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# **Judiciary Committee**

**Wednesday, February 22, 2012**

**8:00 AM**

**404 HOB**

## **Amended Action Report**

The change in the Judiciary Committee Action Packet reflects CS/SB 98 being reported Favorable. No amendment was adopted to CS/SB 98.

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

Location: 404 HOB

AMENDED

### Summary:

#### Judiciary Committee

Wednesday February 22, 2012 08:00 am

CS/HB 5	Favorable	Yeas: 15	Nays: 2
CS/HB 37	Favorable	Yeas: 15	Nays: 0
CS/SB 98	Favorable	Yeas: 11	Nays: 4
Amendment 072607 Withdrawn			
CS/CS/HB 177	Favorable With Committee Substitute	Yeas: 15	Nays: 3
Amendment 663307 Adopted Without Objection			
CS/HB 213	Favorable With Committee Substitute	Yeas: 14	Nays: 2
Amendment 006307 Failed to Adopt			
Amendment 647667 Adopted Without Objection			
Amendment 972325 Withdrawn			
CS/HB 233	Favorable With Committee Substitute	Yeas: 17	Nays: 1
Amendment 320255 Adopted Without Objection			
CS/CS/HB 319	Favorable With Committee Substitute	Yeas: 13	Nays: 2
Amendment 576969 Adopted Without Objection			
Amendment 617391 Adopted Without Objection			
Amendment 750347 Withdrawn			
CS/CS/HB 455	Favorable With Committee Substitute	Yeas: 17	Nays: 0
Amendment 656125 Adopted Without Objection			
CS/CS/CS/HB 481	Favorable With Committee Substitute	Yeas: 17	Nays: 0
Amendment 323217 Adopted Without Objection			
HB 609	Favorable With Committee Substitute	Yeas: 12	Nays: 6
Amendment 467847 Failed to Adopt			
Amendment 020083 Failed to Adopt			
Amendment 039561 Failed to Adopt			
Amendment 292357 Adopted Without Objection			
Amendment 439369 Withdrawn			
Amendment 797485 Not Considered			
HB 777	Favorable	Yeas: 17	Nays: 0
CS/HB 885	Favorable	Yeas: 18	Nays: 0
CS/HB 921	Favorable With Committee Substitute	Yeas: 9	Nays: 6
Amendment 503191 Adopted Without Objection			

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

Location: 404 HOB

AMENDED

### Summary: (continued)

#### Judiciary Committee

Wednesday February 22, 2012 08:00 am

CS/HB 947	Favorable With Committee Substitute	Yeas: 17	Nays: 0
Amendment 905267	Adopted Without Objection		
CS/HB 1173	Favorable With Committee Substitute	Yeas: 18	Nays: 0
Amendment 100863	Adopted Without Objection		
HB 1195	Favorable With Committee Substitute	Yeas: 18	Nays: 0
Amendment 430969	Adopted Without Objection		
HB 1209	Favorable	Yeas: 14	Nays: 1
CS/HB 1323	Favorable	Yeas: 18	Nays: 0
HB 7047	Favorable With Committee Substitute	Yeas: 18	Nays: 0
Amendment 702811	Adopted Without Objection		

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

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		
<b>Totals:</b>	<b>18</b>	<b>0</b>	<b>0</b>

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

Location: 404 HOB

AMENDED

### CS/HB 5 : Juvenile Offenders

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				
<b>Total Yeas: 15</b>		<b>Total Nays: 2</b>			

### Appearances:

#### CS/HB 5

Dillinger, Bob (State Employee) - Opponent  
Public Defender, 6th Judicial Circuit  
Criminal Justice Center  
Clearwater FL 33762  
Phone: (727) 464-6865

#### CS/HB 5

Summers, Shane (General Public) - Waive In Support  
Captain, Florida Sheriffs Association  
P.O Box 569  
Deland FL 32724  
Phone: (386) 736-5961

#### CS/HB 5

Moreland, Earl (State Employee) - Waive In Support  
State Attorney, Florida Prosecuting Attorney's Association  
12th Judicial Circuit  
FL  
Phone: (850) 356-3786

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

**Location:** 404 HOB

**AMENDED**

**CS/HB 5 : Juvenile Offenders (continued)**

**Appearances: (continued)**

CS/HB 5

Messersmith, Frank (Lobbyist) - Proponent

Florida Sheriffs Association

2901 Bradford

Tallahassee FL 32317

Phone: (850) 576-5858

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

Location: 404 HOB

AMENDED

CS/HB 37 : Knowingly and Willfully Giving False Information to a Law Enforcement Officer

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				
<b>Total Yeas: 15</b>		<b>Total Nays: 0</b>			

### Appearances:

CS/HB 37

Pitts, Brian (General Public) - Waive In Support

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: (727) 897-9291

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM



# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

Location: 404 HOB

AMENDED

CS/SB 98 : Education

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				
<b>Total Yeas: 11</b>		<b>Total Nays: 4</b>			

### CS/SB 98 Amendments

#### Amendment 072607

Withdrawn

#### Appearances:

CS/SB 98

Fort, Pamela Burch (Lobbyist) - Opponent  
American Civil Liberties Union of Florida  
104 S. Monroe St.  
Tallahassee FL 32301  
Phone: (850) 425-1344

CS/SB 98

Pitts, Brian (General Public) - Proponent  
Justice-2-Jesus  
1119 Newton Ave. S.  
St. Petersburg FL 33705  
Phone: (727) 897-9291

