



Judiciary Committee

Thursday, February 16, 2012

11:30AM

404 HOB

Action Packet

COMMITTEE MEETING REPORT

Judiciary Committee

2/16/2012 11:30:00AM

Location: 404 HOB

AMENDED

Summary:

Judiciary Committee

Thursday February 16, 2012 11:30 am

CS/HB 233 Not Considered

HB 243 Favorable

Yeas: 11 Nays: 5

CS/HB 431 Favorable With Committee Substitute

Yeas: 17 Nays: 0

Amendment 079883 Adopted Without Objection

Amendment 883945 Adopted Without Objection

CS/CS/CS/HB 481 Not Considered

CS/HB 549 Favorable With Committee Substitute

Yeas: 17 Nays: 1

Amendment 941873 Adopted Without Objection

CS/HB 681 Favorable

Yeas: 17 Nays: 0

Amendment 479975 Withdrawn

HB 777 Not Considered

CS/HB 897 Favorable With Committee Substitute

Yeas: 18 Nays: 0

Amendment 316769 Adopted Without Objection

CS/HB 959 Favorable

Yeas: 17 Nays: 0

CS/HB 971 Favorable With Committee Substitute

Yeas: 14 Nays: 4

Amendment 112677 Adopted Without Objection

Amendment 693159 Adopted Without Objection

Amendment 892881 Adopted Without Objection

CS/HB 1013 Favorable

Yeas: 16 Nays: 2

CS/HB 1099 Favorable With Committee Substitute

Yeas: 18 Nays: 0

Amendment 416577 Adopted Without Objection

CS/CS/HB 1443 Favorable

Yeas: 16 Nays: 0

HB 4125 Favorable

Yeas: 16 Nays: 0

HB 4155 Favorable

Yeas: 16 Nays: 0

HB 4157 Favorable

Yeas: 16 Nays: 0

PCB JDC 12-03 Favorable

Yeas: 13 Nays: 5

Committee meeting was reported out: Thursday, February 16, 2012 6:28:56PM

COMMITTEE MEETING REPORT

Judiciary Committee

2/16/2012 11:30:00AM

Location: 404 HOB

AMENDED

Summary: (continued)

Judiciary Committee

Thursday February 16, 2012 11:30 am

PCS for CS/HB 565 Favorable With Amendments

Yeas: 18 Nays: 0

Amendment PCS for CSHB 565 a1 Adopted Without
Objection

Amendment PCS for CSHB 565 a2 Adopted Without
Objection

Amendment PCS for CSHB 565 a3 Adopted Without
Objection

Amendment PCS for CSHB 565 a4 Adopted Without
Objection

Amendment PCS for CSHB 565 a5 Adopted Without
Objection

Committee meeting was reported out: Thursday, February 16, 2012 6:28:56PM

COMMITTEE MEETING REPORT

Judiciary Committee

2/16/2012 11:30:00AM

Location: 404 HOB

AMENDED

Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
William Snyder (Chair)	X		
Daphne Campbell	X		
Eric Eisnaugle	X		
Matt Gaetz	X		
Tom Goodson	X		
Bill Hager	X		
Gayle Harrell	X		
Shawn Harrison	X		
John Julien	X		
Charles McBurney	X		
Larry Metz	X		
Kathleen Passidomo	X		
Ray Pilon	X		
Ari Porth	X		
Elaine Schwartz	X		
Darren Soto	X		
Richard Steinberg	X		
Michael Weinstein	X		
Totals:	18	0	0

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COMMITTEE MEETING REPORT

Judiciary Committee

2/16/2012 11:30:00AM

Location: 404 HOB

AMENDED

CS/HB 233 : Misdemeanor Probation Services

Not Considered

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COMMITTEE MEETING REPORT

Judiciary Committee

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Location: 404 HOB

AMENDED

HB 243 : Expert Testimony

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Daphne Campbell		X			
Eric Eisnaugle	X				
Matt Gaetz	X				
Tom Goodson	X				
Bill Hager	X				
Gayle Harrell	X				
Shawn Harrison			X		
John Julien		X			
Charles McBurney	X				
Larry Metz	X				
Kathleen Passidomo	X				
Ray Pilon					X
Ari Porth		X			
Elaine Schwartz		X			
Darren Soto		X			
Richard Steinberg	X				
Michael Weinstein	X				
William Snyder (Chair)	X				
Total Yeas: 11		Total Nays: 5			

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COMMITTEE MEETING REPORT

Judiciary Committee

2/16/2012 11:30:00AM

Location: 404 HOB

AMENDED

CS/HB 431 : Joint Use of Public School Facilities

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	X				
Eric Eisnaugle	X				
Matt Gaetz	X				
Tom Goodson	X				
Bill Hager	X				
Gayle Harrell	X				
Shawn Harrison	X				
John Julien	X				
Charles McBurney	X				
Larry Metz			X		
Kathleen Passidomo	X				
Ray Pilon	X				
Ari Porth	X				
Elaine Schwartz	X				
Darren Soto	X				
Richard Steinberg	X				
Michael Weinstein	X				
William Snyder (Chair)	X				
Total Yeas: 17		Total Nays: 0			

CS/HB 431 Amendments

Amendment 079883

Adopted Without Objection

Amendment 883945

Adopted Without Objection

Appearances:

CS/HB 431

Mosteller, James (Lobbyist) - Waive In Support
State Advocacy Director, American Heart Association
2851 Remington Green Cir
Tallahassee FL 32308
Phone: (850)692-3166

CS/HB 431

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

Committee meeting was reported out: Thursday, February 16, 2012 6:28:56PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 431 (2012)

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
2-16-12*

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

Amendment (with title amendment)

Between lines 41 and 42, insert:

6 (c) Develop and adopt policies and procedures providing for
 7 an appeal process in which a party seeking to enter into a
 8 joint-use agreement with a school district pursuant to this
 9 section may file an appeal with the district school
 10 superintendent if the negotiations for such joint-use agreement
 11 fail.

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

17 Remove line 8 and insert:

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 431 (2012)

Amendment No. 1

18 | agreements; requiring procedure for an appeal process if
19 | negotiations for a joint-use agreement fail; providing duties of
20 | district school boards
21 |

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 431 (2012)

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
2.16.12*

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

Amendment (with title amendment)

5 Between lines 70 and 71, insert:

6 (3) Nothing in this section shall be deemed a waiver of
7 sovereign immunity beyond the limited waiver in s. 768.28.

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

13 Remove line 14 and insert:

14 defining the term "gross negligence"; providing application;
15 providing an

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AMENDED

CS/CS/CS/HB 481 : Clerks of Court

Not Considered

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COMMITTEE MEETING REPORT

Judiciary Committee

2/16/2012 11:30:00AM

Location: 404 HOB

AMENDED

CS/HB 549 : Dissolution of Marriage

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	X				
Eric Eisnaugle	X				
Matt Gaetz	X				
Tom Goodson	X				
Bill Hager	X				
Gayle Harrell	X				
Shawn Harrison	X				
John Julien	X				
Charles McBurney	X				
Larry Metz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Ari Porth	X				
Elaine Schwartz		X			
Darren Soto	X				
Richard Steinberg	X				
Michael Weinstein	X				
William Snyder (Chair)	X				
Total Yeas: 17		Total Nays: 1			

CS/HB 549 Amendments

Amendment 941873

Adopted Without Objection

Appearances:

CS/HB 549

Lindsey, R C (General Public) - Waive In Support
Chairman, Alliance for Freedom from Alimony
Stuart FL 34997
Phone: 772-287-9235

CS/HB 549

Schroeder, CJ (General Public) - Waive In Support
31005 Park Ridge Drive
Brooksville FL 34602
Phone: 352-238-1871

CS/HB 549

Schofield, Roger (General Public) - Waive In Support
14440 Tanglewood Drive
Largo FL 33774
Phone: 727-595-7451

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Judiciary Committee

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AMENDED

Location: 404 HOB

CS/HB 549 : Dissolution of Marriage (continued)

Appearances: (continued)

CS/HB 549

Reynolds, Brian (General Public) - Waive In Support
1589 Arnold Drive
Melbourne FL 32935
Phone: 321-432-5159

CS/HB 549

Hoot, Kevin (General Public) - Waive In Support
2077 Brighton Bay Trail
Jacksonville FL 32246
Phone: 904-220-1494

CS/HB 549

Farmer, James (General Public) - Waive In Support
3149 Fennick Court W
Tallahassee FL 32309
Phone: 850-766-3334

CS/HB 549

Erhard, John (General Public) - Waive In Support
13493 Brighton Street
Spring Hill FL 34609
Phone: 352-848-6336

CS/HB 549

Wei, Xing (General Public) - Waive In Support
3449 Paces Ferry Road
Tallahassee FL 32309
Phone: 850-668-0504

CS/HB 549

Finley, Gordon (General Public) - Proponent
8970 SW 122 Place, Apt. 122
Miami FL 33186
Phone: 305-495-8967

CS/HB 549

Torres, Hector (General Public) - Waive In Support
3000 Coral Way
Miami FL 33145
Phone: 305-401-9009

CS/HB 549

Friser, Alan (General Public) - Proponent
Co-Director, Florida Alimony Reform
7630 N Wickham Road
Melbourne FL 32940
Phone: 321-242-7526

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Judiciary Committee

2/16/2012 11:30:00AM

Location: 404 HOB

AMENDED

CS/HB 549 : Dissolution of Marriage (continued)

Appearances: (continued)

CS/HB 549

Duggar, Thomas (General Public) - Information Only

Family Law Section of the Florida Bar

1391 Timberlane

Tallahassee FL

CS/HB 549

Pitts, Brian - Opponent

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: 727-897-9291

CS/HB 549

Manz, David - Information Only

Florida Bar Family Law Section

5800 Overseas Highway Suite 40

Marathon FL 33013

Phone: (305) 731-3600

CS/HB 549

DeVane, Barbara (Lobbyist) - Waive In Opposition

Florida NOW National Organization for Women, Inc

625 E Brevard St

Tallahassee FL 32308

Phone: (850)222-3969

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 549 (2012)

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
2-16-12*

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

Amendment (with title amendment)

5 Remove everything after the enacting clause and insert:

6 Section 1. Section 61.08, Florida Statutes, is amended to
7 read:

8 61.08 Alimony.—

9 (1) In a proceeding for dissolution of marriage, the court
10 may grant alimony to either party, which alimony may be bridge-
11 the-gap, rehabilitative, durational, or long-term permanent in
12 nature or a any combination of these forms of alimony where
13 appropriate. The court shall make written findings regarding the
14 basis for awarding combinations of alimony, including the type
15 of alimony and length of time during which it is awarded. The
16 purpose of combining forms of alimony is to provide greater
17 economic assistance to allow the recipient spouse to achieve
18 rehabilitation or an ability to contribute to the needs and
19 necessities of life, taking into account such needs and

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20 necessities of life as they were established during the
21 marriage. In any award of alimony, the court may order periodic
22 payments, ~~or~~ payments in lump sum, or both. The court may
23 consider the adultery of either spouse and the circumstances
24 thereof in determining the amount of alimony, if any, to be
25 awarded, only to the extent that the adultery caused a
26 significant depletion in the material assets or caused a
27 significant reduction in the income of a party. In all
28 dissolution actions, the court shall include findings of fact
29 relative to the factors enumerated in subsection (2) supporting
30 an award or denial of alimony.

31 (2) In determining whether to award alimony or
32 maintenance, the court shall first make, in writing, a specific
33 factual determination as to whether either party has an actual
34 need for alimony or maintenance and whether either party has the
35 ability to pay alimony or maintenance. If the court finds that a
36 party has a need for alimony or maintenance and that the other
37 party has the ability to pay alimony or maintenance, then in
38 determining the proper type and amount of alimony or maintenance
39 under subsections (5)-(8), the court shall consider and make
40 written findings regarding all relevant factors, including, ~~but~~
41 ~~not limited to:~~

42 (a) The standard of living established during the
43 marriage.

44 (b) The duration of the marriage.

45 (c) The age and the physical and emotional condition of
46 each party.

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47 (d) The financial resources of each party, including the
48 nonmarital assets that were relied upon and utilized by the
49 parties during the marriage and and the marital assets and
50 liabilities distributed to each.

51 (e) The earning capacities, educational levels, vocational
52 skills, and employability of the parties and, when applicable,
53 the time necessary for either party to acquire sufficient
54 education or training to enable such party to find appropriate
55 employment.

56 (f) The contribution of each party to the marriage,
57 including, but not limited to, services rendered in homemaking,
58 child care, education, and career building of the other party.

59 (g) The responsibilities each party will have with regard
60 to any minor children the parties ~~they~~ have in common.

61 (h) The tax treatment and consequences to both parties of
62 an any alimony award, which must be consistent with applicable
63 state and federal tax laws ~~including the designation of all or a~~
64 ~~portion of the payment as a nontaxable, nondeductible payment.~~

65 (i) All sources of income available to either party,
66 including income available to either party through investments
67 of any asset held by that party that were acquired during the
68 marriage.

69 (j) The net income and standard of living available to
70 each party after the application of the alimony award. There
71 shall be a rebuttable presumption that both parties will
72 necessarily have a lower standard of living after the
73 dissolution of marriage than the standard of living they enjoyed
74 during the marriage.

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75 ~~(k)(j)~~ Any other factor necessary to do equity and justice
76 between the parties, if that factor is specifically identified
77 in the award with findings of fact justifying the application of
78 the factor.

79 (3) To the extent necessary to protect an award of
80 alimony, the court may order any party who is ordered to pay
81 alimony to purchase or maintain a life insurance policy or a
82 bond, or to otherwise secure such alimony award with any other
83 assets which may be suitable for that purpose in an amount
84 adequate to secure the alimony award. Any such security may only
85 be awarded upon a showing of special circumstances. If the court
86 finds special circumstances and awards such security, the court
87 must make specific evidentiary findings regarding the
88 availability, cost, and financial impact on the obligated party,
89 Any security may be modifiable in the event the underlying
90 alimony award is modified, and shall be reduced in an amount
91 commensurate with any reduction in the alimony award.

92 (4) For purposes of determining alimony, ~~there is a~~
93 ~~rebuttable presumption that~~ a short-term marriage is a marriage
94 having a duration equal to or of less than 7 years, a moderate-
95 term marriage is a marriage having a duration of greater than 7
96 years but less than 20 17 years, and long-term marriage is a
97 marriage having a duration of 20 17 years or greater. The length
98 of a marriage is the period of time from the date of marriage
99 until the date of filing of an action for dissolution of
100 marriage.

101 (5) Bridge-the-gap alimony may be awarded to assist a
102 party by providing support to allow the party to make a

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103 transition from being married to being single. Bridge-the-gap
104 alimony is designed to assist a party with legitimate
105 identifiable short-term needs, and the length of an award may
106 not exceed 2 years. An award of bridge-the-gap alimony
107 terminates upon the death of either party or upon the remarriage
108 of the party receiving alimony. An award of bridge-the-gap
109 alimony shall not be modifiable in amount or duration.

110 (6) (a) Rehabilitative alimony may be awarded to assist a
111 party in establishing the capacity for self-support through
112 either:

- 113 1. The redevelopment of previous skills or credentials; or
- 114 2. The acquisition of education, training, or work
115 experience necessary to develop appropriate employment skills or
116 credentials.

117 (b) In order to award rehabilitative alimony, there must
118 be a specific and defined rehabilitative plan which shall be
119 included as a part of any order awarding rehabilitative alimony.

120 (c) An award of rehabilitative alimony may be modified or
121 terminated in accordance with s. 61.14 based upon a substantial
122 change in circumstances, upon noncompliance with the
123 rehabilitative plan, or upon completion of the rehabilitative
124 plan.

125 (7) ~~Durational alimony may be awarded when permanent~~
126 ~~periodic alimony is inappropriate. The purpose of Durational~~
127 ~~alimony may be awarded is to provide a party with economic~~
128 ~~assistance for a set period of time following a marriage of~~
129 ~~short or moderate duration or following a marriage of long~~
130 ~~duration if there is no ongoing need for support on a long-term~~

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131 ~~permanent~~ basis. When awarding durational alimony, the court
132 must provide written findings that an award of rehabilitative or
133 bridge-the-gap alimony or a combination thereof is not
134 appropriate. An award of durational alimony terminates upon the
135 death of either party or upon the remarriage of the party
136 receiving alimony. The amount of an award of durational alimony
137 shall, except upon a written finding of exceptional
138 circumstances, may be modified or terminated based upon a
139 substantial change in circumstances or upon the existence of a
140 supportive relationship in accordance with s. 61.14. However,
141 The length of an award of durational alimony may not ~~be modified~~
142 ~~except under exceptional circumstances and may not~~ exceed the
143 length of the marriage. In the event that the court awards
144 durational alimony for a length of time greater than 50 percent
145 of the length of the marriage, the court must make written
146 findings of fact stating the circumstances warranting the length
147 of the award.

148 (8) Long-term Permanent alimony may be awarded to provide
149 for the needs and necessities of life ~~as they were established~~
150 ~~during the marriage of the parties~~ for a party who lacks the
151 financial ability to meet his or her needs and necessities of
152 life following a dissolution of marriage. Long-term Permanent
153 alimony may be awarded following a long-term marriage ~~of long~~
154 ~~duration~~ if such an award is appropriate upon consideration of
155 the factors set forth in subsection (2), following a moderate-
156 term marriage ~~of moderate duration~~ if such an award is
157 appropriate based upon clear and convincing evidence after
158 consideration of the factors set forth in subsection (2), or

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159 following a short-term marriage ~~of short duration~~ if there are
160 written findings of exceptional circumstances. In awarding long-
161 term permanent alimony, the court shall include findings a
162 finding that no other form of alimony will provide for the needs
163 and necessities of life of the recipient and that no other form
164 is fair and reasonable under the circumstances of the parties.
165 An award of long-term permanent alimony terminates upon the
166 death of either party, ~~or~~ upon the remarriage of the party
167 receiving alimony, or as provided in s. 61.14(12). An award
168 shall may be modified or terminated based upon a substantial
169 change in circumstances or upon the existence of a supportive
170 relationship in accordance with s. 61.14.

171 (9) Notwithstanding any other law to the contrary, an ~~The~~
172 award of alimony may not leave the payor with significantly less
173 net income or with a lower standard of living than the ~~net~~
174 ~~income of the~~ recipient unless there are written findings of
175 exceptional circumstances. The court shall make written findings
176 regarding the relative incomes and standards of living citing to
177 evidence in the record and to this subsection.

178 (10) (a) With respect to any order requiring the payment of
179 alimony entered on or after January 1, 1985, unless ~~the~~
180 ~~provisions of~~ paragraph (c) or paragraph (d) applies apply, the
181 court shall direct in the order that the payments of alimony be
182 made through the appropriate depository as provided in s.
183 61.181.

