finding as to whether a  
75 person is eligible for a sentence review hearing under s.  
76 921.1401(2)(b) or 921.1401(2)(c). Such a finding shall be based  
77 upon whether the defendant participated in the physical killing  
78 of the victim. The court is permitted to find that multiple  
79 defendants contributed to the physical killing of the victim.

80 (b)1. For a felony of the first degree, by a term of  
81 imprisonment not exceeding 30 years or, when specifically  
82 provided by statute, by imprisonment for a term of years not  
83 exceeding life imprisonment.

84 2. Notwithstanding subparagraph 1., a person convicted  
85 under s. 782.04 of a first degree felony punishable by a term of  
86 years not exceeding life imprisonment or an offense that was  
87 reclassified as a first degree felony punishable by a term of  
88 years not exceeding life, which was committed before the person  
89 attained 18 years of age, may be punished by a term of years  
90 equal to life imprisonment if the judge conducts a sentencing  
91 hearing in accordance with s. 921.140 and finds that a term of  
92 years equal to life imprisonment is an appropriate sentence.



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93 a. A person who participated in the physical killing of  
94 the victim that is sentenced to a term of imprisonment of 20  
95 years or more is entitled to a review of his or her sentence in  
96 accordance with s. 921.1401.

97 b. A person who did not participate in the physical  
98 killing of the victim that is sentenced to a term of  
99 imprisonment of 15 years or more is entitled to a review of his  
100 or her sentence in accordance with s. 921.1401.

101 c. The court shall make a written finding as to whether a  
102 person is eligible for a sentence review hearing under s.  
103 921.1401(2) (b) or 921.1401(2) (c). Such a finding shall be based  
104 upon whether the defendant participated in the physical killing  
105 of the victim. The court is permitted to find that multiple  
106 defendants contributed to the physical killing of the victim.

107 (c) Notwithstanding paragraphs (a) and (b), a person  
108 convicted of an offense that is not included in s. 782.04, but  
109 which is an offense that is a life felony or is punishable by  
110 term of imprisonment for life or by a term of years not  
111 exceeding life imprisonment, or an offense that was reclassified  
112 as a life felony or an offense punishable by a term of  
113 imprisonment for life or by a term of years not exceeding life  
114 imprisonment, which was committed before the person attained 18  
115 years of age, may be punished by a term of imprisonment for life  
116 or a term of years equal to life imprisonment if the judge  
117 conducts a sentencing hearing in accordance with s. 921.140 and  
118 finds that life imprisonment or a term of years equal to life





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119 imprisonment is an appropriate sentence. A person sentenced to a  
120 term of imprisonment of 20 years or more is entitled to a review  
121 of his or her sentence in accordance with s. 921.1401.

122 (d) ~~(e)~~ For a felony of the second degree, by a term of  
123 imprisonment not exceeding 15 years.

124 (e) ~~(d)~~ For a felony of the third degree, by a term of  
125 imprisonment not exceeding 5 years.

126 Section 2. Section 921.140, Florida Statutes, is created  
127 to read:

128 921.140 Sentence of life imprisonment for persons who are  
129 under the age of 18 years at the time of the offense; sentencing  
130 proceedings.-

131 (1) Upon conviction or adjudication of guilt of an offense  
132 described in ss. 775.082(1)(b), (3)(a)5., (3)(b)2., or (3)(c)  
133 which was committed on or after July 1, 2014, the court may  
134 conduct a separate sentencing hearing to determine if a term of  
135 imprisonment for life or a term of years equal to life  
136 imprisonment is an appropriate sentence.

137 (2) In determining whether life imprisonment or a term of  
138 years equal to life imprisonment is an appropriate sentence, the  
139 court shall consider factors relevant to the offense and the  
140 defendant's youth and attendant circumstances, including, but  
141 not limited to:

142 (a) The nature and circumstances of the offense committed  
143 by the defendant.





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144 (b) The effect of the crime on the victim's family and on  
145 the community.

146 (c) The defendant's age, maturity, intellectual capacity,  
147 and mental and emotional health at the time of the offense.

148 (d) The defendant's background, including his or her  
149 family, home, and community environment.

150 (e) The effect, if any, of immaturity, impetuosity, or  
151 failure to appreciate risks and consequences on the defendant's  
152 participation in the offense.

153 (f) The extent of the defendant's participation in the  
154 offense.

155 (g) The effect, if any, of familial pressure or peer  
156 pressure on the defendant's actions.

157 (h) The nature and extent of the defendant's prior  
158 criminal history.

159 (i) The effect, if any, of characteristics attributable to  
160 the defendant's youth on the defendant's judgment.

161 (j) The possibility of rehabilitating the defendant.

162 Section 3. Section 921.1401, Florida Statutes, is created  
163 to read:

164 921.1401 Review of sentences for persons convicted of  
165 specified offenses committed while under the age of 18 years.-

166 (1) For purposes of this section, the term "juvenile  
167 offender" means a person sentenced to imprisonment in the  
168 custody of the Department of Corrections for an offense



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169 committed on or after July 1, 2014, and committed before he or  
170 she attained 18 years of age.

171 (2) (a) A juvenile offender sentenced to a term of  
172 imprisonment for life, a term of years equal to life  
173 imprisonment, or a term of 40 years or more under s.  
174 775.082(1) (b)1. is entitled to a review of his or her sentence  
175 after 25 years.

176 (b) A juvenile offender sentenced to a term of  
177 imprisonment for life, a term of years equal to life  
178 imprisonment, or a term of 20 years or more under s.  
179 775.082(3) (a)5.a., 775.082(3) (b)2.a., or 775.082(3) (c) is  
180 entitled to a review of his or her sentence after 20 years.

181 (c) A juvenile offender sentenced to a term of  
182 imprisonment for life, a term of years equal to life  
183 imprisonment, or a term of 15 years or more under s.  
184 775.082(1) (b)2., 775.082(3) (a)5.b., or 775.082(3) (b)2.b. is  
185 entitled to a review of his or her sentence after 15 years.

186 (3) (a) A juvenile offender who is not resentenced at the  
187 initial sentence review hearing under paragraph (2) (a) is  
188 eligible for one subsequent sentence review hearing 10 years  
189 after the court's initial review.

190 (b) A juvenile offender who is not resentenced at the  
191 initial sentence review hearing under paragraph (2) (b) is  
192 eligible for two subsequent sentence review hearings to occur 10  
193 years and 15 years after the court's initial review.





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194 (c) A juvenile offender who is not resentenced at the  
195 initial sentence review hearing under paragraph (2)(c) is  
196 eligible for two subsequent sentence review hearings to occur at  
197 5 years and 10 years after the court's initial review.

198 (4) The Department of Corrections shall notify a juvenile  
199 offender of his or her eligibility to request a sentence review  
200 hearing 18 months before the juvenile offender is entitled to a  
201 sentence review hearing under this section.

202 (5) A juvenile offender seeking sentence review pursuant  
203 to subsection (2) must submit an application to the court of  
204 original jurisdiction requesting that a sentence review hearing  
205 be held. The juvenile offender must submit a new application to  
206 the court of original jurisdiction to request subsequent  
207 sentence review hearings pursuant to subsection (3). The  
208 sentencing court shall retain original jurisdiction for the  
209 duration of the sentence for this purpose.

210 (6) A juvenile offender who is eligible for a sentence  
211  
212