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

**Location:** 404 HOB

**AMENDED**

**CS/SB 98 : Education (continued)**

**Appearances: (continued)**

CS/SB 98

Hall, Kris Anne (General Public) - Proponent

Attorney, Constitutional Ed & Consulting

8220 25th Dr

Wellborn FL 32094

Phone: (386) 466-4556

CS/SB 98

Bujak, Barbara (General Public) - Opponent

1719 Grove Park Dr

Orange Park FL 32073

Phone: (904) 269-9815

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/SB 98 (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  
2-22-12*

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

3  
4  
5  
6  
7  
8

**Amendment**

Remove lines 26-27 and insert:

2. Review the content of a student volunteer's  
inspirational message.

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

Location: 404 HOB

AMENDED

### CS/CS/HB 177 : Inmate Reentry

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				
<b>Total Yeas: 15</b>		<b>Total Nays: 3</b>			

### CS/CS/HB 177 Amendments

#### Amendment 663307

Adopted Without Objection

#### Appearances:

CS/CS/HB 177

Moreland, Earl (State Employee) - Waive In Support

Florida Prosecuting Attorney's Association

12th Judicial Circuit

FL

Phone: (850) 356-3786

CS/CS/HB 177

Gabbard, Jim (Lobbyist) - Waive In Opposition

The Florida Police Chiefs Association

P.O Box 14038

Tallahassee FL 32317

Phone: (850) 219-3640

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

**Location:** 404 HOB

**AMENDED**

**CS/CS/HB 177 : Inmate Reentry (continued)**

**Appearances: (continued)**

CS/CS/HB 177

Fontaine, Mark (Lobbyist) - Waive In Support

Executive Director, Florida Alcohol & Drug Abuse Association, Inc

2868 Mahan Dr Ste 1

Tallahassee FL 32308

Phone: (850) 878-2196

CS/CS/HB 177

Dillinger, Bob (State Employee) - Waive In Support

Public Defender, 6th Judicial Circuit

Criminal Justice Center

Clearwater FL 33762

Phone: (727) 464-6865

CS/CS/HB 177

Pitts, Brian (General Public) - Opponent

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: (727) 897-9291

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 177 (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  
2-22-12*

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

4 **Amendment (with title amendment)**

5 Remove lines 251-297 and insert:

6 (8)(a) The department shall submit a report to the  
7 sentencing court at least 30 days before the nonviolent offender  
8 is scheduled to complete the reentry program. The report must  
9 describe the offender's performance in the reentry program and  
10 certify whether the performance is satisfactory. The court may  
11 schedule a hearing to consider any modification to the imposed  
12 sentence. Notwithstanding the eligibility criteria contained in  
13 s. 948.20, if the offender's performance is satisfactory to the  
14 department and the court, the court shall issue an order  
15 modifying the sentence imposed and placing the offender on drug  
16 offender probation, as defined in s. 948.20(2), subject to the  
17 department's certification of the offender's successful  
18 completion of the remainder of the reentry program. The term of  
19 drug offender probation must not be less than the remainder of

Amendment No. 1

20 time that the offender would have served in prison, but for  
21 participating in the program. A condition of drug offender  
22 probation may include placement in a community residential or  
23 nonresidential licensed substance abuse treatment facility under  
24 the jurisdiction of the department or the Department of Children  
25 and Family Services or any public or private entity providing  
26 such services. The order shall include findings that the  
27 offender's performance is satisfactory, the requirements for  
28 resentencing under this section are satisfied, and that the  
29 public safety will not be compromised. If the nonviolent  
30 offender violates the conditions of drug offender probation, the  
31 court may revoke probation and impose any sentence that it might  
32 have originally imposed. No offender may be released from the  
33 custody of the department under this section except pursuant to  
34 a judicial order modifying a sentence.

35 (b) If an offender being released pursuant to paragraph  
36 (a) intends to reside in a county that has established a  
37 postadjudicatory drug court program as described in s. 397.334,  
38 the sentencing court may require the offender to successfully  
39 complete the postadjudicatory drug court program as a condition  
40 of drug offender probation. The original sentencing court shall  
41 relinquish jurisdiction of the offender's case to the  
42 postadjudicatory drug court program until the offender is no  
43 longer active in the program, the case is returned to the  
44 sentencing court due to the offender's termination from the  
45 program for failure to comply with the terms thereof, or the  
46 offender's sentence is completed. If transferred to a

Amendment No. 1

47 postadjudicatory drug court program, the offender shall comply  
48 with all conditions and orders of the program.

49

50

51

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

52

Remove lines 46-50 and insert:

53

addressed in the report; providing a court may schedule a

54

hearing to consider any modifications to an imposed sentence;

55

requiring the sentencing court to issue an order modifying the

56

sentence imposed and placing the nonviolent offender on drug

57

offender probation if the nonviolent offender's performance is

58

satisfactory;

59



# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

Location: 404 HOB

AMENDED

### CS/HB 213 : Mortgage Foreclosures

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				
<b>Total Yeas: 14</b>		<b>Total Nays: 2</b>			

### CS/HB 213 Amendments

#### Amendment 006307

Failed to Adopt

#### Amendment 647667

Adopted Without Objection

#### Amendment 972325

Withdrawn

### Appearances:

CS/HB 213

McCormack, Fred (Lobbyist) - Waive In Support

Provest LLC

4520 Seedling Cir

Tampa FL 33614

Phone: (850)681-6111

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

AMENDED

Location: 404 HOB

CS/HB 213 : Mortgage Foreclosures (continued)

Appearances: (continued)