184 (b) With respect to any order requiring the payment of
185 alimony entered before January 1, 1985, upon the subsequent
186 appearance, on or after that date, of one or both parties before

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187 the court having jurisdiction for the purpose of modifying or
188 enforcing the order or in any other proceeding related to the
189 order, or upon the application of either party, unless ~~the~~
190 ~~provisions of paragraph (c) or paragraph (d) applies apply,~~ the
191 court shall modify the terms of the order as necessary to direct
192 that payments of alimony be made through the appropriate
193 depository as provided in s. 61.181.

194 (c) If there is no minor child, alimony payments need not
195 be directed through the depository.

196 (d)1. If there is a minor child of the parties and both
197 parties so request, the court may order that alimony payments
198 need not be directed through the depository. In this case, the
199 order of support shall provide, or be deemed to provide, that
200 either party may subsequently apply to the depository to require
201 that payments be made through the depository. The court shall
202 provide a copy of the order to the depository.

203 2. If ~~the provisions of~~ subparagraph 1. applies apply,
204 either party may subsequently file with the depository an
205 affidavit alleging default or arrearages in payment and stating
206 that the party wishes to initiate participation in the
207 depository program. The party shall provide copies of the
208 affidavit to the court and the other party or parties. Fifteen
209 days after receipt of the affidavit, the depository shall notify
210 all parties that future payments shall be directed to the
211 depository.

212 3. In IV-D cases, the IV-D agency shall have the same
213 rights as the obligee in requesting that payments be made
214 through the depository.

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215 Section 2. Paragraphs (a) and (b) of subsection (1) of
216 section 61.14, Florida Statutes, are ~~is~~ amended, paragraphs (c)
217 and (d) are added to subsection (11) of that section, and
218 subsections (12) and (13) are added to that section, to read:

219 61.14 Enforcement and modification of support,
220 maintenance, or alimony agreements or orders.-

221 (1) (a) When the parties enter into an agreement for
222 payments for, or instead of, support, maintenance, or alimony,
223 whether in connection with a proceeding for dissolution or
224 separate maintenance or with any voluntary property settlement,
225 or when a party is required by court order to make any payments,
226 and the circumstances or the financial ability of either party
227 changes or the child who is a beneficiary of an agreement or
228 court order as described herein reaches majority after the
229 execution of the agreement or the rendition of the order, either
230 party may apply to the circuit court of the circuit in which the
231 parties, or either of them, resided at the date of the execution
232 of the agreement or reside at the date of the application, or in
233 which the agreement was executed or in which the order was
234 rendered, for an order decreasing or increasing the amount of
235 support, maintenance, or alimony, and the court has jurisdiction
236 to make orders as equity requires, with due regard to the
237 changed circumstances or the financial ability of the parties or
238 the child, decreasing, increasing, or confirming the amount of
239 separate support, maintenance, or alimony provided for in the
240 agreement or order. For purposes of considering a petition for
241 modification of an alimony award, an increase in an obligor's
242 income shall not be considered permanent in nature unless the

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243 increase has been maintained without interruption for at least
244 one year. A finding that medical insurance is reasonably
245 available or the child support guidelines schedule in s. 61.30
246 may constitute changed circumstances. Except as otherwise
247 provided in s. 61.30(11)(c), the court may modify an order of
248 support, maintenance, or alimony by increasing or decreasing the
249 support, maintenance, or alimony retroactively to the date of
250 the filing of the action or supplemental action for modification
251 as equity requires, giving due regard to the changed
252 circumstances or the financial ability of the parties or the
253 child.

254 (b)1. The court must, except upon a written finding of
255 exceptional circumstances, ~~may~~ reduce or terminate an award of
256 alimony upon specific written findings by the court that since
257 the granting of a divorce and the award of alimony a supportive
258 relationship has existed between the obligee and a person with
259 whom the obligee resides. On the issue of whether alimony should
260 be reduced or terminated under this paragraph, the burden is on
261 the obligor to prove by a preponderance of the evidence that a
262 supportive relationship exists.

263 2. In determining whether an existing award of alimony
264 should be reduced or terminated because of an alleged supportive
265 relationship between an obligee and a person who is not related
266 by consanguinity or affinity and with whom the obligee resides,
267 the court shall elicit the nature and extent of the relationship
268 in question. The court shall give consideration, without
269 limitation, to circumstances, including, but not limited to, the

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270 following, in determining the relationship of an obligee to
271 another person:

272 a. The extent to which the obligee and the other person
273 have held themselves out as a married couple by engaging in
274 conduct such as using the same last name, using a common mailing
275 address, referring to each other in terms such as "my husband"
276 or "my wife," or otherwise conducting themselves in a manner
277 that evidences a permanent supportive relationship.

278 b. The period of time that the obligee has resided with
279 the other person in a permanent place of abode.

280 c. The extent to which the obligee and the other person
281 have pooled their assets or income or otherwise exhibited
282 financial interdependence.

283 d. The extent to which the obligee or the other person has
284 supported the other, in whole or in part.

285 e. The extent to which the obligee or the other person has
286 performed valuable services for the other.

287 f. The extent to which the obligee or the other person has
288 performed valuable services for the other's company or employer.

289 g. Whether the obligee and the other person have worked
290 together to create or enhance anything of value.

291 h. Whether the obligee and the other person have jointly
292 contributed to the purchase of any real or personal property.

293 i. Evidence in support of a claim that the obligee and the
294 other person have an express agreement regarding property
295 sharing or support.

Amendment No. 1

296 j. Evidence in support of a claim that the obligee and the
297 other person have an implied agreement regarding property
298 sharing or support.

299 k. Whether the obligee and the other person have provided
300 support to the children of one another, regardless of any legal
301 duty to do so.

302 3. This paragraph does not abrogate the requirement that
303 every marriage in this state be solemnized under a license, does
304 not recognize a common law marriage as valid, and does not
305 recognize a de facto marriage. This paragraph recognizes only
306 that relationships do exist that provide economic support
307 equivalent to a marriage and that alimony terminable on
308 remarriage may be reduced or terminated upon the establishment
309 of equivalent equitable circumstances as described in this
310 paragraph. The existence of a conjugal relationship, though it
311 may be relevant to the nature and extent of the relationship, is
312 not necessary for the application of ~~the provisions of this~~
313 paragraph.

314 4. There shall be a rebuttable presumption that any
315 modification or termination of an alimony award is retroactive
316 to the date of the filing of the petition. In an action under
317 this section, if it is determined that the obligee unnecessarily
318 or unreasonably litigated the underlying petition for
319 modification or termination, the court may award the obligor his
320 or her reasonable attorney's fees and costs pursuant to s. 61.16
321 and applicable case law.

Amendment No. 1

322 5. A court terminating an alimony award based on the
323 existence of a supportive relationship may not reserve
324 jurisdiction to later reinstate alimony.

325 (11)

326 (c) If the obligor remarries or resides with another
327 person, the income and assets of the obligor's spouse or the
328 person with whom the obligor resides may not be considered in a
329 modification action regarding such obligor, except for purposes
330 of discovery to determine the obligor's income or assets within
331 the pooled income and assets.

332 (d) If the court orders alimony payable concurrent with a
333 child support order, the alimony award may not be modified
334 solely because of a later modification or termination of child
335 support payments.

336 (12) The fact that an obligor has reached a reasonable
337 retirement age shall be considered a substantial change in
338 circumstances as a matter of law. There is a rebuttable
339 presumption that a reasonable retirement age for purposes of
340 this subsection is 67 years of age. In anticipation of
341 retirement, the obligor may file a petition for termination or
342 modification of the alimony award effective upon the retirement
343 date. The court shall terminate or modify the alimony award
344 based on the circumstances of the parties after retirement of
345 the obligor and based on the factors in subsection (2), unless
346 the court makes findings of fact that a termination or
347 modification of an alimony award is not warranted. In
348 determining whether the obligor's retirement age is reasonable,
349 the court shall consider the following factors:

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Amendment No. 1

- 350 (a) Age.
351 (b) Health.
352 (c) Motivation for retirement.
353 (d) Type of work.
354 (e) Normal retirement age for that type of work.
355 (13) Except in cases of marriages of long duration, in any
356 alimony award, the court shall impute income to the obligee
357 based on the analysis and factors set forth in s. 61.30(2)(b),
358 F.S.

359 Section 3. Section 61.19, Florida Statutes, is amended to
360 read:

361 61.19 Entry of judgment of dissolution of marriage; ~~7~~ delay
362 period; bifurcation.-

363 (1) A ~~No~~ final judgment of dissolution of marriage may not
364 be entered until at least 20 days have elapsed from the date of
365 filing the original petition for dissolution of marriage, ~~7~~ but
366 the court, on a showing that injustice would result from this
367 delay, may enter a final judgment of dissolution of marriage at
368 an earlier date.

369 (2) (a) During the first 180 days after the date of service
370 of the original petition for dissolution of marriage, the court
371 shall not grant a final dissolution of marriage with a
372 reservation of jurisdiction to subsequently determine all other
373 substantive issues unless the court makes written findings that
374 there are exceptional circumstances which make the use of this
375 process clearly necessary to protect the parties or their
376 children and that granting a final dissolution will not cause
377 irreparable harm to either party or the children. Before

Amendment No. 1

378 granting a final dissolution of marriage with a reservation of
379 jurisdiction to subsequently determine all other substantive
380 issues, the court shall enter appropriate temporary orders
381 necessary to protect the parties and their children, which
382 orders shall remain effective until such time as all other
383 issues can be adjudicated by the court. The desire of one of the
384 parties to remarry does not justify the use of this process.

385 (b) If more than 180 days have elapsed after the date of
386 service of the original petition for dissolution of marriage,
387 the court may grant a final dissolution of marriage with a
388 reservation of jurisdiction to subsequently determine all other
389 substantive issues only if the court: enters appropriate
390 temporary orders necessary to protect the parties and their
391 children, which orders shall remain effective until such time as
392 all other issues can be adjudicated by the court, and makes a
393 written finding that no irreparable harm will result from
394 granting a final dissolution.

395 (c) If more than 365 days have elapsed after the date of
396 service of the original petition for dissolution of marriage,
397 absent a showing by either party that irreparable harm will
398 result from granting a final dissolution, the court shall, upon
399 request of either party, immediately grant a final dissolution
400 of marriage with a reservation of jurisdiction to subsequently
401 determine all other substantive issues. Before granting a final
402 dissolution of marriage with a reservation of jurisdiction to
403 subsequently determine all other substantive issues, the court
404 shall enter appropriate temporary orders necessary to protect
405 the parties and their children, which orders shall remain

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406 effective until such time as all other issues can be adjudicated
407 by the court.

408 (d) The temporary orders necessary to protect the parties
409 and their children entered prior to granting a dissolution of
410 marriage without an adjudication of all substantive issues may
411 include, but shall not be limited to, temporary orders that:

- 412 1. Restrict the sale or disposition of property.
- 413 2. Protect and preserve the marital assets.
- 414 3. Establish temporary support.
- 415 4. Provide for maintenance of health insurance.
- 416 5. Provide for maintenance of life insurance.

417 (e) The court is not required to enter temporary orders to
418 protect the parties and their children if the court enters a
419 final judgment of marriage which adjudicates substantially all
420 of the substantive issues between the parties but reserves
421 jurisdiction to address ancillary issues such as the entry of a
422 qualified domestic relations order or the adjudication of
423 attorney's fees and costs.

424 Section 4. This act shall take effect July 1, 2012.

425

426

427

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

428
429 Remove the entire title and insert:

430 An act relating to dissolution of marriage; amending s. 61.08,
431 F.S.; revising factors to be considered for alimony awards;
432 requiring a court to make certain written findings concerning
433 alimony; revising factors to be considered in whether to award

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 549 (2012)

Amendment No. 1

434 alimony or maintenance; revising provisions relating to the
435 protection of awards of alimony; revising provisions for an
436 award of durational alimony; redesignating permanent alimony as
437 long-term alimony and revising provisions relating to its award;
438 requiring written findings regarding the standard of living of
439 the parties after dissolution of marriage; amending s. 61.14,
440 F.S.; revising provisions relating to the effect of a supportive
441 relationship on an award of alimony; prohibiting a court from
442 reserving jurisdiction to reinstate an alimony award if the
443 supportive relationship ends; providing that income and assets
444 of the obligor's spouse or the person with whom the obligor
445 resides may not be considered in the redetermination in a
446 modification action; providing that if the court orders alimony
447 concurrent with a child support order, the alimony award may not
448 be modified due to the later modification or termination of
449 child support payments; providing that the attaining of
450 retirement age is a substantial change in circumstances;
451 creating a rebuttable presumption that the normal retirement age
452 for purposes of the subsection is 67; providing a list of
453 factors the court shall consider in determining whether the
454 obligor's retirement is reasonable; requiring a court to impute
455 income to the obligee based on the analysis and factors set
456 forth in s. 61.20(2)(b), F.S.; amending s. 61.19, F.S.; allowing
457 bifurcation of a dissolution of marriage case in certain
458 circumstances; providing an effective date.

COMMITTEE MEETING REPORT

Judiciary Committee

2/16/2012 11:30:00AM

Location: 404 HOB

AMENDED

CS/HB 681 : Interlock Ignition Devices Ordered for Probation for DUI

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	X				
Eric Eisnaugle	X				
Matt Gaetz	X				
Tom Goodson	X				
Bill Hager	X				
Gayle Harrell	X				
Shawn Harrison	X				
John Julien	X				
Charles McBurney	X				
Larry Metz			X		
Kathleen Passidomo	X				
Ray Pilon	X				
Ari Porth	X				
Elaine Schwartz	X				
Darren Soto	X				
Richard Steinberg	X				
Michael Weinstein	X				
William Snyder (Chair)	X				
Total Yeas: 17		Total Nays: 0			

CS/HB 681 Amendments

Amendment 479975

Withdrawn

Appearances:

CS/HB 681

Allen, Kristen (General Public) - Waive In Support
State Victim Services Manager, MADD Florida
1018 Thomasville Road, #101
Tallahassee FL 32303
Phone: 850-681-0061

CS/HB 681

Russell, Connie (General Public) - Proponent
MADD Volunteer
714 Riggins Road
Tallahassee FL 32308
Phone: 407-222-6090

Committee meeting was reported out: Thursday, February 16, 2012 6:28:56PM

COMMITTEE MEETING REPORT

Judiciary Committee

2/16/2012 11:30:00AM

Location: 404 HOB

AMENDED

CS/HB 681 : Interlock Ignition Devices Ordered for Probation for DUI (continued)

Appearances: (continued)

CS/HB 681

Dalton, Jack (General Public) - Information Only

Director of Public Policy, Lifesaver Interlock

18904 Maranatha Way

Bridgeville DE 11933

Phone: 302-542-2364

CS/HB 681

Bell, Patrick (Lobbyist) - Waive In Support

Lifesaver Interlock

111 N Calhoun

Tallahassee FL 32301

Phone: 850-544-0784

Committee meeting was reported out: Thursday, February 16, 2012 6:28:56PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 681 (2012)

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	_____	

*Withdrawn
2.16.12*

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

Amendment (with title amendment)

Remove lines 68-77 and insert:

6 The impoundment or immobilization must not occur concurrently
7 with the incarceration of the defendant and must occur
8 concurrently with the driver ~~driver's~~ license revocation imposed
9 under s. 322.28(2)(a)2. The installation of an interlock
10 ignition device must not occur concurrently with the
11 incarceration of the defendant and must not occur until after
12 the first 45 days of the driver license revocation period
13 imposed on the defendant under s. 322.28(2)(a)2., after which
14 time the interlock ignition device must remain installed for at
15 least 12 months. Following the first 45 days of the driver
16 license revocation period, the defendant may petition the
17 department for reinstatement of his or her driving privilege on
18 a restricted basis pursuant to s. 322.271 for the remaining
19 period of license revocation imposed on the defendant under s.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 681 (2012)

Amendment No. 1

20 322.28(2)(a)2. The impoundment or immobilization order may be
21 dismissed in accordance with paragraph (e), paragraph (f),
22 paragraph (g), or paragraph (h). At least 48 hours of
23 confinement must be consecutive.

24
25 Remove lines 92-101 and insert:

26 The impoundment or immobilization must not occur concurrently
27 with the incarceration of the defendant and must occur
28 concurrently with the driver ~~driver's~~ license revocation imposed
29 under s. 322.28(2)(a)3. The installation of an interlock
30 ignition device must not occur concurrently with the
31 incarceration of the defendant and must not occur until after
32 the first 45 days of the driver license revocation period
33 imposed on the defendant under s. 322.28(2)(a)3., after which
34 time the interlock ignition device must remain installed for at
35 least 24 months. Following the first 45 days of the driver
36 license revocation period, the defendant may petition the
37 department for reinstatement of his or her driving privilege on
38 a restricted basis, pursuant to s. 322.271, for the remaining
39 period of license revocation imposed on the defendant under s.
40 322.28(2)(a)3. The impoundment or immobilization order may be
41 dismissed in accordance with paragraph (e), paragraph (f),
42 paragraph (g), or paragraph (h). At least 48 hours of
43 confinement must be consecutive.

Amendment No. 1

48

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

49

Remove lines 14-16 and insert:

50

defendant; requiring an interlock device to be installed for a

51

specified period based on the underlying conviction; authorizing

52

a petition for restoration of a driving privilege on a

53

restricted basis after a specified period;

COMMITTEE MEETING REPORT

Judiciary Committee

2/16/2012 11:30:00AM

Location: 404 HOB

AMENDED

HB 777 : Securities Law Violations

Not Considered

Committee meeting was reported out: Thursday, February 16, 2012 6:28:56PM

COMMITTEE MEETING REPORT

Judiciary Committee

2/16/2012 11:30:00AM

Location: 404 HOB

AMENDED

CS/HB 897 : Construction Liens and Bonds

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	X				
Eric Eisnaugle	X				
Matt Gaetz	X				
Tom Goodson	X				
Bill Hager	X				
Gayle Harrell	X				
Shawn Harrison	X				
John Julien	X				
Charles McBurney	X				
Larry Metz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Ari Porth	X				
Elaine Schwartz	X				
Darren Soto	X				
Richard Steinberg	X				
Michael Weinstein	X				
William Snyder (Chair)	X				
Total Yeas: 18		Total Nays: 0			

CS/HB 897 Amendments

Amendment 316769

Adopted Without Objection

Committee meeting was reported out: Thursday, February 16, 2012 6:28:56PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 897 (2012)

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
2-16-12*

1 Committee/Subcommittee hearing bill: Judiciary Committee

2 Representative Moraitis offered the following:

3
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Subsections (2) and (5) of section 95.11,
7 Florida Statutes, are amended to read:

8 95.11 Limitations other than for the recovery of real
9 property.—Actions other than for recovery of real property shall
10 be commenced as follows:

11 (2) WITHIN FIVE YEARS.—

12 (a) An action on a judgment or decree of any court, not of
13 record, of this state or any court of the United States, any
14 other state or territory in the United States, or a foreign
15 country.