CS/HB 213

Maynard, Zollie (Lobbyist) - Waive In Support

Provest LLC

4520 Seedling Cir

Tampa FL 33614

Phone: (850)681-0980

CS/HB 213

Fields, Alan (Lobbyist) - Waive In Support

Florida Land Title Association

249 E. Virginia Street

Tallahassee Florida

Phone: 727-773-6664

CS/HB 213

DiMarco, Anthony (Lobbyist) - Opponent

Florida Bankers Association

1001 Thomasville Rd Ste 201

Tallahassee FL 32302-1360

Phone: (850)224-2265

CS/HB 213

Perry, Booker T. (General Public) - Opponent

Federations of Congregations United to Serve (FOCUS)

2040 Rogers Avenue

Maitland FL 32751

Phone: 321-263-6984

CS/HB 213

Gabel, Susan (General Public) - Information Only

FOCUS/PICO United Florida

535 N Interlachen Avenue, #306

Winter Park FL 32789

Phone: 407-671-7202

CS/HB 213

Stuart, Mark (General Public) - Opponent

self

513 Innergary Place

Valrico FL 33594

Phone: 904-796-8566

CS/HB 213

Pitts, Brian - Opponent

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: 727-897-9291

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

**Location:** 404 HOB

**AMENDED**

**CS/HB 213 : Mortgage Foreclosures (continued)**

**Appearances: (continued)**

CS/HB 213

Gillis, Ronald (General Public) - Opponent

P O Box 380842

Murdock FL 33938

Phone: 941-766-8279

CS/HB 213

Schoder, Karen (General Public) - Waive In Opposition

Save America Foundation

2196 Shelby Court

Chipley FL 32428

Phone: 954-864-0530

CS/HB 213

Lilley, Deborah (General Public) - Waive In Opposition

Port Charlotte FL

Phone: 941-467-5388

CS/HB 213

Gardonyi, Frank (General Public) - Waive In Opposition

2196 Shelby Court

Sunny Hills FL

Phone: 850-303-0029

CS/HB 213

Vickers, Alice (Lobbyist) - Opponent

Florida Consumer Action Network

623 Beard Street

Tallahassee FL 32303

Phone: 850-556-3121

CS/HB 213

Hendricks, Larry (General Public) - Opponent

406 Alpha Avenue

Tallahassee FL 32305

Phone: 850-778-6640

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 213 (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 \_\_\_\_\_

*favourable  
2.22.12*

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

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

5 Remove everything after the enacting clause and insert:

6 Section 1. Paragraph (b) of subsection (2) of section  
7 95.11, Florida Statutes, is amended, and paragraph (h) is added  
8 to subsection (5) of that section, to read:

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

12 (2) WITHIN FIVE YEARS.—

13 (b) A legal or equitable action on a contract, obligation,  
14 or liability founded on a written instrument, except for an  
15 action to enforce a claim against a payment bond, which shall be  
16 governed by the applicable provisions of ss. 255.05(10) and  
17 713.23(1)(e), and except for certain actions for a deficiency  
18 judgment governed by paragraph (5)(h).

19 (5) WITHIN ONE YEAR.—

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Published On: 2/21/2012 6:49:14 PM

Amendment No. 1

20       (h) An action to enforce a claim of a deficiency related  
21 to a note secured by a mortgage against a residential property  
22 that is a one-family to four-family dwelling unit. The  
23 limitations period shall commence on the 11th day after the  
24 foreclosure sale or the day after the mortgagee accepts a deed  
25 in lieu of foreclosure.

26       Section 2. The amendment to s. 95.11, Florida Statutes,  
27 made by this act shall apply to any action commenced on or after  
28 July 1, 2012, regardless of when the cause of action accrued,  
29 except that any action that would not have been barred under s.  
30 95.11(2)(b), Florida Statutes, prior to the amendments made by  
31 this act may be commenced no later than 5 years after the action  
32 accrued and in no event later than July 1, 2013, and if the  
33 action is not commenced by that date, it is barred by the  
34 amendments made by this act.

35       Section 3. Section 702.015, Florida Statutes, is created  
36 to read:

37       702.015 Elements of complaint; lost, destroyed, or stolen  
38 note affidavit.—

39       (1) A complaint that seeks to foreclose a mortgage or  
40 other lien on residential real property, including individual  
41 units of condominiums and cooperatives, designed principally for  
42 occupation by from one to four families, but not including an  
43 interest in a timeshare property, which secures a promissory  
44 note must:

45       (a) Contain affirmative allegations expressly made by the  
46 plaintiff at the time the proceeding is commenced that the  
47 plaintiff is the holder of the original note secured by the

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Published On: 2/21/2012 6:49:14 PM

Amendment No. 1

48 mortgage; or

49 (b) Allege with specificity the factual basis by which the  
50 plaintiff is a person entitled to enforce the note under s.  
51 673.3011.

52 (2) If a party has been delegated the authority to  
53 institute a mortgage foreclosure action on behalf of the holder  
54 of the note, the complaint shall describe the authority of the  
55 plaintiff and identify, with specificity, the document that  
56 grants the plaintiff the authority to act on behalf of the  
57 holder of the note. This subsection is intended to require  
58 initial disclosure of status and pertinent facts and not to  
59 modify law regarding standing or real parties in interest.

60 (3) If the plaintiff is in physical possession of the  
61 original promissory note, the plaintiff must file with the  
62 court, contemporaneously with and as a condition precedent to  
63 the filing of the complaint for foreclosure, certification,  
64 under penalty of perjury, that the plaintiff is in physical  
65 possession of the original promissory note. The certification  
66 must set forth the physical location of the note, the name and  
67 title of the individual giving the certification, the name of  
68 the person who personally verified such physical possession, and  
69 the time and date on which the possession was verified. Correct  
70 copies of the note and all allonges to the note must be attached  
71 to the certification. The original note and the allonges must be  
72 filed with the court before the entry of any judgment of  
73 foreclosure or judgment on the note.

74 (4) If the plaintiff seeks to enforce a lost, destroyed,  
75 or stolen instrument, an affidavit executed under penalty of

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Published On: 2/21/2012 6:49:14 PM

Amendment No. 1

76 perjury must be attached to the complaint. The affidavit must:

77 (a) Detail a clear chain of all endorsements or  
78 assignments of the promissory note that is the subject of the  
79 action.

80 (b) Set forth facts showing that the plaintiff is entitled  
81 to enforce a lost, destroyed, or stolen instrument pursuant to  
82 s. 673.3091.

83 (c) Include as exhibits to the affidavit such copies of  
84 the note and the allonges to the note, audit reports showing  
85 physical receipt of the original note, or other evidence of the  
86 acquisition, ownership, and possession of the note as may be  
87 available to the plaintiff.

88 (5) The Legislature intends that the requirements of this  
89 section are to expedite the foreclosure process by ensuring  
90 initial disclosure of a plaintiff's status and the facts  
91 supporting that status and thereby ensuring the availability of  
92 documents necessary to the prosecution of the case. This section  
93 is not intended to modify existing law regarding standing or  
94 real parties in interest. The court may sanction the plaintiff  
95 for failure to comply with this section, but any noncompliance  
96 with this section does not affect the validity of a foreclosure  
97 sale or title to real property subsequent to a foreclosure sale.

98 Section 4. Section 702.06, Florida Statutes, is amended to  
99 read:

100 702.06 Deficiency decree; common-law suit to recover  
101 deficiency.—In all suits for the foreclosure of mortgages  
102 heretofore or hereafter executed the entry of a deficiency  
103 decree for any portion of a deficiency, should one exist, may

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Published On: 2/21/2012 6:49:14 PM

Amendment No. 1

104 not exceed the difference between the judgment amount or, in the  
105 case of a short sale, the outstanding debt, and the fair market  
106 value of the property on the date of sale. ~~shall be within the~~  
107 ~~sound judicial discretion of the court, but~~ The complainant  
108 shall also have the right to sue at common law to recover such  
109 deficiency, unless the court in the foreclosure action has  
110 granted or denied a claim for a deficiency judgment ~~provided no~~  
111 ~~suit at law to recover such deficiency shall be maintained~~  
112 ~~against the original mortgagor in cases where the mortgage is~~  
113 ~~for the purchase price of the property involved and where the~~  
114 ~~original mortgagee becomes the purchaser thereof at foreclosure~~  
115 ~~sale and also is granted a deficiency decree against the~~  
116 ~~original mortgagor.~~

117 Section 5. Section 702.10, Florida Statutes, is amended to  
118 read:

119 702.10 Order to show cause; entry of final judgment of  
120 foreclosure; payment during foreclosure.-

121 (1) A lienholder ~~After a complaint in a foreclosure~~  
122 ~~proceeding has been filed, the mortgagee may request an order to~~  
123 ~~show cause for the entry of final judgment~~ in a foreclosure  
124 action. For purposes of this section, the term "lienholder"  
125 includes the plaintiff and a defendant to the action who holds a  
126 lien encumbering the property or a defendant who, by virtue of  
127 its status as a condominium association, cooperative  
128 association, or homeowners' association, may file a lien against  
129 the real property subject to foreclosure. Upon filing, and the  
130 court shall immediately review the request and the court file in  
131 chambers and without a hearing ~~complaint.~~ If, upon examination



Amendment No. 1

132 of the court file ~~complaint~~, the court finds that the complaint  
133 is verified, complies with s. 702.015, and alleges a cause of  
134 action to foreclose on real property, the court shall promptly  
135 issue an order directed to the other parties named in the action  
136 ~~defendant~~ to show cause why a final judgment of foreclosure  
137 should not be entered.

138 (a) The order shall:

139 1. Set the date and time for a hearing ~~on the order~~ to  
140 show cause. ~~However,~~ The date for the hearing may not occur ~~be~~  
141 ~~set~~ sooner than the later of 20 days after the service of the  
142 order to show cause or 45 days after the service of the initial  
143 complaint. When service is obtained by publication, the date for  
144 the hearing may not be set sooner than 55 ~~30~~ days after the  
145 first publication. ~~The hearing must be held within 60 days after~~  
146 ~~the date of service. Failure to hold the hearing within such~~  
147 ~~time does not affect the validity of the order to show cause or~~  
148 ~~the jurisdiction of the court to issue subsequent orders.~~

149 2. Direct the time within which service of the order to  
150 show cause and the complaint must be made upon the defendant.

151 3. State that the filing of defenses by a motion,  
152 responsive pleading, affidavits, or other papers ~~or by a~~  
153 ~~verified or sworn answer at or before the hearing to show cause~~  
154 may constitute ~~constitutes~~ cause for the court not to enter ~~the~~  
155 ~~attached~~ final judgment.

156 4. State that a ~~the~~ defendant has the right to file  
157 affidavits or other papers before ~~at~~ the time of the hearing to  
158 show cause and may appear personally or by way of an attorney at  
159 the hearing.