16 (b) A legal or equitable action on a contract, obligation,
17 or liability founded on a written instrument, except for an
18 action to enforce a claim against a payment bond, which shall be

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 897 (2012)

Amendment No. 1

19 governed by the applicable provisions of s. 95.11(5)(e), s. ~~ss.~~
20 255.05(10), s. 337.18(1), or s. ~~and~~ 713.23(1)(e).

21 (c) An action to foreclose a mortgage.

22 (d) An action alleging a willful violation of s. 448.110.

23 (e) Notwithstanding paragraph (b), an action for breach of
24 a property insurance contract, with the period running from the
25 date of loss.

26 (5) WITHIN ONE YEAR.—

27 (a) An action for specific performance of a contract.

28 (b) An action to enforce an equitable lien arising from
29 the furnishing of labor, services, or material for the
30 improvement of real property.

31 (c) An action to enforce rights under the Uniform
32 Commercial Code—Letters of Credit, chapter 675.

33 (d) An action against any guaranty association and its
34 insured, with the period running from the date of the deadline
35 for filing claims in the order of liquidation.

36 (e) Except for actions governed by s. 255.05(10), s.
37 337.18(1), or s. 713.23(1)(e), an action to enforce any claim
38 against a payment bond on which the principal is a contractor,
39 subcontractor, or sub-subcontractor as defined in s. 713.01, for
40 private work as well as public work, from the last furnishing of
41 labor, services, or materials or from the last furnishing of
42 labor, services, or materials by the contractor if the
43 contractor is the principal on a bond on the same construction
44 project, whichever is later.

45 (f) Except for actions described in subsection (8), a
46 petition for extraordinary writ, other than a petition

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 897 (2012)

Amendment No. 1

47 challenging a criminal conviction, filed by or on behalf of a
48 prisoner as defined in s. 57.085.

49 (g) Except for actions described in subsection (8), an
50 action brought by or on behalf of a prisoner, as defined in s.
51 57.085, relating to the conditions of the prisoner's
52 confinement.

53 Section 2. Section 255.05, Florida Statutes, is amended to
54 read:

55 255.05 Bond of contractor constructing public buildings;
56 form; action by claimants ~~materialmen~~.-

57 (1) ~~(a)~~ A ~~Any~~ person entering into a formal contract with
58 the state or any county, city, or political subdivision thereof,
59 or other public authority or private entity, for the
60 construction of a public building, for the prosecution and
61 completion of a public work, or for repairs upon a public
62 building or public work shall be required, before commencing the
63 work or before recommencing the work after a default or
64 abandonment, to execute, ~~deliver to the public owner,~~ and record
65 in the public records of the county where the improvement is
66 located, a payment and performance bond with a surety insurer
67 authorized to do business in this state as surety. A public
68 entity may not require a contractor to secure a surety bond
69 under this section from a specific agent or bonding company.

70 (a) The bond must state on its front page: the name,
71 principal business address, and phone number of the contractor,
72 of the surety, of the owner of the property being improved, and,
73 if different from the owner, of the contracting public entity;
74 the contract number assigned by the contracting public entity;

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Amendment No. 1

75 the bond number assigned by the surety; and a description of the
76 project sufficient to identify it, such as a legal description
77 or the street address of the property being improved, and a
78 general description of the improvement.

79 (b) Before commencing the work or before recommencing the
80 work after a default or abandonment, the contractor shall
81 provide to the public entity a certified copy of the recorded
82 bond. Notwithstanding the terms of the contract or other laws
83 governing prompt payment for construction services, the public
84 entity may not commence making payments to the contractor until
85 the contractor has complied with this paragraph.

86 (c) The ~~Such~~ bond shall be conditioned upon the
87 contractor's performance of the construction work in the time
88 and manner prescribed in the contract and promptly making
89 payments to all persons defined in s. 713.01 who furnish labor,
90 services, or materials for the prosecution of the work provided
91 for in the contract. ~~A~~ ~~Any~~ claimant may apply to the
92 governmental entity having charge of the work for copies of the
93 contract and bond and shall thereupon be furnished with a
94 ~~certified~~ copy of the contract and the recorded bond. The
95 claimant shall have a cause right of action against the
96 contractor and surety for the amount due him or her, including
97 unpaid finance charges due under the claimant's contract. Such
98 action may shall not involve the public authority in any
99 expense.

100 (d) When the such work is done for the state and the
101 contract is for \$100,000 or less, no payment and performance
102 bond shall be required. At the discretion of the official or

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 897 (2012)

Amendment No. 1

103 board awarding such contract when such work is done for any
104 county, city, political subdivision, or public authority, a any
105 person entering into such a contract that ~~which~~ is for \$200,000
106 or less may be exempted from executing the payment and
107 performance bond. When such work is done for the state, the
108 Secretary of Management Services may delegate to state agencies
109 the authority to exempt any person entering into such a contract
110 amounting to more than \$100,000 but less than \$200,000 from
111 executing the payment and performance bond. If an ~~In the event~~
112 ~~such~~ exemption is granted, the officer or official ~~officials~~
113 ~~shall not be~~ personally liable to persons suffering loss because
114 of granting such exemption. The Department of Management
115 Services shall maintain information on the number of requests by
116 state agencies for delegation of authority to waive the bond
117 requirements by agency and project number and whether any
118 request for delegation was denied and the justification for the
119 denial.

120 (e) Any provision in a payment bond furnished for public
121 work contracts as provided by this subsection which further
122 restricts the classes of persons ~~as defined in s. 713.01~~
123 protected by the bond, which restricts ~~or~~ the venue of any
124 proceeding relating to such bond, which limits or expands the
125 effective duration of the bond, or which adds conditions
126 precedent to the enforcement of a claim against the bond beyond
127 those provided in this section is unenforceable.

128 (f) ~~(b)~~ The Department of Management Services shall adopt
129 rules with respect to all contracts for \$200,000 or less, to
130 provide:

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 897 (2012)

Amendment No. 1

131 1. Procedures for retaining up to 10 percent of each
132 request for payment submitted by a contractor and procedures for
133 determining disbursements from the amount retained on a pro rata
134 basis to laborers, materialmen, and subcontractors, as defined
135 in s. 713.01.

136 2. Procedures for requiring certification from laborers,
137 materialmen, and subcontractors, as defined in s. 713.01, before
138 ~~prior to~~ final payment to the contractor that such laborers,
139 materialmen, and subcontractors have no claims against the
140 contractor resulting from the completion of the work provided
141 for in the contract.

142
143 The state is ~~shall~~ not ~~be held~~ liable to any laborer,
144 materialman, or subcontractor for any amounts greater than the
145 pro rata share as determined under this section.

146 (g)~~(e)~~1. The amount of the bond shall equal the contract
147 price, except that for a contract in excess of \$250 million, if
148 the state, county, municipality, political subdivision, or other
149 public entity finds that a bond in the amount of the contract
150 price is not reasonably available, the public owner shall set
151 the amount of the bond at the largest amount reasonably
152 available, but not less than \$250 million.

153 2. For construction-management or design-build contracts,
154 if the public owner does not include in the bond amount the cost
155 of design or other nonconstruction services, the bond may not be
156 conditioned on performance of such services or payment to
157 persons furnishing such services. Notwithstanding paragraphs (c)

Amendment No. 1

158 and (e) (a), such a bond may exclude persons furnishing such
159 services from the classes of persons protected by the bond.

160 (2)(a)1. If a claimant is no longer furnishing labor,
161 services, or materials on a project, a contractor or the
162 contractor's agent or attorney may elect to shorten the
163 ~~prescribed time in this paragraph~~ within which an action to
164 enforce any claim against a payment bond must ~~provided pursuant~~
165 ~~to this section may~~ be commenced by recording in the clerk's
166 office a notice in substantially the following form:

167
168 NOTICE OF CONTEST OF CLAIM
169 AGAINST PAYMENT BOND
170

171 To: ...(Name and address of claimant)...

172
173 You are notified that the undersigned contests your notice
174 of nonpayment, dated,, and served on the
175 undersigned on,, and that the time within
176 which you may file suit to enforce your claim is limited to 60
177 days after the date of service of this notice.

178
179 DATED on,

180
181 Signed: ...(Contractor or Attorney)...

182
183 The claim of a ~~any~~ claimant upon whom such notice is served and
184 who fails to institute a suit to enforce his or her claim
185 against the payment bond within 60 days after service of such

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 897 (2012)

Amendment No. 1

186 notice shall be extinguished automatically. The contractor or
187 the contractor's attorney clerk shall serve mail a copy of the
188 notice of contest to the claimant at the address shown in the
189 notice of nonpayment or most recent amendment thereto and shall
190 certify to such service on the face of the such notice and
191 record the notice. ~~Service is complete upon mailing.~~

192 2. A claimant, except a laborer, who is not in privity
193 with the contractor shall, before commencing or not later than
194 45 days after commencing to furnish labor, services, or
195 materials for the prosecution of the work, furnish the
196 contractor with a written notice that he or she intends to look
197 to the bond for protection. A claimant who is not in privity
198 with the contractor and who has not received payment for his or
199 her labor, services, or materials shall deliver to the
200 contractor and to the surety written notice of the performance
201 of the labor or delivery of the materials or supplies and of the
202 nonpayment. The notice of nonpayment shall ~~may~~ be served at ~~any~~
203 ~~time~~ during the progress of the work or thereafter but may not
204 be served earlier than ~~before~~ 45 days after the first furnishing
205 of labor, services, or materials or, ~~and not~~ later than 90 days
206 after the final furnishing of the labor, services, or materials
207 by the claimant or, with respect to rental equipment, not later
208 than 90 days after the date that the rental equipment was last
209 on the job site available for use. Any notice of nonpayment
210 served by a claimant who is not in privity with the contractor
211 which includes sums for retainage must specify the portion of
212 the amount claimed for retainage. An ~~No~~ action for the labor,
213 materials, or supplies may not be instituted against the

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Bill No. CS/HB 897 (2012)

Amendment No. 1

214 contractor or the surety unless the notice to the contractor and
215 notice of nonpayment have been served, if required by this
216 section ~~both notices have been given~~. Notices required or
217 permitted under this section shall ~~may~~ be served in accordance
218 with s. 713.18. A claimant may not waive in advance his or her
219 right to bring an action under the bond against the surety. In
220 any action brought to enforce a claim against a payment bond
221 under this section, the prevailing party is entitled to recover
222 a reasonable fee for the services of his or her attorney for
223 trial and appeal or for arbitration, in an amount to be
224 determined by the court, which fee must be taxed as part of the
225 prevailing party's costs, as allowed in equitable actions. The
226 time periods for service of a notice of nonpayment or for
227 bringing an action against a contractor or a surety shall be
228 measured from the last day of furnishing labor, services, or
229 materials by the claimant and may ~~shall~~ not be measured by other
230 standards, such as the issuance of a certificate of occupancy or
231 the issuance of a certificate of substantial completion.

232 (b) When a person is required to execute a waiver of his
233 or her right to make a claim against the payment bond in
234 exchange for, or to induce payment of, a progress payment, the
235 waiver may be in substantially the following form:

236
237 WAIVER OF RIGHT TO CLAIM
238 AGAINST THE PAYMENT BOND
239 (PROGRESS PAYMENT)
240

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241 The undersigned, in consideration of the sum of \$....,
242 hereby waives its right to claim against the payment bond for
243 labor, services, or materials furnished through ...(insert
244 date)... to ...(insert the name of your customer)... on the job
245 of ...(insert the name of the owner)..., for improvements to the
246 following described project:

247
248 (description of project)

249
250 This waiver does not cover any retention or any labor, services,
251 or materials furnished after the date specified.

252
253 DATED ON,

254 ... (Claimant) ...
255 By:

256
257 (c) When a person is required to execute a waiver of his
258 or her right to make a claim against the payment bond, in
259 exchange for, or to induce payment of, the final payment, the
260 waiver may be in substantially the following form:

261
262 WAIVER OF RIGHT TO CLAIM
263 AGAINST THE PAYMENT BOND
264 (FINAL PAYMENT)

265
266 The undersigned, in consideration of the final payment in
267 the amount of \$...., hereby waives its right to claim against
268 the payment bond for labor, services, or materials furnished to

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269 ... (insert the name of your customer) ... on the job of
270 ... (insert the name of the owner) ..., for improvements to the
271 following described project:

272
273 (description of project)

274
275 DATED ON,

276 ... (Claimant) ...

277 By:

278
279 (d) A person may not require a claimant to furnish a
280 waiver that is different from the forms in paragraphs (b) and
281 (c).

282 (e) A claimant who executes a waiver in exchange for a
283 check may condition the waiver on payment of the check.

284 (f) A waiver that is not substantially similar to the
285 forms in this subsection is enforceable in accordance with its
286 terms.

287 (3) The bond required in subsection (1) may be in
288 substantially the following form:

289
290 PUBLIC CONSTRUCTION BOND

291 Bond No.... (enter bond number) ...

292
293 BY THIS BOND, We, as Principal and, a
294 corporation, as Surety, are bound to, herein called Owner,
295 in the sum of \$....., for payment of which we bind ourselves, our

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296 heirs, personal representatives, successors, and assigns,
297 jointly and severally.

298 THE CONDITION OF THIS BOND is that if Principal:

299 1. Performs the contract dated , , between
300 Principal and Owner for construction of , the contract being
301 made a part of this bond by reference, at the times and in the
302 manner prescribed in the contract; and

303 2. Promptly makes payments to all claimants, as defined in
304 Section 255.05(1), Florida Statutes, supplying Principal with
305 labor, materials, or supplies, used directly or indirectly by
306 Principal in the prosecution of the work provided for in the
307 contract; and

308 3. Pays Owner all losses, damages, expenses, costs, and
309 attorney's fees, including appellate proceedings, that Owner
310 sustains because of a default by Principal under the contract;
311 and

312 4. Performs the guarantee of all work and materials
313 furnished under the contract for the time specified in the
314 contract, then this bond is void; otherwise it remains in full
315 force.

316

317 Any action instituted by a claimant under this bond for payment
318 must be in accordance with the notice and time limitation
319 provisions in Section 255.05(2), Florida Statutes.

320

321 Any changes in or under the contract documents and compliance or
322 noncompliance with any formalities connected with the contract

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323 or the changes does not affect Surety's obligation under this
324 bond.

325

326 DATED ON,

327

328 ... (Name of Principal)...

329 By ... (As Attorney in Fact)...

330 ... (Name of Surety)...

331

332 (4) The payment bond provisions of all bonds required by
333 subsection (1) shall be construed and deemed statutory payment
334 bonds furnished pursuant to this section and such bonds shall
335 not under any circumstances be converted into common law bonds.

336 (5) In addition to the provisions of chapter 47, any
337 action authorized under this section may be brought in the
338 county in which the public building or public work is being
339 constructed or repaired. This subsection shall not apply to an
340 action instituted prior to May 17, 1977.

341 (6) All payment bond forms used by a public owner and all
342 payment bonds executed pursuant to this section by a surety
343 shall make reference to this section by number, and shall
344 contain reference to the notice and time limitation provisions
345 in subsections (2) and (10), and shall comply with the
346 requirements of subsection (1)(a).

347 (7) In lieu of the bond required by this section, a
348 contractor may file with the state, county, city, or other
349 political authority an alternative form of security in the form
350 of cash, a money order, a certified check, a cashier's check, an

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351 | irrevocable letter of credit, or a security of a type listed in
352 | part II of chapter 625. Any such alternative form of security
353 | shall be for the same purpose and be subject to the same
354 | conditions as those applicable to the bond required by this
355 | section. The determination of the value of an alternative form
356 | of security shall be made by the appropriate state, county,
357 | city, or other political subdivision.

358 | (8) When a contractor has furnished a payment bond
359 | pursuant to this section, he or she may, when the state, county,
360 | municipality, political subdivision, or other public authority
361 | makes any payment to the contractor or directly to a claimant,
362 | serve a written demand on any claimant who is not in privity
363 | with the contractor for a written statement under oath of his or
364 | her account showing the nature of the labor or services
365 | performed and to be performed, if any; the materials furnished;
366 | the materials to be furnished, if known; the amount paid on
367 | account to date; the amount due; and the amount to become due,
368 | if known, as of the date of the statement by the claimant. Any
369 | such demand to a claimant who is not in privity with the
370 | contractor must be served on the claimant at the address and to
371 | the attention of any person who is designated to receive the
372 | demand in the notice to contractor served by the claimant. The
373 | failure or refusal to furnish the statement does not deprive the
374 | claimant of his or her rights under the bond if the demand is
375 | not served at the address of the claimant or directed to the
376 | attention of the person designated to receive the demand in the
377 | notice to contractor. The failure to furnish the statement
378 | within 30 days after the demand, or the furnishing of a false or

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379 fraudulent statement, deprives the claimant who fails to furnish
380 the statement, or who furnishes the false or fraudulent
381 statement, of his or her rights under the bond. If the
382 contractor serves more than one demand for statement of account
383 on a claimant and none of the information regarding the account
384 has changed since the claimant's last response to a demand, the
385 failure or refusal to furnish such statement does not deprive
386 the claimant of his or her rights under the bond. The negligent
387 inclusion or omission of any information deprives the claimant
388 of his or her rights under the bond to the extent that the
389 contractor can demonstrate prejudice from such act or omission
390 by the claimant. The failure to furnish a response to a demand
391 for statement of account does not affect the validity of any
392 claim on the bond being enforced in a lawsuit filed before the
393 date the demand for statement of account is received by the
394 claimant.

395 (9) On any public works project for which the public
396 authority requires a performance and payment bond, suits at law
397 and in equity may be brought and maintained by and against the
398 public authority on any contract claim arising from breach of an
399 express provision or an implied covenant of a written agreement
400 or a written directive issued by the public authority pursuant
401 to the written agreement. In any such suit, the public authority
402 and the contractor shall have all of the same rights and
403 obligations as a private person under a like contract except
404 that no liability may be based on an oral modification of either
405 the written contract or written directive. Nothing herein shall
406 be construed to waive the sovereign immunity of the state and

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407 its political subdivisions from equitable claims and equitable
408 remedies. The provisions of this subsection shall apply only to
409 contracts entered into on or after July 1, 1999.