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160 5. State that, if a ~~the~~ defendant files defenses by a  
161 motion, a verified or sworn answer, affidavits, or other papers  
162 or appears personally or by way of an attorney at the time of  
163 the hearing, the hearing time will ~~may~~ be used to hear and  
164 consider the defendant's motion, answer, affidavits, other  
165 papers, and other evidence and argument as may be presented by  
166 the defendant or the defendant's attorney. The order shall also  
167 state that the court may enter an order of final judgment of  
168 foreclosure at the hearing. If such a determination is entered,  
169 the court shall enter a final judgment of foreclosure ordering  
170 the clerk of the court to conduct a foreclosure sale.

171 6. State that, if a ~~the~~ defendant fails to appear at the  
172 hearing to show cause or fails to file defenses by a motion or  
173 by a verified or sworn answer or files an answer not contesting  
174 the foreclosure, such ~~the~~ defendant may be considered to have  
175 waived the right to a hearing, and in such case, the court may  
176 enter a default against such defendant and, if appropriate, a  
177 final judgment of foreclosure ordering the clerk of the court to  
178 conduct a foreclosure sale.

179 7. State that if the mortgage provides for reasonable  
180 attorney ~~attorney's~~ fees and the requested attorney ~~attorney's~~  
181 fees do not exceed 3 percent of the principal amount owed at the  
182 time of filing the complaint, it is unnecessary for the court to  
183 hold a hearing or adjudge the requested attorney ~~attorney's~~ fees  
184 to be reasonable.

185 8. Attach the form of the proposed final judgment of  
186 foreclosure which the movant requests the court to will enter,  
187 ~~if the defendant waives the right to be heard at the hearing on~~

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188 the order to show cause. The form may contain blanks for the  
189 court to enter the amounts due.

190 9. Require the party seeking final judgment mortgagee to  
191 serve a copy of the order to show cause on the other parties the  
192 mortgagor in the following manner:

193 a. If a party the mortgagor has been personally served  
194 with the complaint and original process, or the other party is  
195 the plaintiff in the action, service of the order to show cause  
196 on that party order may be made in the manner provided in the  
197 Florida Rules of Civil Procedure.

198 b. If a defendant the mortgagor has not been personally  
199 served with the complaint and original process, the order to  
200 show cause, together with the summons and a copy of the  
201 complaint, shall be served on the party mortgagor in the same  
202 manner as provided by law for original process.

203  
204 Any final judgment of foreclosure entered under this subsection  
205 is for in rem relief only. ~~Nothing in~~ This subsection does not  
206 ~~shall~~ preclude the entry of a deficiency judgment where  
207 otherwise allowed by law. It is the intent of the Legislature  
208 that this alternative procedure may run simultaneously with  
209 other court procedures.

210 (b) The right to be heard at the hearing to show cause is  
211 waived if a the defendant, after being served as provided by law  
212 with an order to show cause, engages in conduct that clearly  
213 shows that the defendant has relinquished the right to be heard  
214 on that order. The defendant's failure to file defenses by a  
215 motion or by a sworn or verified answer, affidavits, or other

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216 papers or to appear personally or by way of an attorney at the  
217 hearing duly scheduled on the order to show cause presumptively  
218 constitutes conduct that clearly shows that the defendant has  
219 relinquished the right to be heard. If a defendant files  
220 defenses by a motion, ~~or by~~ a verified or sworn answer,  
221 affidavits, or other papers at or before the hearing, such  
222 action may constitute ~~constitutes~~ cause and may preclude  
223 ~~precludes~~ the entry of a final judgment at the hearing to show  
224 cause.

225 (c) In a mortgage foreclosure proceeding, when a final  
226 ~~default~~ judgment of foreclosure has been entered against the  
227 mortgagor and the note or mortgage provides for the award of  
228 reasonable attorney ~~attorney's~~ fees, it is unnecessary for the  
229 court to hold a hearing or adjudge the requested attorney  
230 ~~attorney's~~ fees to be reasonable if the fees do not exceed 3  
231 percent of the principal amount owed on the note or mortgage at  
232 the time of filing, even if the note or mortgage does not  
233 specify the percentage of the original amount that would be paid  
234 as liquidated damages.

235 (d) If the court finds that all defendants have ~~the~~  
236 ~~defendant has~~ waived the right to be heard as provided in  
237 paragraph (b), the court shall promptly enter a final judgment  
238 of foreclosure without the need for further hearing if the  
239 plaintiff has shown entitlement to a final judgment and upon the  
240 filing with the court of original note, satisfaction of the  
241 conditions for establishment of a lost note, or upon a showing  
242 to the court that the obligation to be foreclosed is not  
243 evidenced by a promissory note or other negotiable instrument.

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244 If the court finds that a ~~the~~ defendant has not waived the right  
245 to be heard on the order to show cause, the court shall ~~then~~  
246 determine whether there is cause not to enter a final judgment  
247 of foreclosure. If the court finds that the defendant has not  
248 shown cause, the court shall promptly enter a judgment of  
249 foreclosure. If the time allotted for the hearing is  
250 insufficient, the court may announce at the hearing a date and  
251 time for the continued hearing. Only the parties who appear,  
252 individually or through an attorney, at the initial hearing must  
253 be notified of the date and time of the continued hearing.

254 (2) This subsection does not apply to foreclosure of an  
255 owner-occupied residence. As part of any other ~~in an~~ action for  
256 foreclosure, and in addition to any other relief that the court  
257 may award ~~other than residential real estate,~~ the plaintiff the  
258 mortgagee may request that the court enter an order directing  
259 the mortgagor defendant to show cause why an order to make  
260 payments during the pendency of the foreclosure proceedings or  
261 an order to vacate the premises should not be entered.

262 (a) The order shall:

263 1. Set the date and time for hearing on the order to show  
264 cause. However, the date for the hearing may ~~shall~~ not be set  
265 sooner than 20 days after the service of the order. If ~~where~~  
266 service is obtained by publication, the date for the hearing may  
267 ~~shall~~ not be set sooner than 30 days after the first  
268 publication.

269 2. Direct the time within which service of the order to  
270 show cause and the complaint shall be made upon each ~~the~~  
271 defendant.

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272 3. State that a ~~the~~ defendant has the right to file  
273 affidavits or other papers at the time of the hearing and may  
274 appear personally or by way of an attorney at the hearing.

275 4. State that, if a ~~the~~ defendant fails to appear at the  
276 hearing to show cause and fails to file defenses by a motion or  
277 by a verified or sworn answer, the defendant is ~~may be~~ deemed to  
278 have waived the right to a hearing and in such case the court  
279 may enter an order to make payment or vacate the premises.

280 5. Require the movant ~~mortgagee~~ to serve a copy of the  
281 order to show cause on the defendant ~~mortgager~~ in the following  
282 manner:

283 a. If a defendant ~~the mortgager~~ has been served with the  
284 complaint and original process, service of the order may be made  
285 in the manner provided in the Florida Rules of Civil Procedure.

286 b. If a defendant ~~the mortgager~~ has not been served with  
287 the complaint and original process, the order to show cause,  
288 together with the summons and a copy of the complaint, shall be  
289 served on the defendant ~~mortgager~~ in the same manner as provided  
290 by law for original process.

291 (b) The right of a defendant to be heard at the hearing to  
292 show cause is waived if the defendant, after being served as  
293 provided by law with an order to show cause, engages in conduct  
294 that clearly shows that the defendant has relinquished the right  
295 to be heard on that order. A ~~The~~ defendant's failure to file  
296 defenses by a motion or by a sworn or verified answer or to  
297 appear at the hearing duly scheduled on the order to show cause  
298 presumptively constitutes conduct that clearly shows that the  
299 defendant has relinquished the right to be heard.

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300 (c) If the court finds that a ~~the~~ defendant has waived the  
301 right to be heard as provided in paragraph (b), the court may  
302 promptly enter an order requiring payment in the amount provided  
303 in paragraph (f) or an order to vacate.

304 (d) If the court finds that the mortgagor has not waived  
305 the right to be heard on the order to show cause, the court  
306 shall, at the hearing on the order to show cause, consider the  
307 affidavits and other showings made by the parties appearing and  
308 make a determination of the probable validity of the underlying  
309 claim alleged against the mortgagor and the mortgagor's  
310 defenses. If the court determines that the plaintiff mortgagee  
311 is likely to prevail in the foreclosure action, the court shall  
312 enter an order requiring the mortgagor to make the payment  
313 described in paragraph (e) to the plaintiff mortgagee and  
314 provide for a remedy as described in paragraph (f). However, the  
315 order shall be stayed pending final adjudication of the claims  
316 of the parties if the mortgagor files with the court a written  
317 undertaking executed by a surety approved by the court in an  
318 amount equal to the unpaid balance of the lien being foreclosed  
319 ~~the mortgage on the property~~, including all principal, interest,  
320 unpaid taxes, and insurance premiums paid by the plaintiff ~~the~~  
321 mortgagee.

322 (e) If ~~In the event~~ the court enters an order requiring  
323 the mortgagor to make payments to the plaintiff mortgagee,  
324 payments shall be payable at such intervals and in such amounts  
325 provided for in the mortgage instrument before acceleration or  
326 maturity. The obligation to make payments pursuant to any order  
327 entered under this subsection shall commence from the date of

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328 the motion filed under this section hereunder. The order shall  
329 be served upon the mortgagor no later than 20 days before the  
330 date specified for the first payment. The order may permit, but  
331 ~~may shall~~ not require, the plaintiff mortgagee to take all  
332 appropriate steps to secure the premises during the pendency of  
333 the foreclosure action.

334 (f) ~~If in the event~~ the court enters an order requiring  
335 payments, the order shall also provide that the plaintiff is  
336 ~~mortgagee shall be~~ entitled to possession of the premises upon  
337 the failure of the mortgagor to make the payment required in the  
338 order unless at the hearing on the order to show cause the court  
339 finds good cause to order some other method of enforcement of  
340 its order.

341 (g) All amounts paid pursuant to this section shall be  
342 credited against the mortgage obligation in accordance with the  
343 terms of the loan documents; ~~provided, however, that any~~  
344 payments made under this section do shall not constitute a cure  
345 of any default or a waiver or any other defense to the mortgage  
346 foreclosure action.

347 (h) Upon the filing of an affidavit with the clerk that  
348 the premises have not been vacated pursuant to the court order,  
349 the clerk shall issue to the sheriff a writ for possession which  
350 shall be governed by the provisions of s. 83.62.

351 (i) For purposes of this subsection, there is a rebuttable  
352 presumption that a residential property for which a homestead  
353 exemption for taxation was granted according to the certified  
354 rolls of the latest assessment by the county property appraiser,  
355 before the filing of the foreclosure action, is an owner-



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356 occupied residential property.

357 (3) The Supreme Court is requested to amend the Florida  
358 Rules of Civil Procedure to provide for expedited foreclosure  
359 proceedings in conformity with this section and is requested to  
360 develop and publish forms for use under this section.