410 (10) An action, except an action for recovery of
411 retainage, must be instituted against the contractor or the
412 surety on the payment bond or the payment provisions of a
413 combined payment and performance bond within 1 year after the
414 performance of the labor or completion of delivery of the
415 materials or supplies. An action for recovery of retainage must
416 be instituted against the contractor or the surety within 1 year
417 after the performance of the labor or completion of delivery of
418 the materials or supplies; however, such an action may not be
419 instituted until one of the following conditions is satisfied:

420 (a) The public entity has paid out the claimant's
421 retainage to the contractor, and the time provided under s.
422 218.735 or s. 255.073(3) for payment of that retainage to the
423 claimant has expired;

424 (b) The claimant has completed all work required under its
425 contract and 70 days have passed since the contractor sent its
426 final payment request to the public entity; or

427 (c) At least 160 days have passed since reaching
428 substantial completion of the construction services purchased,
429 as defined in the contract, or if not defined in the contract,
430 since reaching beneficial occupancy or use of the project.

431 (d) The claimant has asked the contractor, in writing, for
432 any of the following information and the contractor has failed
433 to respond to the claimant's request, in writing, within 10 days
434 after receipt of the request:

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435 1. Whether the project has reached substantial completion,
436 as that term is defined in the contract, or if not defined in
437 the contract, if beneficial occupancy or use of the project has
438 occurred.

439 2. Whether the contractor has received payment of the
440 claimant's retainage, and if so, the date the retainage was
441 received by the contractor.

442 3. Whether the contractor has sent its final payment
443 request to the public entity, and if so, the date on which the
444 final payment request was sent.

445

446 If none of the conditions described in paragraph (a), paragraph
447 (b), paragraph (c), or paragraph (d) is satisfied and an action
448 for recovery of retainage cannot be instituted within the 1-year
449 limitation period set forth in this subsection, this limitation
450 period shall be extended until 120 days after one of these
451 conditions is satisfied.

452 (11) When a contractor furnishes and records a payment and
453 performance bond for a public works project in accordance with
454 this section, and provides the public authority with a written
455 consent from the surety regarding the project or payment in
456 question, the public authority may not condition its payment to
457 the contractor on the production of a release, waiver, or like
458 documentation from a claimant demonstrating that the claimant
459 does not have an outstanding claim against the contractor, the
460 surety, the payment bond, or the public authority for payments
461 due on labor, services, or materials furnished on the public
462 works project. The surety may, in a writing served on the public

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463 authority, revoke its consent or direct that the public
464 authority withhold a specified amount from a payment, which
465 shall be effective upon receipt.

466 Section 3. Section 255.0518, Florida Statutes, is created
467 to read:

468 255.0518 Public bids; bid opening.--Notwithstanding s.
469 119.071(1)(b), the state or any county or municipality thereof
470 or any department or agency of the state, county, or
471 municipality or any other public body or institution, shall:

472 (1) When opening sealed bids or the portion of any sealed
473 bids that include the prices submitted, which are received
474 pursuant to a competitive solicitation for construction or
475 repairs on a public building or public work, open the sealed
476 bids at a public meeting conducted in compliance with s.
477 286.011.

478 (2) Announce at that meeting the name of each bidder and
479 the price submitted.

480 (3) Make available upon request the name of each bidder
481 and the price submitted.

482 Section 4. Paragraph (b) of subsection (2) of section
483 713.10, Florida Statutes, is amended to read:

484 713.10 Extent of liens.--

485 (2)

486 (b) The interest of the lessor is ~~shall~~ not ~~be~~ subject to
487 liens for improvements made by the lessee when:

488 1. The lease, or a short form or a memorandum of the lease
489 that contains the specific language in the lease prohibiting
490 such liability, is recorded in the official records of the

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491 county where the premises are located before the recording of a
492 notice of commencement for improvements to the premises and the
493 terms of the lease expressly prohibit such liability; or

494 2. The terms of the lease expressly prohibit such
495 liability, and a notice advising that leases for the rental of
496 premises on a parcel of land prohibit such liability has been
497 recorded in the official records of the county in which the
498 parcel of land is located before the recording of a notice of
499 commencement for improvements to the premises, and the notice
500 includes the following:

501 a. The name of the lessor.

502 b. The legal description of the parcel of land to which
503 the notice applies.

504 c. The specific language contained in the various leases
505 prohibiting such liability.

506 d. A statement that all or a majority of the leases
507 entered into for premises on the parcel of land expressly
508 prohibit such liability.

509 3. The lessee is a mobile home owner who is leasing a
510 mobile home lot in a mobile home park from the lessor.

511

512 A notice that is consistent with subparagraph 2. effectively
513 prohibits liens for improvements made by a lessee even if other
514 leases for premises on the parcel do not expressly prohibit
515 liens or if provisions of each lease restricting the application
516 of liens are not identical.

517 Section 5. Paragraphs (d) and (e) of subsection (1) of
518 section 713.13, Florida Statutes, are amended to read:

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519 713.13 Notice of commencement.-

520 (1)

521 (d) A notice of commencement must be in substantially the
522 following form:

523

524 Permit No..... Tax Folio No.....

525 NOTICE OF COMMENCEMENT

526 State of....

527 County of....

528

529 The undersigned hereby gives notice that improvement will be
530 made to certain real property, and in accordance with Chapter
531 713, Florida Statutes, the following information is provided in
532 this Notice of Commencement.

533 1. Description of property: ...(legal description of the
534 property, and street address if available)....

535 2. General description of improvement:.....

536 3. Owner information or Lessee information if the Lessee
537 contracted for the improvement:

538 a. Name and address:.....

539 b. Interest in property:.....

540 c. Name and address of fee simple titleholder (if
541 different from Owner listed above):.....

542 4.a. Contractor: ...(name and address)....

543 b. Contractor's phone number:.....

544 5. Surety (if applicable, a copy of the payment bond is
545 attached):

546 a. Name and address:.....

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- 547 b. Phone number:.....
- 548 c. Amount of bond: \$.....
- 549 6.a. Lender: ...(name and address)....
- 550 b. Lender's phone number:.....
- 551 7. Persons within the State of Florida designated by Owner
- 552 upon whom notices or other documents may be served as provided
- 553 by Section 713.13(1)(a)7., Florida Statutes:
- 554 a. Name and address:.....
- 555 b. Phone numbers of designated persons:.....
- 556 8.a. In addition to himself or herself, Owner designates
- 557 of to receive a copy of the Lienor's
- 558 Notice as provided in Section 713.13(1)(b), Florida Statutes.
- 559 b. Phone number of person or entity designated by
- 560 owner:.....
- 561 9. Expiration date of notice of commencement (the
- 562 expiration date ~~may not be before the completion of construction~~
- 563 ~~and final payment to the contractor, but~~ will be 1 year from the
- 564 date of recording unless a different date is specified).....

565

566 WARNING TO OWNER: ANY PAYMENTS MADE BY THE OWNER AFTER THE

567 EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER

568 PAYMENTS UNDER CHAPTER 713, PART I, SECTION 713.13, FLORIDA

569 STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS

570 TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND

571 POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU

572 INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN

573 ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE OF

574 COMMENCEMENT.

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~~Under penalty of perjury, I declare that I have read the foregoing notice of commencement and that the facts stated therein are true to the best of my knowledge and belief.~~

...(Signature of Owner or Lessee, or Owner's or Lessee's Authorized Officer/Director/Partner/Manager)...

...(Signatory's Title/Office)...

The foregoing instrument was acknowledged before me this day of, ...(year)...., by ...(name of person)... as ...(type of authority, . . . e.g. officer, trustee, attorney in fact)... for ...(name of party on behalf of whom instrument was executed).....

...(Signature of Notary Public - State of Florida)...

...(Print, Type, or Stamp Commissioned Name of Notary Public)...

Personally Known OR Produced Identification

Type of Identification Produced.....

(e) A copy of any payment bond must be attached at the time of recordation of the notice of commencement. The failure to attach a copy of the bond to the notice of commencement when the notice is recorded negates the exemption provided in s.

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603 713.02(6). However, if a payment bond under s. 713.23 exists but
604 was not attached at the time of recordation of the notice of
605 commencement, the bond may be used to transfer any recorded lien
606 of a lienor except that of the contractor by the recordation and
607 service of a notice of bond pursuant to s. 713.23(2). The notice
608 requirements of s. 713.23 apply to any claim against the bond;
609 however, the time limits for serving any required notices shall,
610 at the option of the lienor, be calculated from the dates begin
611 ~~running from the later of the time~~ specified in s. 713.23 or the
612 date the notice of bond is served on the lienor.

613 Section 6. Section 489.118, Florida Statutes, is amended
614 to read:

615 489.118 Certification of registered contractors;
616 grandfathering provisions.—The board shall, upon receipt of a
617 completed application and appropriate fee, issue a certificate
618 in the appropriate category to any contractor registered under
619 this part who makes application to the board and can show that
620 he or she meets each of the following requirements:

621 (1) Currently holds a valid registered local license in
622 one of the contractor categories defined in s. 489.105(3)(a)-
623 (g) ~~(p)~~.

624 (2) Has, for that category, passed a written examination
625 that the board finds to be substantially similar to the
626 examination required to be licensed as a certified contractor
627 under this part. For purposes of this subsection, a written,
628 proctored examination such as that produced by the National
629 Assessment Institute, Block and Associates, NAI/Block, Experior
630 Assessments, Professional Testing, Inc., or Assessment Systems,

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631 Inc., shall be considered to be substantially similar to the
632 examination required to be licensed as a certified contractor.
633 The board may not impose or make any requirements regarding the
634 nature or content of these cited examinations.

635 (3) Has at least 5 years of experience as a contractor in
636 that contracting category, or as an inspector or building
637 administrator with oversight over that category, at the time of
638 application. For contractors, only time periods in which the
639 contractor license is active and the contractor is not on
640 probation shall count toward the 5 years required by this
641 subsection.

642 (4) Has not had his or her contractor's license revoked at
643 any time, had his or her contractor's license suspended within
644 the last 5 years, or been assessed a fine in excess of \$500
645 within the last 5 years.

646 (5) Is in compliance with the insurance and financial
647 responsibility requirements in s. 489.115(5).

648

649 Applicants wishing to obtain a certificate pursuant to this
650 section must make application by November 1, 2015 ~~2005~~.

651 Section 7. Subsections (1) and (4) of section 713.132,
652 Florida Statutes, are amended to read:

653 713.132 Notice of termination.—

654 (1) An owner may terminate the period of effectiveness of
655 a notice of commencement by executing, swearing to, and
656 recording a notice of termination that contains:

657 (a) The same information as the notice of commencement;

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658 (b) The recording office document book and page reference
659 numbers and date of the notice of commencement;

660 (c) A statement of the date as of which the notice of
661 commencement is terminated, which date may not be earlier than
662 30 days after the notice of termination is recorded;

663 (d) A statement specifying that the notice applies to all
664 the real property subject to the notice of commencement or
665 specifying the portion of such real property to which it
666 applies;

667 (e) A statement that all lienors have been paid in full;
668 and

669 (f) A statement that the owner has, before recording the
670 notice of termination, served a copy of the notice of
671 termination on the contractor and on each lienor who has a
672 direct contract with the owner or who has served a notice to
673 owner ~~given notice~~. The owner is not required to serve a copy of
674 the notice of termination on any lienor who has executed a
675 waiver and release of lien upon final payment in accordance with
676 s. 713.20.

677 (4) A notice of termination is effective to terminate the
678 notice of commencement at the later of 30 days after recording
679 of the notice of termination or the date stated in the notice of
680 termination as the date on which the notice of commencement is
681 terminated, if provided that the notice of termination has been
682 served pursuant to paragraph (1)(f) on the contractor and on
683 each lienor who has a direct contract with the owner or who has
684 served a notice to owner ~~given notice~~.

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685 Section 8. Section 713.16, Florida Statutes, is amended to
686 read:

687 713.16 Demand for copy of contract and statements of
688 account; form.—

689 (1) A copy of the contract of a lienor or owner and a
690 statement of the amount due or to become due if fixed or
691 ascertainable thereon must be furnished by any party thereto,
692 upon written demand of an owner or a lienor contracting with or
693 employed by the other party to such contract. If the owner or
694 lienor refuses or neglects to furnish such copy of the contract
695 or such statement, or willfully and falsely states the amount
696 due or to become due if fixed or ascertainable under such
697 contract, any person who suffers any detriment thereby has a
698 cause of action against the person refusing or neglecting to
699 furnish the same or willfully and falsely stating the amount due
700 or to become due for his or her damages sustained thereby. The
701 information contained in such copy or statement furnished
702 pursuant to such written demand is binding upon the owner or
703 lienor furnishing it unless actual notice of any modification is
704 given to the person demanding the copy or statement before such
705 person acts in good faith in reliance on it. The person
706 demanding such documents must pay for the reproduction thereof;
707 and, if such person fails or refuses to do so, he or she is
708 entitled only to inspect such documents at reasonable times and
709 places.

710 (2) The owner may serve in writing a demand of any lienor
711 for a written statement under oath of his or her account showing
712 the nature of the labor or services performed and to be

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713 performed, if any, the materials furnished, the materials to be
714 furnished, if known, the amount paid on account to date, the
715 amount due, and the amount to become due, if known, as of the
716 date of the statement by the lienor. Any such demand to a lienor
717 must be served on the lienor at the address and to the attention
718 of any person who is designated to receive the demand in the
719 notice to owner served by such lienor and must include a
720 description of the property and the names of the owner, the
721 contractor, and the lienor's customer, as set forth in the
722 lienor's notice to owner. The failure or refusal to furnish the
723 statement does not deprive the lienor of his or her lien if the
724 demand is not served at the address of the lienor or directed to
725 the attention of the person designated to receive the demand in
726 the notice to owner. The failure or refusal to furnish the
727 statement under oath within 30 days after the demand, or the
728 furnishing of a false or fraudulent statement, deprives the
729 person so failing or refusing to furnish such statement of his
730 or her lien. If the owner serves more than one demand for
731 statement of account on a lienor and none of the information
732 regarding the account has changed since the lienor's last
733 response to a demand, the failure or refusal to furnish such
734 statement does not deprive the lienor of his or her lien. The
735 negligent inclusion or omission of any information deprives the
736 person of his or her lien to the extent the owner can
737 demonstrate prejudice from such act or omission by the lienor.
738 The failure to furnish a response to a demand for statement of
739 account does not affect the validity of any claim of lien being

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740 enforced through a foreclosure case filed before ~~prior to~~ the
741 date the demand for statement is received by the lienor.

742 (3) A request for sworn statement of account must be in
743 substantially the following form:

744

745 REQUEST FOR SWORN STATEMENT OF ACCOUNT

746

747 WARNING: YOUR FAILURE TO FURNISH THE REQUESTED STATEMENT, SIGNED
748 UNDER OATH, WITHIN 30 DAYS OR THE FURNISHING OF A FALSE
749 STATEMENT WILL RESULT IN THE LOSS OF YOUR LIEN.

750

751 To: ...(Lienor's name and address)...

752

753 The undersigned hereby demands a written statement under oath of
754 his or her account showing the nature of the labor or services
755 performed and to be performed, if any, the materials furnished,
756 the materials to be furnished, if known, the amount paid on
757 account to date, the amount due, and the amount to become due,
758 if known, as of the date of the statement for the improvement of
759 real property identified as ...(property description)....

760

761 ...(name of contractor)...

762

763 ...(name of the lienor's customer, as set forth in the
764 lienor's Notice to Owner, if such notice has been served)...

765

766

767 ...(signature and address of owner)...

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768 ... (date of request for sworn statement of account)...

769

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(4) When a contractor has furnished a payment bond pursuant to s. 713.23, he or she may, when an owner makes any payment to the contractor or directly to a lienor, serve a written demand on any other lienor for a written statement under oath of his or her account showing the nature of the labor or services performed and to be performed, if any, the materials furnished, the materials to be furnished, if known, the amount paid on account to date, the amount due, and the amount to become due, if known, as of the date of the statement by the lienor. Any such demand to a lienor must be served on the lienor at the address and to the attention of any person who is designated to receive the demand in the notice to contractor served by such lienor. The demand must include a description of the property and the names of the owner, the contractor, and the lienor's customer, as set forth in the lienor's notice to contractor. The failure or refusal to furnish the statement does not deprive the lienor of his or her rights under the bond if the demand is not served at the address of the lienor or directed to the attention of the person designated to receive the demand in the notice to contractor. The failure to furnish the statement within 30 days after the demand, or the furnishing of a false or fraudulent statement, deprives the person who fails to furnish the statement, or who furnishes the false or fraudulent statement, of his or her rights under the bond. If the contractor serves more than one demand for statement of

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796 account on a lienor and none of the information regarding the
797 account has changed since the lienor's last response to a
798 demand, the failure or refusal to furnish such statement does
799 not deprive the lienor of his or her rights under the bond. The
800 negligent inclusion or omission of any information deprives the
801 person of his or her rights under the bond to the extent the
802 contractor can demonstrate prejudice from such act or omission
803 by the lienor. The failure to furnish a response to a demand for
804 statement of account does not affect the validity of any claim
805 on the bond being enforced in a lawsuit filed prior to the date
806 the demand for statement of account is received by the lienor.

807 (5) (a) Any lienor who is perfecting a claim of lien has
808 ~~recorded a claim of lien~~ may serve with the claim of lien or
809 thereafter a ~~make~~ written demand on the owner for a written
810 statement under oath showing:

811 1. The amount of the direct contract under which the lien
812 was recorded;

813 2. The dates and amounts paid or to be paid by or on
814 behalf of the owner for all improvements described in the direct
815 contract;

816 3. The reasonable estimated costs of completing the direct
817 contract under which the lien was claimed pursuant to the scope
818 of the direct contract; and

819 4. If known, the actual cost of completion.

820 (b) Any owner who does not provide the statement within 30
821 days after demand, or who provides a false or fraudulent
822 statement, is not a prevailing party for purposes of an award of
823 attorney ~~attorney's~~ fees under s. 713.29. The written demand

Amendment No. 1

824 must include the following warning in conspicuous type in
825 substantially the following form:

826

827 WARNING: YOUR FAILURE TO FURNISH THE REQUESTED STATEMENT WITHIN
828 30 DAYS OR THE FURNISHING OF A FALSE STATEMENT WILL RESULT IN
829 THE LOSS OF YOUR RIGHT TO RECOVER ATTORNEY FEES IN ANY ACTION TO
830 ENFORCE THE CLAIM OF LIEN OF THE PERSON REQUESTING THIS
831 STATEMENT.

832 (6) Any written demand served on the owner must include a
833 description of the property and the names of the contractor and
834 the lienor's customer, as set forth in the lienor's notice to
835 owner.

836 (7)-(6) For purposes of this section, the term
837 "information" means the nature and quantity of the labor,
838 services, and materials furnished or to be furnished by a lienor
839 and the amount paid, the amount due, and the amount to become
840 due on the lienor's account.