361 Section 6. Section 702.11, Florida Statutes, is created to  
362 read:

363 702.11 Expedited foreclosure of abandoned residential real  
364 property.-

365 (1) As used in this section, the term "abandoned  
366 residential real property" means residential real property that  
367 is deemed abandoned upon a showing that:

368 (a) A duly licensed process server unaffiliated with the  
369 owner or servicer of any mortgage on the residential real  
370 property or with the attorney or law firm representing such  
371 owner or servicer has made at least three attempts to locate an  
372 occupant of the residential real property. The attempts must  
373 have been made at least 72 hours apart, and at least one each of  
374 such attempts must have been made before 12 p.m., between 12  
375 p.m. and 6 p.m., and between 6 p.m. and 10 p.m. Each attempt  
376 must include physically knocking or ringing at the door of the  
377 residential real property and such other efforts as are normally  
378 sufficient to obtain a response from an occupant.

379 (b) Two or more of the following conditions exist:

380 1. Windows or entrances to the premises are boarded up or  
381 closed off or multiple window panes are broken and unrepaired.

382 2. Doors to the premises are smashed through, broken off,  
383 unhinged, or continuously unlocked.

Amendment No. 1

384 3. Rubbish, trash, or debris has accumulated on the  
385 mortgaged premises.

386 4. The premises are deteriorating and are below or in  
387 imminent danger of falling below minimum community standards for  
388 public safety and sanitation.

389 5. If the premises are a part of a condominium or are  
390 governed by a mandatory homeowners' association, the manager or  
391 other representative of the association has confirmed that  
392 assessments for the unit are at least 90 days delinquent.

393 6. Interviews with at least two neighbors in different  
394 households indicate that the residence has been abandoned. The  
395 neighbors must be adjoining, across the street in view of the  
396 home, or across the hall or adjacent to the unit in a  
397 condominium or cooperative.

398

399 The sheriff or process server making attempts to locate an  
400 occupant of the residential real property and to determine the  
401 abandoned status of the residential real property may provide,  
402 by affidavit and photographic or other documentation, evidence  
403 of the condition of the residential real property, and may  
404 charge a reasonable fee for the attempts and for any affidavit  
405 or other documentation evidencing the condition of the  
406 residential real property.

407 (2) (a) The party entitled to enforce the note and mortgage  
408 encumbering the residential real property appearing to be  
409 abandoned may file a petition before the court seeking to  
410 determine the status of the residential real property and to  
411 invoke an expedited foreclosure proceeding relating to the

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412 property. Upon the filing of an affidavit of diligent search and  
413 inquiry and the affidavit or documentary evidence set forth in  
414 subsection (1), the court shall, upon request of the petitioner,  
415 issue one or more subpoenas to the utility companies serving the  
416 residential real property commanding disclosure of the status of  
417 utility service to the subject property, including whether  
418 utilities are currently turned off and whether all outstanding  
419 utility payments have been made and, if so, by whom.

420 (b) If, after review of the response of the utility  
421 companies to the subpoenas and all other matters of record, the  
422 court may deem the property to have been abandoned and the  
423 plaintiff entitled to expedited foreclosure.

424 Section 7. The amendments to s. 702.10, Florida Statutes,  
425 and the creation of s. 702.11, Florida Statutes, by this act are  
426 remedial in nature and shall apply to causes of action pending  
427 on the effective date of this act. Section 702.015, Florida  
428 Statutes, as created by this act, applies to cases filed on or  
429 after July 1, 2012.

430 Section 8. The Legislature finds that this act is remedial  
431 in nature. Accordingly, it is the intent of the Legislature that  
432 this act shall apply to all mortgages encumbering real property  
433 and all promissory notes secured by a mortgage, whether executed  
434 before, on, or after the effective date of this act.

435 Section 9. This act shall take effect upon becoming a law.  
436  
437  
438  
439

Amendment No. 1

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

441 Remove the entire title and insert:

442 An act relating to mortgage foreclosures; amending s. 95.11,  
443 F.S.; reducing the limitations period for commencing an action  
444 to enforce a claim of a deficiency judgment subsequent to a  
445 foreclosure action; providing for application to existing causes  
446 of action; creating s. 702.015, F.S.; specifying required  
447 contents of a complaint seeking to foreclose on certain types of  
448 residential properties with respect to the authority of the  
449 plaintiff to foreclose on the note and the location of the note;  
450 providing legislative intent; providing that failure to file  
451 such documents does not affect title to property subsequent to a  
452 foreclosure sale; amending s. 702.06, F.S.; limiting the amount  
453 of a deficiency judgment; amending s. 702.10, F.S.; expanding  
454 the class of persons authorized to move for expedited  
455 foreclosure; defining the term "lienholder"; providing  
456 requirements and procedures with respect to an order directed to  
457 defendants to show cause why a final judgment of foreclosure  
458 should not be entered; providing that certain failures by a  
459 defendant to make certain filings or to make certain appearances  
460 may have specified legal consequences; requiring the court to  
461 enter a final judgment of foreclosure and order a foreclosure  
462 sale under certain circumstances; amending a restriction on a  
463 mortgagee to request a court to order a mortgagor defendant to  
464 make payments or to vacate the premises during an action to  
465 foreclose on residential real estate to provide that the  
466 restriction applies to all but owner-occupied residential  
467 property; providing a presumption regarding owner-occupied

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 213 (2012)

Amendment No. 1

468 residential property; requesting the Supreme Court to adopt  
469 rules and forms for use in expedited foreclosure proceedings;  
470 creating s. 702.11, F.S.; establishing expedited foreclosure  
471 proceedings for abandoned residential real property and  
472 procedures and requirements with respect thereto; providing for  
473 application of the act; providing an effective date.