841 Section 9. Section 713.18, Florida Statutes, is amended to
842 read:

843 713.18 Manner of serving notices and other instruments.-

844 (1) Service of notices, claims of lien, affidavits,
845 assignments, and other instruments permitted or required under
846 this part, or copies thereof when so permitted or required,
847 unless otherwise specifically provided in this part, must be
848 made by one of the following methods:

849 (a) By actual delivery to the person to be served; if a
850 partnership, to one of the partners; if a corporation, to an

Amendment No. 1

851 officer, director, managing agent, or business agent; or, if a
852 limited liability company, to a member or manager.

853 (b) By common carrier delivery service or sending the same
854 by registered, Global Express Guaranteed, or certified mail,
855 with postage or shipping paid by the sender and prepaid, or by
856 overnight or second day delivery with evidence of delivery,
857 which may be in an electronic format.

858 (c) ~~If the method specified in paragraph (a) or paragraph~~
859 ~~(b) cannot be accomplished,~~ By posting on the site of the
860 improvement if service as provided by paragraph (a) or paragraph
861 (b) cannot be accomplished premises.

862 (2) Notwithstanding subsection (1), service of if a notice
863 to owner or, a preliminary notice to contractor under s. 713.23,
864 s. 337.18, or a preliminary notice under s. 255.05 is mailed by
865 registered or certified mail with postage prepaid to the person
866 to be served at any of the addresses set forth in subsection (3)
867 within 40 days after the date the lienor first furnishes labor,
868 services, or materials, service of that notice is effective as
869 of the date of mailing if:

870 (a) The notice is mailed by registered, Global Express
871 Guaranteed, or certified mail, with postage prepaid, to the
872 person to be served at any of the addresses set forth in
873 subsection (3);

874 (b) The notice is mailed within 40 days after the date the
875 lienor first furnishes labor, services, or materials; and

876 (c)1. The person who served the notice maintains a
877 registered or certified mail log that shows the registered or
878 certified mail number issued by the United States Postal

Amendment No. 1

879 Service, the name and address of the person served, and the date
880 stamp of the United States Postal Service confirming the date of
881 mailing; or ~~if~~

882 2. The person who served the notice maintains electronic
883 tracking records generated by ~~through use of~~ the United States
884 Postal Service ~~Confirm service or a similar service~~ containing
885 the postal tracking number, the name and address of the person
886 served, and verification of the date of receipt by the United
887 States Postal Service.

888 (3) (a) Service of ~~if~~ an instrument served pursuant to this
889 section is effective on the date of mailing the instrument if
890 it:

891 1. Is sent to the last address shown in the notice of
892 commencement or any amendment thereto or, in the absence of a
893 notice of commencement, to the last address shown in the
894 building permit application, or to the last known address of the
895 person to be served; ~~and, is not received, but~~

896 2. Is returned as being "refused," "moved, not
897 forwardable," or "unclaimed," or is otherwise not delivered or
898 deliverable through no fault of the person serving the item,
899 ~~then service is effective on the date the instrument was sent.~~

900 (b) If the address shown in the notice of commencement or
901 any amendment to the notice of commencement, or, in the absence
902 of a notice of commencement, in the building permit application,
903 is incomplete for purposes of mailing or delivery, the person
904 serving the item may complete the address and properly format it
905 according to United States Postal Service addressing standards
906 using information obtained from the property appraiser or

Amendment No. 1

907 another public record without affecting the validity of service
908 under this section.

909 (4) A notice served by a lienor on one owner or one
910 partner of a partnership owning the real property ~~if the real~~
911 ~~property is owned by more than one person or a partnership, a~~
912 ~~lienor may serve any notices or other papers under this part on~~
913 ~~any one of such owners or partners, and such notice is deemed~~
914 notice to all owners and partners.

915 Section 10. Section 713.22, Florida Statutes, is amended
916 to read:

917 713.22 Duration of lien.--

918 (1) A ~~No~~ lien provided by this part does not shall
919 continue for a longer period than 1 year after the claim of lien
920 has been recorded or 1 year after the recording of an amended
921 claim of lien that shows a later date of final furnishing of
922 labor, services, or materials, unless within that time an action
923 to enforce the lien is commenced in a court of competent
924 jurisdiction. A lien that has been continued beyond the 1-year
925 period ~~The continuation of the lien effected by the commencement~~
926 ~~of an the action is shall not enforceable be good~~ against
927 creditors or subsequent purchasers for a valuable consideration
928 and without notice, unless a notice of lis pendens is recorded.

929 (2) An owner or the owner's ~~agent or~~ attorney may elect to
930 shorten the time prescribed in subsection (1) within which to
931 commence an action to enforce any claim of lien or claim against
932 a bond or other security under s. 713.23 or s. 713.24 by
933 recording in the clerk's office a notice in substantially the
934 following form:

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NOTICE OF CONTEST OF LIEN

To: ...(Name and address of lienor)...

You are notified that the undersigned contests the claim of lien filed by you on, ...(year)...., and recorded in Book, Page, of the public records of County, Florida, and that the time within which you may file suit to enforce your lien is limited to 60 days from the date of service of this notice. This day of, ...(year)....

Signed: ...(Owner or Attorney)...

The lien of any lienor upon whom such notice is served and who fails to institute a suit to enforce his or her lien within 60 days after service of such notice shall be extinguished automatically. The clerk shall serve, in accordance with s. 713.18, mail a copy of the notice of contest to the lien claimant at the address shown in the claim of lien or most recent amendment thereto and shall certify to such service and the date of service on the face of the ~~such~~ notice and record the notice. ~~Service shall be deemed complete upon mailing.~~

Section 11. Paragraphs (c), (d), (e), and (f) of subsection (1) and subsections (2) and (4) of section 713.23, Florida Statutes, are amended to read:

713.23 Payment bond.—

(1)

(c) ~~Either~~ Before beginning or within 45 days after beginning to furnish labor, materials, or supplies, a lienor who is not in privity with the contractor, except a laborer, shall

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 897 (2012)

Amendment No. 1

963 serve the contractor with notice in writing that the lienor will
964 look to the contractor's bond for protection on the work. If a
965 notice of commencement with the attached bond is not recorded
966 before commencement of construction, or a reference to the bond
967 is not given in the notice of commencement, and in either case
968 if the lienor not in privity with the contractor is not
969 otherwise notified in writing of the existence of the bond, the
970 lienor not in privity with the contractor may, in the
971 alternative, elect to serve the notice to the contractor up to
972 shall have 45 days after from the date the lienor is served with
973 a copy notified of the existence of the bond within which to
974 serve the notice. A notice to owner pursuant to s. 713.06 which
975 has been timely served on the contractor satisfies the
976 requirements of this paragraph. In no event, however, shall the
977 limitation period for commencement of an action on the payment
978 bond as established in paragraph (e) be expanded. The notice may
979 be in substantially the following form and may be combined with
980 a notice to owner given under s. 713.06 and, if so, may be
981 entitled "NOTICE TO OWNER/NOTICE TO CONTRACTOR:

982
983
984 NOTICE TO CONTRACTOR

985
986 To ... (name and address of contractor)...

987
988 The undersigned hereby informs you that he or she has furnished
989 or is furnishing services or materials as follows:

990
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991 ...(general description of services or materials)... for the
992 improvement of the real property identified as ...(property
993 description)... under an order given by ...(lienor's
994 customer)....

995
996 This notice is to inform you that the undersigned intends to
997 look to the contractor's bond to secure payment for the
998 furnishing of materials or services for the improvement of the
999 real property.

1000

1001 ...(name of lienor)...

1002 ...(signature of lienor or lienor's representative)...

1003 ...(date)...

1004 ...(lienor's address)...

1005

1006 ~~The undersigned notifies you that he or she has furnished or is~~
1007 ~~furnishing ...(services or materials)... for the improvement of~~
1008 ~~the real property identified as ...(property description)...~~
1009 ~~owned by ...(owner's name and address)... under an order given~~
1010 ~~by and that the undersigned will look to the contractor's~~
1011 ~~bond for protection on the work.~~

1012

1013 ~~...(Lienor's signature and address)...~~

1014

1015 (d) In addition, a lienor is required, as a condition
1016 precedent to recovery under the bond, to serve a written notice
1017 of nonpayment to the contractor and the surety not later than 90
1018 days after the final furnishing of labor, services, or materials

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1019 by the lienor. A written notice satisfies this condition
1020 precedent with respect to the payment described in the notice of
1021 nonpayment, including unpaid finance charges due under the
1022 lienor's contract, and with respect to any other payments which
1023 become due to the lienor after the date of the notice of
1024 nonpayment. The time period for serving a written notice of
1025 nonpayment shall be measured from the last day of furnishing
1026 labor, services, or materials by the lienor and shall not be
1027 measured by other standards, such as the issuance of a
1028 certificate of occupancy or the issuance of a certificate of
1029 substantial completion. The failure of a lienor to receive
1030 retainage sums not in excess of 10 percent of the value of
1031 labor, services, or materials furnished by the lienor is not
1032 considered a nonpayment requiring the service of the notice
1033 provided under this paragraph. If the payment bond is not
1034 recorded before commencement of construction, the time period
1035 for the lienor to serve a notice of nonpayment may at the option
1036 of the lienor be calculated from the date specified in this
1037 section or the date the lienor is served a copy of the bond.
1038 However, the limitation period for commencement of an action on
1039 the payment bond as established in paragraph (e) may not be
1040 expanded. The notice under this paragraph may be in
1041 substantially the following form:

1042
1043 NOTICE OF NONPAYMENT

1044
1045 To ... (name of contractor and address) ...
1046

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 897 (2012)

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1047 ... (name of surety and address)...

1048

1049 The undersigned notifies you that he or she has furnished
1050 ... (describe labor, services, or materials)... for the
1051 improvement of the real property identified as ... (property
1052 description).... The amount now due and unpaid is \$.....

1053

1054 ... (signature and address of lienor)...

1055

1056 (e) An ~~No~~ action for the labor or materials or supplies
1057 may not be instituted or prosecuted against the contractor or
1058 surety unless both notices have been given, if required by this
1059 section. An ~~No~~ action may not ~~shall~~ be instituted or prosecuted
1060 against the contractor or against the surety on the bond under
1061 this section after 1 year from the performance of the labor or
1062 completion of delivery of the materials and supplies. The time
1063 period for bringing an action against the contractor or surety
1064 on the bond shall be measured from the last day of furnishing
1065 labor, services, or materials by the lienor. The time period ~~and~~
1066 may ~~shall~~ not be measured by other standards, such as the
1067 issuance of a certificate of occupancy or the issuance of a
1068 certificate of substantial completion. A contractor or the
1069 contractor's ~~agent or~~ attorney may elect to shorten the
1070 ~~prescribed~~ time within which an action to enforce any claim
1071 against a payment bond provided under this section or s. 713.245
1072 must ~~may~~ be commenced at any time after a notice of nonpayment,
1073 if required, has been served for the claim by recording in the
1074 clerk's office a notice in substantially the following form:

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NOTICE OF CONTEST OF CLAIM
AGAINST PAYMENT BOND

To: ... (Name and address of lienor)...

You are notified that the undersigned contests your notice of nonpayment, dated,, and served on the undersigned on,, and that the time within which you may file suit to enforce your claim is limited to 60 days from the date of service of this notice.

DATED on,

Signed: ... (Contractor or Attorney)...

The claim of any lienor upon whom the notice is served and who fails to institute a suit to enforce his or her claim against the payment bond within 60 days after service of the notice shall be extinguished automatically. The contractor or the contractor's attorney ~~clerk~~ shall serve mail a copy of the notice of contest to the lienor at the address shown in the notice of nonpayment or most recent amendment thereto and shall certify to such service on the face of the notice and record the notice. ~~Service is complete upon mailing.~~

(f) A ~~Any~~ lienor has a direct right of action on the bond against the surety. Any provision in a payment bond which further restricts ~~A bond must not contain any provisions restricting~~ the classes of persons who are protected by the

Amendment No. 1

1103 payment bond, which restricts thereby or the venue of any
1104 proceeding relating to such payment bond, which limits or
1105 expands the effective duration of the payment bond, or which
1106 adds conditions precedent to the enforcement of a claim against
1107 a payment bond beyond those provided in this part is
1108 unenforceable. The surety is not entitled to the defense of pro
1109 tanto discharge as against any lienor because of changes or
1110 modifications in the contract to which the surety is not a
1111 party; but the liability of the surety may not be increased
1112 beyond the penal sum of the bond. A lienor may not waive in
1113 advance his or her right to bring an action under the bond
1114 against the surety.

1115 (2) The bond shall secure every lien under the direct
1116 contract accruing subsequent to its execution and delivery,
1117 except that of the contractor. Every claim of lien, except that
1118 of the contractor, filed subsequent to execution and delivery of
1119 the bond shall be transferred to it with the same effect as
1120 liens transferred under s. 713.24. Record notice of the transfer
1121 shall be effected by the contractor, or any person having an
1122 interest in the property against which the claim of lien has
1123 been asserted, by recording in the clerk's office a notice, with
1124 the bond attached, in substantially the following form:

1125

1126 NOTICE OF BOND

1127

1128 To ... (Name and Address of Lienor) ...

1129

Amendment No. 1

1130 You are notified that the claim of lien filed by you on ,
1131 , and recorded in Official Records Book at page of
1132 the public records of County, Florida, is secured by a
1133 bond, a copy being attached.

1134
1135 Signed: . . . (Name of person recording notice) . . .

1136
1137 The notice shall be verified. The person recording the notice of
1138 bond clerk shall serve mail a copy of the notice with a copy of
1139 the bond to the lienor at the address shown in the claim of
1140 lien, or the most recent amendment to it; shall certify to the
1141 service on the face of the notice; and shall record the notice.
1142 ~~The clerk shall receive the same fee as prescribed in s.~~
1143 ~~713.24(1) for certifying to a transfer of lien.~~

1144 (4) The provisions of s. 713.24(3) ~~shall~~ apply to bonds
1145 under this section except when those provisions conflict with
1146 this section.

1147 Section 12. This act shall take effect October 1, 2012.

1148
1149
1150 -----

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

1151 Remove the entire title and insert:
1152
1153 An act relating to construction contracting; amending s. 95.11,
1154 F.S.; adding cross-reference; amending s. 255.05, F.S. ;
1155 requiring that the bond number be stated on the first page of
1156 the bond; providing that a public entity may not commence making
1157 payments to the contractor unless the public entity has received

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 897 (2012)

Amendment No. 1

1158 a certified copy of the bond; providing that a provision in a
1159 payment bond furnished for a public works contract that limits
1160 or expands the effective duration of the bond or adds conditions
1161 precedent is unenforceable; requiring a contractor, or the
1162 contractor's attorney, to serve rather than mail a notice of
1163 contest of claim against the payment bond; specifying the
1164 duration of the bond; providing that payment to a contractor who
1165 has furnished a payment bond on a public works project may not
1166 be conditioned upon production of certain documents if the
1167 surety has given written consent; providing for the surety to
1168 withhold or revoke consent; providing prerequisites for
1169 commencement of an action against a payment bond; creating s.
1170 255.0518, F.S.; requiring that the state, a county, a
1171 municipality, or any other public body or institution open
1172 sealed bids received in response to a competitive solicitation
1173 at a public meeting, announce the name of each bidder and the
1174 price submitted, and make available upon request the names of
1175 bidders and submitted prices; amending s. 489.118, F.S.;
1176 extending the date within which certain registered contractors
1177 may apply for certification; amending s. 713.10, F.S.; providing
1178 that a specified notice concerning a lessor's liability for
1179 liens for improvements made by the lessee prohibits liens even
1180 if other leases do not expressly prohibit liens or if certain
1181 other provisions are not identical; amending s. 713.13, F.S.;
1182 revising a notice form to clarify that the notice of
1183 commencement expires 1 year after the date of recording;
1184 removing a perjury clause; providing additional time for service
1185 when a notice of commencement is not recorded with a copy of the

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1186 bond attached; amending s. 713.132, F.S.; requiring notice of
1187 termination to be served on lienors in privity with the owner;
1188 amending s. 713.16, F.S.; revising requirements for demands for
1189 a copy of a construction contract and a statement of account;
1190 authorizing a lienor to make certain written demands to an owner
1191 for certain written statements; providing requirements for such
1192 written demands; amending s. 713.18, F.S.; providing additional
1193 methods by which certain items may be served; revising
1194 provisions relating to when service of specified items is
1195 effective; specifying requirements for certain written
1196 instruments under certain circumstances; amending s. 713.22,
1197 F.S.; requiring that the clerk serve rather than mail a notice
1198 of contest of lien; amending s. 713.23, F.S.; revising the
1199 contents of a notice to contractor; requiring that a contractor
1200 serve rather than mail a notice of contest of claim against the
1201 payment bond and a notice of bond; clarifying the attachment of
1202 the bond to the notice; providing that a provision in a payment
1203 bond that limits or expands the effective duration of the bond
1204 or adds conditions precedent is unenforceable; clarifying
1205 applicability of certain provisions; providing an effective
1206 date.

COMMITTEE MEETING REPORT

Judiciary Committee

2/16/2012 11:30:00AM

Location: 404 HOB

AMENDED

CS/HB 959 : Divestiture by the State Board of Administration

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	X				
Eric Eisnaugle	X				
Matt Gaetz	X				
Tom Goodson	X				
Bill Hager	X				
Gayle Harrell	X				
Shawn Harrison	X				
John Julien	X				
Charles McBurney	X				
Larry Metz			X		
Kathleen Passidomo	X				
Ray Pilon	X				
Ari Porth	X				
Elaine Schwartz	X				
Darren Soto	X				
Richard Steinberg	X				
Michael Weinstein	X				
William Snyder (Chair)	X				
Total Yeas: 17		Total Nays: 0			

Appearances:

CS/HB 959

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: Thursday, February 16, 2012 6:28:56PM

COMMITTEE MEETING REPORT

Judiciary Committee

2/16/2012 11:30:00AM

Location: 404 HOB

AMENDED

CS/HB 971 : Judiciary

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	X				
Eric Eisnaugle	X				
Matt Gaetz	X				
Tom Goodson	X				
Bill Hager	X				
Gayle Harrell	X				
Shawn Harrison	X				
John Julien	X				
Charles McBurney	X				
Larry Metz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Ari Porth		X			
Elaine Schwartz		X			
Darren Soto		X			
Richard Steinberg		X			
Michael Weinstein	X				
William Snyder (Chair)	X				
Total Yeas: 14		Total Nays: 4			

CS/HB 971 Amendments

Amendment 112677

Adopted Without Objection

Amendment 693159

Adopted Without Objection

Amendment 892881

Adopted Without Objection

Appearances:

CS/HB 971

Case, Chip (Lobbyist) - Waive In Support

Florida Justice Reform Institute

210 S Monroe St

Tallahassee FL 32301-1824

Phone: (850)544-2222

Committee meeting was reported out: Thursday, February 16, 2012 6:28:56PM

COMMITTEE MEETING REPORT

Judiciary Committee

2/16/2012 11:30:00AM

AMENDED

Location: 404 HOB

CS/HB 971 : Judiciary (continued)

Appearances: (continued)

CS/HB 971

Dunbar, Peter (Lobbyist) - Proponent
Conference of Circuit Judges of Florida
1351 NW 12th St
Miami FL 33125
Phone: (850)222-3533

CS/HB 971

Hart, David (Lobbyist) - Waive In Support
Executive Vice President, Florida Chamber
136 S Bronough
Tallahassee FL 32301
Phone: 850-521-1200

Copeland, Todd (General Public) - Opponent

Florida Justice Association
338 N Magnolia Avenue
Orlando FL 32801
Phone: 407-999-8995

Committee meeting was reported out: Thursday, February 16, 2012 6:28:56PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 971 (2012)

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
2-16-12*

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

Amendment (with title amendment)

Remove lines 30-46 and lines 106-510

9 -----
 10 **T I T L E A M E N D M E N T**

11 Remove the entire title and insert:

12 An act relating to the judiciary; amending s. 43.291, F.S.;

13 revising requirements for the appointment of members of judicial

14 nominating commissions; providing that, with the exception of

15 members selected from a list of nominees provided by the Board

16 of Governors of The Florida Bar, a current member of a judicial

17 nominating commission appointed by the Governor serves at the

18 pleasure of the Governor; providing for each expired term or

19 vacancy to be filled by appointment in the same manner as the

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 971 (2012)

Amendment No. 1

20 member whose position is being filled; deleting obsolete
21 provisions; deleting a requirement that the Executive Office of
22 the Governor establish uniform rules of procedure consistent
23 with the State Constitution when suspending for cause a member
24 of a judicial nominating commission; providing an effective
25 date.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 971 (2012)

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
2-16-12*

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

3
4 **Amendment (with title amendment)**

5 Between lines 510 and 511, insert:

6 Section 6. Subsection (7) is added to section 105.031,
7 Florida Statutes, to read:

8 105.031 Qualification; filing fee; candidate's oath; items
9 required to be filed.-

10 (7) Ten days after the close of filing, the Division of
11 Elections shall list the judicial offices in which an incumbent
12 circuit or county judge is unopposed, and shall determine the
13 total qualifying fees that were paid by those judges pursuant to
14 subsection (3). That sum shall be paid from the Elections
15 Commission Trust Fund to The Florida Bar Foundation to be used
16 by the foundation through the Law Student Assistance Grant
17 Program for scholarships to be awarded to promising female and
18 minority law students who attend a Florida law school and who
19 have expressed a desire to seek judicial office in the future.

Amendment No. 2

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

Remove line 25 and insert:

justices or judges as senior judges; amending s. 105.031, F.S.;
providing that filing fees and election assessments paid by
certain judges be used for law school scholarships; providing an

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 971 (2012)

Amendment No. 3

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
2-16-12*

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

Amendment (with title amendment)

Between lines 510 and 511, insert:

6 Section 6. Paragraph (b) of subsection (2) of section
7 440.45, Florida Statutes, is amended to read:

8 440.45 Office of the Judges of Compensation Claims.-
9 (2)

10 (b) Except as provided in paragraph (c), the Governor
11 shall appoint a judge of compensation claims from a list of
12 three persons nominated by the judicial ~~a statewide~~ nominating
13 commission for the First District Court of Appeal. ~~The statewide~~
14 ~~nominating commission shall be composed of the following:~~

15 ~~1. Five members, at least one of whom must be a member of~~
16 ~~a minority group as defined in s. 288.703, one of each who~~
17 ~~resides in each of the territorial jurisdictions of the district~~
18 ~~courts of appeal, appointed by the Board of Governors of The~~
19 ~~Florida Bar from among The Florida Bar members who are engaged~~

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 971 (2012)

Amendment No. 3

20 ~~in the practice of law. On July 1, 1999, the term of office of~~
21 ~~each person appointed by the Board of Governors of The Florida~~
22 ~~Bar to the commission expires. The Board of Governors shall~~
23 ~~appoint members who reside in the odd numbered district court of~~
24 ~~appeal jurisdictions to 4 year terms each, beginning July 1,~~
25 ~~1999, and members who reside in the even numbered district court~~
26 ~~of appeal jurisdictions to 2 year terms each, beginning July 1,~~
27 ~~1999. Thereafter, each member shall be appointed for a 4 year~~
28 ~~term;~~

29 ~~2. Five electors, at least one of whom must be a member of~~
30 ~~a minority group as defined in s. 288.703, one of each who~~
31 ~~resides in each of the territorial jurisdictions of the district~~
32 ~~courts of appeal, appointed by the Governor. On July 1, 1999,~~
33 ~~the term of office of each person appointed by the Governor to~~
34 ~~the commission expires. The Governor shall appoint members who~~
35 ~~reside in the odd numbered district court of appeal~~
36 ~~jurisdictions to 2 year terms each, beginning July 1, 1999, and~~
37 ~~members who reside in the even numbered district court of appeal~~
38 ~~jurisdictions to 4 year terms each, beginning July 1, 1999.~~
39 ~~Thereafter, each member shall be appointed for a 4 year term;~~
40 ~~and~~

41 ~~3. Five electors, at least one of whom must be a member of~~
42 ~~a minority group as defined in s. 288.703, one of each who~~
43 ~~resides in the territorial jurisdictions of the district courts~~
44 ~~of appeal, selected and appointed by a majority vote of the~~
45 ~~other 10 members of the commission. On October 1, 1999, the term~~
46 ~~of office of each person appointed to the commission by its~~
47 ~~other members expires. A majority of the other members of the~~

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Amendment No. 3

48 ~~commission shall appoint members who reside in the odd numbered~~
49 ~~district court of appeal jurisdictions to 2 year terms each,~~
50 ~~beginning October 1, 1999, and members who reside in the even-~~
51 ~~numbered district court of appeal jurisdictions to 4 year terms~~
52 ~~each, beginning October 1, 1999. Thereafter, each member shall~~
53 ~~be appointed for a 4 year term.~~

54
55 ~~A vacancy occurring on the commission shall be filled by the~~
56 ~~original appointing authority for the unexpired balance of the~~
57 ~~term. No attorney who appears before any judge of compensation~~
58 ~~claims more than four times a year is eligible to serve on the~~
59 ~~statewide nominating commission. The meetings and determinations~~
60 ~~of the nominating commission as to the judges of compensation~~
61 ~~claims shall be open to the public.~~

62

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

67

Remove line 25 and insert:

68

justices or judges as senior judges; amending s. 440.45, F.S.;
69 providing that the judicial nominating commission for the First
70 District Court of Appeal will nominate persons to the Office of
71 the Judges of Compensation Claims; deleting provisions creating
72 a nominating commission solely for the Office of the Judges of
73 Compensation Claims; providing an

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COMMITTEE MEETING REPORT

Judiciary Committee

2/16/2012 11:30:00AM

Location: 404 HOB

AMENDED

CS/HB 1013 : Residential Construction Warranties

	<input checked="" type="checkbox"/> Favorable	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell		X				
Eric Eisnaugle		X				
Matt Gaetz		X				
Tom Goodson		X				
Bill Hager		X				
Gayle Harrell		X				
Shawn Harrison		X				
John Julien		X				
Charles McBurney		X				
Larry Metz		X				
Kathleen Passidomo		X				
Ray Pilon		X				
Ari Porth		X				
Elaine Schwartz			X			
Darren Soto		X				
Richard Steinberg			X			
Michael Weinstein		X				
William Snyder (Chair)		X				
Total Yeas: 16			Total Nays: 2			

Appearances:

CS/HB 1013

Hetrick, Keith (Lobbyist) - Waive In Support
 Florida Home Builders Association
 201 E Park Ave
 Tallahassee FL 32301
 Phone: (850)224-4316

CS/HB 1013

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

CS/HB 1013

Dunbar, Peter (Lobbyist) - Opponent
 Real Property, Probate & Trust Law Section
 c/o The Florida Bar 651 E Jefferson St
 Tallahassee FL 32399
 Phone: (850)222-3533

Committee meeting was reported out: Thursday, February 16, 2012 6:28:56PM

COMMITTEE MEETING REPORT

Judiciary Committee

2/16/2012 11:30:00AM

AMENDED

Location: 404 HOB

CS/HB 1013 : Residential Construction Warranties (continued)

Appearances: (continued)

CS/HB 1013

Gentry, Richard (Lobbyist) - Waive In Support
Northeast Florida Homebuilders Association
2305 Braeburn Circle
Tallahassee FL 32309
Phone: 850-251-1837

CS/HB 1013

Ferguson, Diana (Lobbyist) - Waive In Opposition
Community Advocacy Network
119 S Monroe St
Tallahassee FL 32308
Phone: 850-681-6788

CS/HB 1013

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

CS/HB 1013

Hunter, William (Lobbyist) - Waive In Support
Association of Florida Community Developers, Inc
307 W Park Ave Ste 214
Tallahassee FL 32301-1422
Phone: (850)681-2176

CS/HB 1013

Reeves, Teye (Lobbyist) - Waive In Support
Florida Chamber of Commerce
136 S. Bronough Street
Tallahassee FL
Phone: 850-521-1235

CS/HB 1013

Linnan, Nancy (Lobbyist) - Waive In Support
Villages of Lake Sumter, Inc
1020 Lake Sumter Landing
The Villages FL 32162-2699
Phone: (850)224-1585

Committee meeting was reported out: Thursday, February 16, 2012 6:28:56PM

COMMITTEE MEETING REPORT

Judiciary Committee

2/16/2012 11:30:00AM

Location: 404 HOB

AMENDED

CS/HB 1099 : Stalking and Aggravated Stalking

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	X				
Eric Eisnaugle	X				
Matt Gaetz	X				
Tom Goodson	X				
Bill Hager	X				
Gayle Harrell	X				
Shawn Harrison	X				
John Julien	X				
Charles McBurney	X				
Larry Metz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Ari Porth	X				
Elaine Schwartz	X				
Darren Soto	X				
Richard Steinberg	X				
Michael Weinstein	X				
William Snyder (Chair)	X				
Total Yeas: 18		Total Nays: 0			

CS/HB 1099 Amendments

Amendment 416577

Adopted Without Objection

Appearances:

CS/HB 1099

Poore, Terri (Lobbyist) - Waive In Support

Director of Public Affairs, Florida Council Against Sexual Violence

1820 East Park Avenue Suite 100

Tallahassee FL 32301

Phone: 850-363-2918

CS/HB 1099

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: Thursday, February 16, 2012 6:28:56PM

COMMITTEE MEETING REPORT

Judiciary Committee

2/16/2012 11:30:00AM

Location: 404 HOB

AMENDED

CS/HB 1099 : Stalking and Aggravated Stalking (continued)

Appearances: (continued)

CS/HB 1099

Perko, Ann (Lobbyist) - Waive In Support

Senior Staff Attorney, Florida Legal Services Inc.

2425 Torreya Dr.

Tallahassee FL 32303

Phone: (850) 358-7900

Committee meeting was reported out: Thursday, February 16, 2012 6:28:56PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1099 (2012)

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
2.16.12*

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

3
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Subsection (2) of section 741.315, Florida
7 Statutes, is amended to read:

8 741.315 Recognition of foreign protection orders.—

9 (2) Pursuant to 18 U.S.C. s. 2265, an injunction for
10 protection against domestic violence issued by a court of a
11 foreign state must be accorded full faith and credit by the
12 courts of this state and enforced by a law enforcement agency as
13 if it were the order of a Florida court issued under s. 741.30,
14 s. 741.31, s. 784.046, ~~or~~ s. 784.047, 784.0485, or 784.0487 and
15 provided that the court had jurisdiction over the parties and
16 the matter and that reasonable notice and opportunity to be
17 heard was given to the person against whom the order is sought
18 sufficient to protect that person's right to due process. Ex
19 parte foreign injunctions for protection are not eligible for

Amendment No. 1

20 enforcement under this section unless notice and opportunity to
21 be heard have been provided within the time required by the
22 foreign state or tribal law, and in any event within a
23 reasonable time after the order is issued, sufficient to protect
24 the respondent's due process rights.

25 Section 2. Section 784.048, Florida Statutes, is amended to
26 read:

27 784.048 Stalking; definitions; penalties.—

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

29 . (a) "Harass" means to engage in a course of conduct
30 directed at a specific person which ~~that~~ causes substantial
31 emotional distress to that ~~in such~~ person and serves no
32 legitimate purpose.

33 (b) "Course of conduct" means a pattern of conduct
34 composed of a series of acts over a period of time, however
35 short, which evidences ~~evidencing~~ a continuity of purpose. The
36 term does not include constitutionally protected activity such
37 as is not included within the meaning of "course of conduct."
38 ~~Such constitutionally protected activity includes~~ picketing or
39 other organized protests.

40 (c) "Credible threat" means a verbal or nonverbal threat,
41 or a combination of the two, including threats delivered by
42 electronic communication or implied by a pattern of conduct,
43 which places the person who is the target of the threat in
44 reasonable fear for his or her safety or the safety of his or
45 her family members or individuals closely associated with the
46 person, and which is made with the apparent ability to carry out
47 the threat to cause such harm. It is not necessary to prove that

Amendment No. 1

48 the person making the threat had the intent to actually carry
49 out the threat. The present incarceration of the person making
50 the threat is not a bar to prosecution under this section ~~made~~
51 ~~with the intent to cause the person who is the target of the~~
52 ~~threat to reasonably fear for his or her safety. The threat must~~
53 ~~be against the life of, or a threat to cause bodily injury to, a~~
54 ~~person.~~

55 (d) "Cyberstalk" means to engage in a course of conduct to
56 communicate, or to cause to be communicated, words, images, or
57 language by or through the use of electronic mail or electronic
58 communication, directed at a specific person, causing
59 substantial emotional distress to that person and serving no
60 legitimate purpose.

61 (2) A ~~Any~~ person who willfully, maliciously, and
62 repeatedly follows, harasses, or cyberstalks another person
63 commits the offense of stalking, a misdemeanor of the first
64 degree, punishable as provided in s. 775.082 or s. 775.083.

65 (3) A ~~Any~~ person who willfully, maliciously, and
66 repeatedly follows, harasses, or cyberstalks another person, and
67 makes a credible threat to that person ~~with the intent to place~~
68 ~~that person in reasonable fear of death or bodily injury of the~~
69 ~~person, or the person's child, sibling, spouse, parent, or~~
70 ~~dependent,~~ commits the offense of aggravated stalking, a felony
71 of the third degree, punishable as provided in s. 775.082, s.
72 775.083, or s. 775.084.

73 (4) A ~~Any~~ person who, after an injunction for protection
74 against repeat violence, sexual violence, or dating violence
75 pursuant to s. 784.046, or an injunction for protection against

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1099 (2012)

Amendment No. 1

76 domestic violence pursuant to s. 741.30, or after any other
77 court-imposed prohibition of conduct toward the subject person
78 or that person's property, knowingly, willfully, maliciously,
79 and repeatedly follows, harasses, or cyberstalks another person
80 commits the offense of aggravated stalking, a felony of the
81 third degree, punishable as provided in s. 775.082, s. 775.083,
82 or s. 775.084.

83 (5) A ~~Any~~ person who willfully, maliciously, and
84 repeatedly follows, harasses, or cyberstalks a child ~~minor~~ under
85 16 years of age commits the offense of aggravated stalking, a
86 felony of the third degree, punishable as provided in s.
87 775.082, s. 775.083, or s. 775.084.

88 (6) A ~~Any~~ law enforcement officer may arrest, without a
89 warrant, any person that he or she has probable cause to believe
90 has violated ~~the provisions of~~ this section.

91 (7) A ~~Any~~ person who, after having been sentenced for a
92 violation of s. 794.011, s. 800.04, or s. 847.0135(5) and
93 prohibited from contacting the victim of the offense under s.
94 921.244, willfully, maliciously, and repeatedly follows,
95 harasses, or cyberstalks the victim commits the offense of
96 aggravated stalking, a felony of the third degree, punishable as
97 provided in s. 775.082, s. 775.083, or s. 775.084.

98 (8) The punishment imposed under this section shall run
99 consecutive to any former sentence imposed for a conviction for
100 any offense under s. 794.011, s. 800.04, or s. 847.0135(5).

101 (9) (a) The sentencing court shall consider, as a part of
102 any sentence, issuing an order restraining the defendant from
103 any contact with the victim, which may be valid for up to 10

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104 years, as determined by the court. It is the intent of the
105 Legislature that the length of any such order be based upon the
106 seriousness of the facts before the court, the probability of
107 future violations by the perpetrator, and the safety of the
108 victim and his or her family members or individuals closely
109 associated with the victim.

110 (b) The order may be issued by the court even if the
111 defendant is sentenced to a state prison or a county jail or
112 even if the imposition of the sentence is suspended and the
113 defendant is placed on probation.

114 Section 3. Section 784.0485, Florida Statutes, is created
115 to read:

116 784.0485 Stalking; injunction; powers and duties of court
117 and clerk; petition; notice and hearing; temporary injunction;
118 issuance of injunction; statewide verification system;
119 enforcement.-

120 (1) There is created a cause of action for an injunction
121 for protection against stalking. For the purposes of injunctions
122 for protection against stalking under this section, the offense
123 of stalking shall include the offense of cyberstalking.

124 (a) A person who is the victim of stalking or the parent
125 or legal guardian of a minor child who is living at home who
126 seeks an injunction for protection against stalking on behalf of
127 the minor child has standing in the circuit court to file a
128 sworn petition for an injunction for protection against
129 stalking.

130 (b) The cause of action for an injunction for protection
131 may be sought regardless of whether any other cause of action is

Amendment No. 1

132 currently pending between the parties. However, the pendency of
133 any such cause of action shall be alleged in the petition.

134 (c) The cause of action for an injunction may be sought by
135 any affected person.

136 (d) The cause of action for an injunction does not require
137 either party to be represented by an attorney.

138 (e) The court may not issue mutual orders of protection;
139 however, the court is not precluded from issuing separate
140 injunctions for protection against stalking if each party has
141 complied with this section. Compliance with this section may not
142 be waived.

143 (f) Notwithstanding chapter 47, a petition for an
144 injunction for protection against stalking may be filed in the
145 circuit where the petitioner currently or temporarily resides,
146 where the respondent resides, or where the stalking occurred.
147 There is no minimum requirement of residency to petition for an
148 injunction for protection.

149 (2)(a) Notwithstanding any other law, the clerk of court
150 may not assess a filing fee to file a petition for protection
151 against stalking. However, subject to legislative appropriation,
152 the clerk of the circuit court may, on a quarterly basis, submit
153 to the Office of the State Courts Administrator a certified
154 request for reimbursement for petitions for protection against
155 stalking issued by the court, at the rate of \$40 per petition.
156 The request for reimbursement shall be submitted in the form and
157 manner prescribed by the Office of the State Courts
158 Administrator. From this reimbursement, the clerk shall pay any
159 law enforcement agency serving the injunction the fee requested

Amendment No. 1

160 by the law enforcement agency; however, this fee may not exceed
161 \$20.

162 (b) A bond is not required by the court for the entry of
163 an injunction.

164 (c)1. The clerk of the court shall assist petitioners in
165 seeking both injunctions for protection against stalking and
166 enforcement of a violation thereof as specified in this section.

167 2. All offices of the clerk of the court shall provide
168 simplified petition forms for the injunction and any
169 modifications to and the enforcement thereof, including
170 instructions for completion.

171 3. The clerk of the court shall ensure the petitioner's
172 privacy to the extent practicable while completing the forms for
173 an injunction for protection against stalking.

174 4. The clerk of the court shall provide a petitioner with
175 a minimum of two certified copies of the order of injunction,
176 one of which is serviceable and will inform the petitioner of
177 the process for service and enforcement.

178 5. The clerk of the court and appropriate staff in each
179 county shall receive training in the effective assistance of
180 petitioners as provided or approved by the Florida Association
181 of Court Clerks.

182 6. The clerk of the court in each county shall make
183 available informational brochures on stalking when such a
184 brochure is provided by the local certified domestic violence
185 center or certified rape crisis center.

186 7. The clerk of the court in each county shall distribute
187 a statewide uniform informational brochure to petitioners at the

Amendment No. 1

188 time of filing for an injunction for protection against stalking
189 when such brochures become available. The brochure must include
190 information about the effect of giving the court false
191 information.

192 (3) (a) The sworn petition shall allege the existence of
193 such stalking and shall include the specific facts and
194 circumstances for which relief is sought.

195 (b) The sworn petition shall be in substantially the
196 following form:

197
198 PETITION FOR INJUNCTION FOR PROTECTION AGAINST STALKING

199
200 Before me, the undersigned authority, personally appeared
201 Petitioner....(Name)...., who has been sworn and says that
202 the following statements are true:

203
204 1. Petitioner resides at:....(address)....

205 (Petitioner may furnish the address to the court in a
206 separate confidential filing if, for safety reasons,
207 the petitioner requires the location of the current
208 residence to be confidential.)

209 2. Respondent resides at:....(last known address)....

210 3. Respondent's last known place of employment:....(name
211 of business and address)....

212 4. Physical description of respondent:....

213 5. Race....

214 6. Sex....

215 7. Date of birth....

Amendment No. 1

216 8. Height....

217 9. Weight....

218 10. Eye color....

219 11. Hair color....

220 12. Distinguishing marks or scars....

221 13. Aliases of respondent:....

222
223 (c) The petitioner shall describe any other cause of
224 action currently pending between the petitioner and respondent.
225 The petitioner shall also describe any previous attempt by the
226 petitioner to obtain an injunction for protection against
227 stalking in this or any other circuit, and the result of that
228 attempt. (Case numbers should be included, if available.)

229 (d) The petition must provide space for the petitioner to
230 specifically allege that he or she is a victim of stalking
231 because respondent has:

232
233 (Mark all sections that apply and describe in the spaces below
234 the incidents of stalking specifying when and where they
235 occurred, including, but not limited to, locations such as a
236 home, school, or place of employment.)

237
238 Committed stalking.

239 Previously threatened, harassed, stalked,
240 cyberstalked, or physically abused the petitioner.

241 Threatened to harm the petitioner or family members or
242 individuals closely associated with the petitioner.

243 Intentionally injured or killed a family pet.

COMMITTEE/SUBCOMMITTEE AMENDMENT

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Amendment No. 1

244 Used, or has threatened to use, against the petitioner
245 any weapons such as guns or knives.

246 A criminal history involving violence or the threat of
247 violence (if known).

248 Another order of protection issued against him or her
249 previously or from another jurisdiction, if known.

250 Destroyed personal property, including, but not
251 limited to, telephones or other communication equipment,
252 clothing, or other items belonging to the petitioner.

253 (e) The petitioner seeks an injunction: (Mark appropriate
254 section or sections.)

255 Immediately restraining the respondent from committing
256 any acts of stalking.

257 Restraining the respondent from committing any acts of
258 stalking.

259 Providing any terms the court deems necessary for the
260 protection of a victim of stalking, including any injunctions or
261 directives to law enforcement agencies.

262 (f) Every petition for an injunction against stalking must
263 contain, directly above the signature line, a statement in all
264 capital letters and bold type not smaller than the surrounding
265 text, as follows:

266
267 I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND
268 EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT
269 THE STATEMENTS MADE IN THIS PETITION ARE BEING MADE
270 UNDER PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN
271 SECTION 837.02, FLORIDA STATUTES.

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Amendment No. 1

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....(initials)....

(4) Upon the filing of the petition, the court shall set a hearing to be held at the earliest possible time. The respondent shall be personally served with a copy of the petition, notice of hearing, and temporary injunction, if any, before the hearing.

(5)(a) If it appears to the court that stalking exists, the court may grant a temporary injunction ex parte, pending a full hearing, and may grant such relief as the court deems proper, including an injunction restraining the respondent from committing any act of stalking.

(b) In a hearing ex parte for the purpose of obtaining such ex parte temporary injunction, evidence other than verified pleadings or affidavits may not be used as evidence, unless the respondent appears at the hearing or has received reasonable notice of the hearing. A denial of a petition for an ex parte injunction shall be by written order noting the legal grounds for denial. If the only ground for denial is no appearance of an immediate and present danger of stalking, the court shall set a full hearing on the petition for injunction with notice at the earliest possible time. This paragraph does not affect a petitioner's right to promptly amend any petition, or otherwise be heard in person on any petition consistent with the Florida Rules of Civil Procedure.

(c) Any such ex parte temporary injunction is effective for a fixed period not to exceed 15 days. A full hearing, as

COMMITTEE/SUBCOMMITTEE AMENDMENT

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Amendment No. 1

300 provided in this section, shall be set for a date no later than
301 the date when the temporary injunction ceases to be effective.
302 The court may grant a continuance of the hearing before or
303 during a hearing for good cause shown by any party, which shall
304 include a continuance to obtain service of process. An
305 injunction shall be extended if necessary to remain in full
306 force and effect during any period of continuance.

307 (6)(a) Upon notice and hearing, when it appears to the
308 court that the petitioner is the victim of stalking, the court
309 may grant such relief as the court deems proper, including an
310 injunction:

311 1. Restraining the respondent from committing any act of
312 stalking.

313 2. Ordering the respondent to participate in treatment,
314 intervention, or counseling services to be paid for by the
315 respondent.

316 3. Referring a petitioner to appropriate services. The
317 court may provide the petitioner with a list of certified
318 domestic violence centers, certified rape crisis centers, and
319 other appropriate referrals in the circuit which the petitioner
320 may contact.

321 4. Ordering such other relief as the court deems necessary
322 for the protection of a victim of stalking, including
323 injunctions or directives to law enforcement agencies, as
324 provided in this section.

325 (b) The terms of an injunction restraining the respondent
326 under subparagraph (a)1. or ordering other relief for the
327 protection of the victim under subparagraph (a)4. shall remain

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328 in effect until modified or dissolved. Either party may move at
329 any time to modify or dissolve the injunction. Specific
330 allegations are not required. Such relief may be granted in
331 addition to other civil or criminal remedies.

332 (c) A temporary or final judgment on injunction for
333 protection against stalking entered pursuant to this section
334 shall, on its face, indicate that:

335 1. The injunction is valid and enforceable in all counties
336 of this state.

337 2. Law enforcement officers may use their arrest powers
338 pursuant to s. 901.15(6) to enforce the terms of the injunction.

339 3. The court has jurisdiction over the parties and matter
340 under the laws of this state and that reasonable notice and
341 opportunity to be heard was given to the person against whom the
342 order is sought sufficient to protect that person's right to due
343 process.

344 4. The date that the respondent was served with the
345 temporary or final order, if obtainable.

346 (d) The fact that a separate order of protection is
347 granted to each opposing party is not legally sufficient to deny
348 any remedy to either party or to prove that the parties are
349 equally at fault or equally endangered.

350 (e) A final judgment on an injunction for protection
351 against stalking entered pursuant to this section must, on its
352 face, provide that it is a violation of s. 790.233 and a
353 misdemeanor of the first degree for the respondent to have in
354 his or her care, custody, possession, or control any firearm or
355 ammunition.

Amendment No. 1

356 (f) All proceedings under this subsection shall be
357 recorded. Recording may be by electronic means as provided by
358 the Rules of Judicial Administration.

359 (7) The court shall allow an advocate from a state
360 attorney's office, a law enforcement agency, a certified rape
361 crisis center, or a certified domestic violence center who is
362 registered under s. 39.905 to be present with the petitioner or
363 respondent during any court proceedings or hearings related to
364 the injunction for protection if the petitioner or respondent
365 has made such a request and the advocate is able to be present.

366 (8)(a)1. The clerk of the court shall furnish a copy of
367 the petition, notice of hearing, and temporary injunction, if
368 any, to the sheriff or a law enforcement agency of the county
369 where the respondent resides or can be found, who shall serve it
370 upon the respondent as soon thereafter as possible on any day of
371 the week and at any time of the day or night. When requested by
372 the sheriff, the clerk of the court may transmit a facsimile
373 copy of an injunction that has been certified by the clerk of
374 the court, and this facsimile copy may be served in the same
375 manner as a certified copy. Upon receiving a facsimile copy, the
376 sheriff must verify receipt with the sender before attempting to
377 serve it on the respondent. In addition, if the sheriff is in
378 possession of an injunction for protection which has been
379 certified by the clerk of the court, the sheriff may transmit a
380 facsimile copy of that injunction to a law enforcement officer
381 who shall serve it in the same manner as a certified copy. The
382 clerk of the court shall furnish to the sheriff such information
383 concerning the respondent's physical description and location as

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Published On: 2/15/2012 7:10:33 PM

Amendment No. 1

384 is required by the Department of Law Enforcement to comply with
385 the verification procedures set forth in this section.

386 Notwithstanding any other law, the chief judge of each circuit,
387 in consultation with the appropriate sheriff, may authorize a
388 law enforcement agency within the jurisdiction to effect
389 service. A law enforcement agency serving injunctions pursuant
390 to this section shall use service and verification procedures
391 consistent with those of the sheriff.

392 2. If an injunction is issued and the petitioner requests
393 the assistance of a law enforcement agency, the court may order
394 that an officer from the appropriate law enforcement agency
395 accompany the petitioner to assist in the execution or service
396 of the injunction. A law enforcement officer shall accept a copy
397 of an injunction for protection against stalking, certified by
398 the clerk of the court, from the petitioner and immediately
399 serve it upon a respondent who has been located but not yet
400 served.

401 3. An order issued, changed, continued, extended, or
402 vacated subsequent to the original service of documents
403 enumerated under subparagraph 1. shall be certified by the clerk
404 of the court and delivered to the parties at the time of the
405 entry of the order. The parties may acknowledge receipt of such
406 order in writing on the face of the original order. If a party
407 fails or refuses to acknowledge the receipt of a certified copy
408 of an order, the clerk shall note on the original order that
409 service was effected. If delivery at the hearing is not
410 possible, the clerk shall mail certified copies of the order to
411 the parties at the last known address of each party. Service by

Amendment No. 1

412 mail is complete upon mailing. When an order is served pursuant
413 to this subsection, the clerk shall prepare a written
414 certification to be placed in the court file specifying the
415 time, date, and method of service and shall notify the sheriff.

416 4. If the respondent has been served previously with a
417 temporary injunction and has failed to appear at the initial
418 hearing on the temporary injunction, any subsequent petition for
419 injunction seeking an extension of time may be served on the
420 respondent by the clerk of the court by certified mail in lieu
421 of personal service by a law enforcement officer.

422 (b)1. Within 24 hours after the court issues an injunction
423 for protection against stalking or changes, continues, extends,
424 or vacates an injunction for protection against stalking, the
425 clerk of the court must forward a certified copy of the
426 injunction for service to the sheriff having jurisdiction over
427 the residence of the petitioner. The injunction must be served
428 in accordance with this subsection.

429 2. Within 24 hours after service of process of an
430 injunction for protection against stalking upon a respondent,
431 the law enforcement officer must forward the written proof of
432 service of process to the sheriff having jurisdiction over the
433 residence of the petitioner.

434 3. Within 24 hours after the sheriff receives a certified
435 copy of the injunction for protection against stalking, the
436 sheriff must make information relating to the injunction
437 available to other law enforcement agencies by electronically
438 transmitting such information to the Department of Law
439 Enforcement.

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440 4. Within 24 hours after the sheriff or other law
441 enforcement officer has made service upon the respondent and the
442 sheriff has been so notified, the sheriff must make information
443 relating to the service available to other law enforcement
444 agencies by electronically transmitting such information to the
445 Department of Law Enforcement.

446 5. Within 24 hours after an injunction for protection
447 against stalking is vacated, terminated, or otherwise rendered
448 no longer effective by ruling of the court, the clerk of the
449 court must notify the sheriff receiving original notification of
450 the injunction as provided in subparagraph 2. That agency shall,
451 within 24 hours after receiving such notification from the clerk
452 of the court, notify the Department of Law Enforcement of such
453 action of the court.

454 (9) (a) The court may enforce a violation of an injunction
455 for protection against stalking through a civil or criminal
456 contempt proceeding, or the state attorney may prosecute it as a
457 criminal violation under s. 784.0487. Any assessments or fines
458 ordered by the court enforcing such an injunction shall be
459 collected by the clerk of the court and transferred on a monthly
460 basis to the State Treasury for deposit into the Domestic
461 Violence Trust Fund.

462 (b) If the respondent is arrested by a law enforcement
463 officer under s. 901.15(6) or for a violation of s. 784.0487,
464 the respondent shall be held in custody until brought before the
465 court as expeditiously as possible for the purpose of enforcing
466 the injunction and for admittance to bail in accordance with
467 chapter 903 and the applicable rules of criminal procedure,

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Published On: 2/15/2012 7:10:33 PM

Amendment No. 1

468 pending a hearing.

469 (10) The petitioner or the respondent may move the court
470 to modify or dissolve an injunction at any time.

471 Section 4. Section 784.0487, Florida Statutes, is created
472 to read:

473 784.0487 Violation of an injunction for protection against
474 stalking or cyberstalking.—

475 (1) If the injunction for protection against stalking or
476 cyberstalking has been violated and the respondent has not been
477 arrested, the petitioner may contact the clerk of the circuit
478 court of the county in which the violation is alleged to have
479 occurred. The clerk shall assist the petitioner in preparing an
480 affidavit in support of reporting the violation or directing the
481 petitioner to the office operated by the court that has been
482 designated by the chief judge of that circuit as the central
483 intake point for violations of injunctions for protection where
484 the petitioner can receive assistance in the preparation of the
485 affidavit in support of the violation.

486 (2) The affidavit shall be immediately forwarded by the
487 office assisting the petitioner to the state attorney of that
488 circuit and to such judge as the chief judge determines to be
489 the recipient of affidavits of violations of an injunction. If
490 the affidavit alleges that a crime has been committed, the
491 office assisting the petitioner shall also forward a copy of the
492 petitioner's affidavit to the appropriate law enforcement agency
493 for investigation. No later than 20 days after receiving the
494 initial report, the local law enforcement agency shall complete
495 its investigation and forward a report to the state attorney.

Amendment No. 1

496 The policy adopted by the state attorney in each circuit under
497 s. 741.2901(2) shall include a policy regarding intake of
498 alleged violations of injunctions for protection against
499 stalking or cyberstalking under this section. The intake shall
500 be supervised by a state attorney who has been designated and
501 assigned to handle stalking or cyberstalking cases. The state
502 attorney shall determine within 30 working days whether his or
503 her office will file criminal charges or prepare a motion for an
504 order to show cause as to why the respondent should not be held
505 in criminal contempt, or prepare both as alternative findings,
506 or file notice that the case remains under investigation or is
507 pending subject to some other action.

508 (3) If the court has knowledge that the petitioner or
509 another person is in immediate danger if the court does not act
510 before the decision of the state attorney to proceed, the court
511 shall immediately issue an order of appointment of the state
512 attorney to file a motion for an order to show cause as to why
513 the respondent should not be held in contempt. If the court does
514 not issue an order of appointment of the state attorney, it
515 shall immediately notify the state attorney that the court is
516 proceeding to enforce the violation through criminal contempt.

517 (4) A person who willfully violates an injunction for
518 protection against stalking or cyberstalking issued pursuant to
519 s. 784.0485, or a foreign protection order accorded full faith
520 and credit pursuant to s. 741.315, by:

521 (a) Going to, or being within 500 feet of, the
522 petitioner's residence, school, place of employment, or a
523 specified place frequented regularly by the petitioner and any

Amendment No. 1

524 named family members or individuals closely associated with the
525 petitioner;

526 (b) Committing an act of stalking against the petitioner;

527 (c) Committing any other violation of the injunction

528 through an intentional unlawful threat, word, or act to do

529 violence to the petitioner;

530 (d) Telephoning, contacting, or otherwise communicating

531 with the petitioner, directly or indirectly, unless the

532 injunction specifically allows indirect contact through a third

533 party;

534 (e) Knowingly and intentionally coming within 100 feet of

535 the petitioner's motor vehicle, whether or not that vehicle is

536 occupied;

537 (f) Defacing or destroying the petitioner's personal

538 property, including the petitioner's motor vehicle; or

539 (g) Refusing to surrender firearms or ammunition if

540 ordered to do so by the court,

541

542 commits a misdemeanor of the first degree, punishable as

543 provided in s. 775.082 or s. 775.083.

544 (5) A person who suffers an injury or loss as a result of

545 a violation of an injunction for protection against stalking or

546 cyberstalking may be awarded economic damages for that injury or

547 loss by the court issuing the injunction. Damages includes costs

548 and attorney fees for enforcement of the injunction.

549 Section 5. Section 790.233, Florida Statutes, is amended

550 to read:

Amendment No. 1

551 790.233 Possession of firearm or ammunition prohibited
552 when person is subject to an injunction against committing acts
553 of domestic violence, stalking, or cyberstalking; penalties.-

554 (1) A person may not have in his or her care, custody,
555 possession, or control any firearm or ammunition if the person
556 has been issued a final injunction that is currently in force
557 and effect, restraining that person from committing acts of
558 domestic violence, as and that has been issued under s. 741.30
559 or from committing acts of stalking or cyberstalking, as issued
560 under s. 784.0485.

561 (2) A person who violates subsection (1) commits a
562 misdemeanor of the first degree, punishable as provided in s.
563 775.082 or s. 775.083.

564 (3) It is the intent of the Legislature that the
565 disabilities regarding possession of firearms and ammunition are
566 consistent with federal law. Accordingly, this section shall not
567 apply to a state or local officer as defined in s. 943.10(14),
568 holding an active certification, who receives or possesses a
569 firearm or ammunition for use in performing official duties on
570 behalf of the officer's employing agency, unless otherwise
571 prohibited by the employing agency.

572 Section 6. This act shall take effect October 1, 2012.

573
574

575 -----

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

577 Remove the entire title and insert:

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1099 (2012)

Amendment No. 1

578 An act relating to stalking; amending s. 741.315, F.S.;
579 providing injunctions issued by a court of a foreign state be
580 accorded full faith and credit by the courts of this state and
581 enforced as if it were an order issued under s. 784.0485 or s.
582 784.0487, F.S.; amending s. 784.048, F.S.; redefining the terms
583 "course of conduct" and "credible threat"; providing that a
584 person who makes a threat which places another person in
585 reasonable fear for his or her safety or the safety of his or
586 her family members or individuals closely associated with the
587 person commits the offense of aggravated stalking under certain
588 circumstances; requiring that the sentencing court consider
589 issuing an order restraining a defendant from any contact with
590 the victim for up to 10 years; providing legislative intent
591 regarding the length of any such restraining order; creating s.
592 784.0485, F.S.; creating a civil cause of action for an
593 injunction for protection against stalking or cyberstalking;
594 providing that the victim of stalking or cyberstalking or the
595 parent or legal guardian on behalf of a minor child victim has
596 standing in the circuit court to file a sworn petition for an
597 injunction for protection against stalking or cyberstalking;
598 prohibiting a court from issuing mutual orders of protection,
599 but authorizing the court to issue a separate injunction for
600 protection against stalking or cyberstalking if each party has
601 complied with the provisions of law; providing for venue of the
602 cause of action; prohibiting the clerk of the court from
603 assessing a filing fee; providing an exception; providing that a
604 petitioner is not required to post a bond; requiring the clerks
605 of court to assist petitioners in filing petitions with the

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1099 (2012)

Amendment No. 1

606 court; requiring the clerk of the court in each county to make
607 available informational brochures; providing a sample petition
608 for an injunction for protection against stalking or
609 cyberstalking; authorizing the court to grant a temporary
610 injunction ex parte, pending a full hearing, under certain
611 circumstances; authorizing the court to grant such relief as the
612 court deems necessary and proper; providing procedures for an ex
613 parte injunction hearing; setting forth the criteria the court
614 must consider at the hearing; requiring the court to allow an
615 advocate from a state attorney's office, law enforcement agency,
616 certified domestic violence center, or certified rape crisis
617 center to be present with the petitioner or respondent during
618 any court proceeding; requiring the clerk of the court to
619 furnish a copy of the petition, notice of hearing, and temporary
620 injunction, if any, to the sheriff or a law enforcement agency
621 of the county where the respondent resides or can be found, who
622 shall serve it upon the respondent as soon thereafter as
623 possible on any day of the week and at any time of the day or
624 night; authorizing the court to order a law enforcement officer
625 to accompany the petitioner; authorizing the court to enforce a
626 violation of an injunction for protection against stalking or
627 cyberstalking through a civil or criminal contempt proceeding;
628 authorizing a state attorney to use criminal procedures for a
629 violation of an injunction for protection; creating s. 784.0487,
630 F.S.; providing procedures to follow when the respondent has
631 violated the injunction for protection; providing legislative
632 intent; providing criminal penalties; providing that a court may
633 award a person who suffers an injury or loss as a result of a

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Published On: 2/15/2012 7:10:33 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1099 (2012)

Amendment No. 1

634 violation of an injunction for protection against stalking or
635 cyberstalking economic damages for that injury or loss,
636 including costs and attorney fees for enforcement of the
637 injunction; amending s. 790.233, F.S.; providing that a person
638 may not have in his or her possession any firearm or ammunition
639 if a final injunction is currently in force to restrain that
640 person from committing acts of stalking or cyberstalking;
641 providing an effective date.

COMMITTEE MEETING REPORT

Judiciary Committee

2/16/2012 11:30:00AM

Location: 404 HOB

AMENDED

CS/CS/HB 1443 : Local Administrative Action to Abate Public Nuisances and Criminal Gang Activity

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	X				
Eric Eisnaugle			X		
Matt Gaetz	X				
Tom Goodson	X				
Bill Hager	X				
Gayle Harrell	X				
Shawn Harrison	X				
John Julien	X				
Charles McBurney	X				
Larry Metz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Ari Porth	X				
Elaine Schwartz			X		
Darren Soto	X				
Richard Steinberg	X				
Michael Weinstein	X				
William Snyder (Chair)	X				
Total Yeas: 16		Total Nays: 0			

Appearances:

CS/CS/HB 1443

Finley, Wayne (Lobbyist) - Waive In Support

Legislative Advocate, Mayor's Office, City of St. Petersburg

P O Box 2842

St. Petersburg FL 33731

Phone: 813-767-5503

Committee meeting was reported out: Thursday, February 16, 2012 6:28:56PM

COMMITTEE MEETING REPORT

Judiciary Committee

2/16/2012 11:30:00AM

Location: 404 HOB

AMENDED

HB 4125 : Judges

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Daphne Campbell	X				
Eric Eisnaugle	X				
Matt Gaetz	X				
Tom Goodson	X				
Bill Hager	X				
Gayle Harrell	X				
Shawn Harrison			X		
John Julien	X				
Charles McBurney	X				
Larry Metz			X		
Kathleen Passidomo	X				
Ray Pilon	X				
Ari Porth	X				
Elaine Schwartz	X				
Darren Soto	X				
Richard Steinberg	X				
Michael Weinstein	X				
William Snyder (Chair)	X				
Total Yeas: 16		Total Nays: 0			

Appearances:

HB 4125

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: Thursday, February 16, 2012 6:28:56PM

COMMITTEE MEETING REPORT

Judiciary Committee

2/16/2012 11:30:00AM

Location: 404 HOB

AMENDED

HB 4155 : Declaratory Judgments

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Daphne Campbell	X				
Eric Eisnaugle	X				
Matt Gaetz	X				
Tom Goodson	X				
Bill Hager	X				
Gayle Harrell	X				
Shawn Harrison			X		
John Julien	X				
Charles McBurney	X				
Larry Metz			X		
Kathleen Passidomo	X				
Ray Pilon	X				
Ari Porth	X				
Elaine Schwartz	X				
Darren Soto	X				
Richard Steinberg	X				
Michael Weinstein	X				
William Snyder (Chair)	X				
Total Yeas: 16					
		Total Nays: 0			

Appearances:

HB 4155

Pitts, Brian - Waive In Support

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: 727-897-9291

COMMITTEE MEETING REPORT

Judiciary Committee

2/16/2012 11:30:00AM

Location: 404 HOB

AMENDED

HB 4157 : District Courts of Appeal

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Daphne Campbell	X				
Eric Eisnaugle	X				
Matt Gaetz	X				
Tom Goodson	X				
Bill Hager	X				
Gayle Harrell	X				
Shawn Harrison			X		
John Julien	X				
Charles McBurney	X				
Larry Metz			X		
Kathleen Passidomo	X				
Ray Pilon	X				
Ari Porth	X				
Elaine Schwartz	X				
Darren Soto	X				
Richard Steinberg	X				
Michael Weinstein	X				
William Snyder (Chair)	X				
Total Yeas: 16		Total Nays: 0			

Committee meeting was reported out: Thursday, February 16, 2012 6:28:56PM

COMMITTEE MEETING REPORT

Judiciary Committee

2/16/2012 11:30:00AM

Location: 404 HOB

AMENDED

PCB JDC 12-03 : Legislative Immunity

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Daphne Campbell		X			
Eric Eisnaugle	X				
Matt Gaetz	X				
Tom Goodson	X				
Bill Hager	X				
Gayle Harrell	X				
Shawn Harrison	X				
John Julien	X				
Charles McBurney	X				
Larry Metz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Ari Porth		X			
Elaine Schwartz		X			
Darren Soto		X			
Richard Steinberg		X			
Michael Weinstein	X				
William Snyder (Chair)	X				
Total Yeas: 13		Total Nays: 5			

Appearances:

PCB JDC 12-03

Weidner, Matthew (General Public) - Proponent

1229 Central

st petersburg FL 33705

Phone: 7278943159

PCB JDC 12-03

Pitts, Brian - Information Only

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: 727-897-9291

PCB JDC 12-03

Lowe-Miner, Jessica (Lobbyist) - Opponent

Executive Director, League of Women Voters of Florida

540 Beverly Court

Tallahassee FL 32301

Phone: 850-224-2545

Committee meeting was reported out: Thursday, February 16, 2012 6:28:56PM



Committee on Judiciary

Date _____

*unfavorable
2.16.12*

Action _____

HOUSE AMENDMENT FOR DRAFTING PURPOSES ONLY
(may be used in Committee, but not on House Floor)

Amendment No. _____

Bill No. PCB JDC 12-03

(For filing with the Clerk, Committee and Member Amendments **must** be prepared on computer)

Representative(s)/The Committee on Steinberg

offered the following amendment:

Amendment

on page 2, line 55-58, *Delete + Insert*

proceeding or executive branch administrative
proceeding, except proceedings arising under Art. III,
ss. 20 or 21 of the Florida Constitution, against
compelled testimony or the compelled production of any
document or record in connection with any
action taken or function performed in a
legislative capacity.



Committee on Judiciary
Date _____

unfavorable
2-16-12
Action ~~PC~~

HOUSE AMENDMENT FOR DRAFTING PURPOSES ONLY
(may be used in Committee, but not on House Floor)

Amendment No. 2

Bill No. PCB JPCR-03

(For filing with the Clerk, Committee and Member Amendments must be prepared on computer)

Representative(s)/The Committee on Steinberg

offered the following amendment:

Amendment

on page 3, line 58,

Delete and insert

performed in a legitimate legislative capacity.

COMMITTEE MEETING REPORT

Judiciary Committee

2/16/2012 11:30:00AM

Location: 404 HOB

AMENDED

PCS for CS/HB 565 : Dissolution of Marriage

Favorable With Amendments

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell	X				
Eric Eisnaugle	X				
Matt Gaetz	X				
Tom Goodson	X				
Bill Hager	X				
Gayle Harrell	X				
Shawn Harrison	X				
John Julien	X				
Charles McBurney	X				
Larry Metz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Ari Porth	X				
Elaine Schwartz	X				
Darren Soto	X				
Richard Steinberg	X				
Michael Weinstein	X				
William Snyder (Chair)	X				
Total Yeas: 18		Total Nays: 0			

PCS for CS/HB 565 Amendments

Amendment PCS for CSHB 565 a1

Adopted Without Objection

Amendment PCS for CSHB 565 a2

Adopted Without Objection

Amendment PCS for CSHB 565 a3

Adopted Without Objection

Amendment PCS for CSHB 565 a4

Adopted Without Objection

Amendment PCS for CSHB 565 a5

Adopted Without Objection

Committee meeting was reported out: Thursday, February 16, 2012 6:28:56PM

COMMITTEE MEETING REPORT

Judiciary Committee

2/16/2012 11:30:00AM

AMENDED

Location: 404 HOB

PCS for CS/HB 565 : Dissolution of Marriage (continued)

Appearances:

PCS for CS/HB 565

Duggar, Thomas (General Public) - Information Only

Family Law Section of the Florida Bar

1391 Timberlane

Tallahassee FL

PCS for CS/HB 565

Manz, David - Information Only

Florida Bar Family Law Section

5800 Overseas Highway Suite 40

Marathon FL 33013

Phone: (305) 731-3600

PCS for CS/HB 565

Pitts, Brian - Opponent

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: 727-897-9291

Committee meeting was reported out: Thursday, February 16, 2012 6:28:56PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCS Name: PCS for CS/HB 565 (2012)

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
2-16-12*

1 Committee/Subcommittee hearing PCS: Judiciary Committee
2 Representative Eisnaugle offered the following:

4 **Amendment**

5 Remove lines 136-155 and insert:

6 (7) ~~Durational alimony may be awarded when permanent periodic~~
7 ~~alimony is inappropriate. The purpose of Durational alimony may~~
8 ~~be awarded is~~ to provide a party with economic assistance for a
9 set period of time following a marriage of ~~short or~~ moderate
10 duration or following a marriage of long duration if there is no
11 ongoing need for support on a long-term ~~permanent~~ basis. When
12 awarding durational alimony, the court must provide written
13 findings that an award of rehabilitative or bridge-the-gap
14 alimony or a combination thereof is not appropriate. An award of
15 durational alimony terminates upon the death of either party or
16 upon the remarriage of the party receiving alimony. The amount
17 of an award of durational alimony shall, except upon a written
18 finding of exceptional circumstances, ~~may~~ be modified or
19 terminated based upon a substantial change in circumstances or

PCS for CSHB 565 a1

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COMMITTEE/SUBCOMMITTEE AMENDMENT

PCS Name: PCS for CS/HB 565 (2012)

Amendment No. 1

20 upon the existence of a supportive relationship in accordance
21 with s. 61.14. However, The length of an award of durational
22 alimony may not be modified except under exceptional
23 circumstances and may not exceed the length of the marriage. In
24 the event that the court awards durational alimony for a length
25 of time greater than 50 percent of the length of the marriage,
26 the court must make written findings of fact stating the reasons
27 warranting the length of the award.

28 (9) Notwithstanding any other law to the contrary, an ~~The~~
29 award of alimony may not leave the payor with ~~significantly~~ less
30 net income or with a lower standard of living than the net
31 ~~income of the~~ recipient unless there are written findings of
32 exceptional circumstances. The court shall make written findings

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCS Name: PCS for CS/HB 565 (2012)

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
2-16-12*

Committee/Subcommittee hearing PCS: Judiciary Committee
Representative Eisnaugle offered the following:

Amendment (with title amendment)

Remove lines 223-245 and insert:

4. There shall be a rebuttable presumption that any modification or termination of an alimony award is retroactive to the date of the filing of the petition. In an action under this section, if it is determined that the obligee unnecessarily or unreasonably litigated the underlying petition for modification or termination, the court may award the obligor his or her reasonable attorney fees and costs pursuant to s. 61.16, F.S., and applicable case law.

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

Remove lines 25-30 and insert:

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCS Name: PCS for CS/HB 565 (2012)

Amendment No. 2

19 | alimony; authorizing a court to award an obligor attorney fees
20 | and costs under certain circumstances; requiring a court to
21 | require an obligee to

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCS Name: PCS for CS/HB 565 (2012)

Amendment No. 3

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
2-16-12*

Committee/Subcommittee hearing PCS: Judiciary Committee
Representative Eisnaugle offered the following:

Amendment (with title amendment)

Remove lines 246-254 and insert:

(12) Except in cases of marriages of long duration, in any alimony award, the court shall impute income to the obligee based on the analysis and factors set forth in s. 61.30(2)(b).

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

Remove lines 30-37 and insert:

be true; requiring a court to impute income to the obligee in accordance with child support guidelines; amending s. 61.19, F.S.; requiring

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCS Name: PCS for CS/HB 565 (2012)

Amendment No. 4

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
2-16-12*

1 Committee/Subcommittee hearing PCS: Judiciary Committee
2 Representative Eisnaugle offered the following:

Amendment (with title amendment)

5 Remove lines 265-274 and insert:

6 (2) (a) During the first 180 days after the date of service
7 of the original petition for dissolution of marriage, the court
8 shall not grant a final dissolution of marriage with a
9 reservation of jurisdiction to subsequently determine all other
10 substantive issues unless the court makes written findings that
11 there are exceptional circumstances which make the use of this
12 process clearly necessary to protect the parties or their
13 children and that granting a final dissolution will not cause
14 irreparable harm to either party or the children. Before
15 granting a final dissolution of marriage with a reservation of
16 jurisdiction to subsequently determine all other substantive
17 issues, the court shall enter appropriate temporary orders
18 necessary to protect the parties and their children, which
19 orders shall remain effective until such time as all other

PCS for CSHB 565 a4

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Amendment No. 4

20 issues can be adjudicated by the court. The desire of one of the
21 parties to remarry does not justify the use of this process.

22 (b) If more than 180 days have elapsed after the date of
23 service of the original petition for dissolution of marriage,
24 the court may grant a final dissolution of marriage with a
25 reservation of jurisdiction to subsequently determine all other
26 substantive issues only if the court enters appropriate
27 temporary orders necessary to protect the parties and their
28 children, which orders shall remain effective until such time as
29 all other issues can be adjudicated by the court, and makes a
30 written finding that no irreparable harm will result from
31 granting a final dissolution.

32 (c) If more than 365 days have elapsed after the date of
33 service of the original petition for dissolution of marriage,
34 absent a showing by either party that irreparable harm will
35 result from granting a final dissolution, the court shall, upon
36 request of either party, immediately grant a final dissolution
37 of marriage with a reservation of jurisdiction to subsequently
38 determine all other substantive issues. Before granting a final
39 dissolution of marriage with a reservation of jurisdiction to
40 subsequently determine all other substantive issues, the court
41 shall enter appropriate temporary orders necessary to protect
42 the parties and their children, which orders shall remain
43 effective until such time as all other issues can be adjudicated
44 by the court.

45 (d) The temporary orders necessary to protect the parties
46 and their children entered prior to granting a dissolution of

Amendment No. 4

47 marriage without an adjudication of all substantive issues may
48 include, but shall not be limited to, temporary orders that:

- 49 1. Restrict the sale or disposition of property.
50 2. Protect and preserve the marital assets.
51 3. Establish temporary support.
52 4. Provide for maintenance of health insurance.
53 5. Provide for maintenance of life insurance.

54 (e) The court is not required to enter temporary orders to
55 protect the parties and their children if the court enters a
56 final judgment of marriage which adjudicates substantially all
57 of the substantive issues between the parties but reserves
58 jurisdiction to address ancillary issues such as the entry of a
59 qualified domestic relations order or the adjudication of
60 attorney's fees and costs.

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

66

Remove lines 37-40 and insert:

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rehabilitation; amending s. 61.19, F.S.; prohibiting the

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bifurcation of a dissolution of marriage case within 180 days

69

after filing unless a court finds that there are exceptional

70

circumstances; authorizing bifurcation of a dissolution of

71

marriage case if the case is more than 180 days past filing;

72

requiring the bifurcation of a dissolution of marriage case if

73

the case is more than 365 days past filing; providing an

74

effective date.

PCS for CSHB 565 a4

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COMMITTEE/SUBCOMMITTEE AMENDMENT

PCS Name: PCS for CS/HB 565 (2012)

Amendment No. 5

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
2-16-12*

1 Committee/Subcommittee hearing PCS: Judiciary Committee
 2 Representative Eisnaugle offered the following:

Amendment (with title amendment)

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

Remove line 2 and insert:

An act relating to family law; amending