Amendment No. 1a

COMMITTEE/SUBCOMMITTEE ACTION

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

*Unfavorable  
2-22-12*

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

3  
4 **Amendment to Amendment (647667) by Representative Passidomo**  
5 **(with title amendment)**

6 Remove lines 35-97 of the amendment and insert:

7 Section 3. Section 702.015, Florida Statutes, is created  
8 to read:

9 702.015 Elements of complaint; lost, destroyed, or stolen  
10 note affidavit.-

11 (1) Any complaint that seeks to foreclose a mortgage or  
12 other lien on residential real property, including individual  
13 units of condominiums and cooperatives, designed principally for  
14 occupation by from one to four families, but not including an  
15 interest in a timeshare property, which secures a promissory  
16 note must include at the commencement of the proceeding:

17 (a) Affirmative, certified allegations expressly made by  
18 the plaintiff at the time the proceeding is commenced that the

Amendment No. 1a

19 plaintiff is the owner and holder of the original note secured  
20 by the mortgage and the mortgage; or

21 (b) Allege with specificity and certify the factual basis  
22 by which the plaintiff is a person entitled to enforce the note  
23 under s. 673.3011.

24 (2) If a party has been delegated the authority to  
25 institute a mortgage foreclosure action on behalf of the owner  
26 and holder of the note and mortgage, the complaint shall  
27 describe and verify the authority of the plaintiff and identify,  
28 with specificity, the document that grants the plaintiff the  
29 authority to act on behalf of the owner and holder of the note  
30 and mortgage. The document granting authority shall be attached  
31 to the complaint. This subsection is intended to require initial  
32 disclosure of status and pertinent facts and not to modify law  
33 regarding standing or real parties in interest.

34 (3) If the plaintiff is in physical possession of the  
35 original promissory note, the plaintiff must file with the  
36 court, contemporaneously with and as a condition precedent to  
37 the filing of the complaint for foreclosure, certification,  
38 under penalty of perjury, that the plaintiff is in physical  
39 possession of the original promissory note. The certification  
40 must set forth the physical location of the note, the name,  
41 title and authority of the individual giving the certification,  
42 the name, title and authority of the person who personally  
43 verified such physical possession, and the time and date on  
44 which the possession was verified. Correct copies of the note  
45 and all allonges to the note must be attached to the complaint  
46 and certification. The original note, allonges and mortgage must

Amendment No. 1a

47 be filed with the court before the entry of any judgment of  
48 foreclosure or judgment on the note and mortgage.

49 (4) If the plaintiff seeks to enforce a lost, destroyed,  
50 or stolen instrument, an affidavit executed under penalty of  
51 perjury must be attached to the complaint. The affidavit must:

52 (a) Detail a clear, continuous and unbroken chain of all  
53 endorsements and/or assignments for the promissory note and a  
54 clear, continuous and unbroken chain of all assignments of the  
55 mortgage that are the subject of the action.

56 (b) Set forth facts showing that the plaintiff is entitled  
57 to enforce a lost, destroyed, or stolen instrument pursuant to  
58 s. 673.3091 or s.71.011, in the case of a non-negotiable note.

59 (c) Include as exhibits to the affidavit such copies of  
60 the note and the allonges to the note, assignments of mortgage,  
61 audit reports showing physical receipt of the original note and  
62 mortgage, or other evidence of the acquisition, ownership, and  
63 possession of the note as may be available to the plaintiff.

64  
65  
66  
67  
68 -----  
69 **T I T L E A M E N D M E N T**

70 Remove lines 446-452 of the amendment and insert:  
71 of action; creating s. 702.015, F.S.; specifying the  
72 contents of a complaint seeking to foreclose a  
73 mortgage or other lien on residential real property;  
74 requiring that if a party has been delegated the



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 213 (2012)

Amendment No. 1a

75 authority to institute a mortgage foreclosure action  
76 on behalf of the owner and holder of the note and  
77 mortgage, the complaint must describe and verify the  
78 authority of the plaintiff and identify, with  
79 specificity, the document that grants the plaintiff  
80 the authority; requiring that a plaintiff in physical  
81 possession of the original promissory note must file  
82 with the court certification, under penalty of  
83 perjury, that the plaintiff is in physical possession  
84 of the original promissory note and containing  
85 specified information; requiring that a plaintiff who  
86 seeks to enforce a lost, destroyed, or stolen  
87 instrument must attach an affidavit meeting specified  
88 requirements to the complaint; amending s. 702.06,  
89 F.S.; limiting the amount

90

Amendment No. 1b

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  
2-22-12*

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

3  
 4 **Amendment to Amendment (647667) by Representative Passidomo**  
 5 **(with title amendment)**

6 Remove lines 205-207 of the amendment and insert:  
 7 is for in rem relief only. Use of ~~Nothing in~~ this subsection  
 8 precludes ~~shall preclude~~ the entry of a deficiency judgment  
 9 against the mortgagor ~~where otherwise allowed by law.~~ It is the  
 10 intent of the Legislature

11  
 12  
 13 -----  
 14 **T I T L E A M E N D M E N T**

15 Remove line 470 of the amendment and insert:  
 16 sale under certain circumstances; providing for the preclusion  
 17 of pursuit of a deficiency judgment against the mortgagor;  
 18 amending a restriction on a  
 19

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

Location: 404 HOB

AMENDED

### CS/HB 233 : Misdemeanor Probation Services

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				
<b>Total Yeas: 17</b>		<b>Total Nays: 1</b>			

### CS/HB 233 Amendments

#### Amendment 320255

Adopted Without Objection

### Appearances:

CS/HB 233

Lowrey, Thad (Lobbyist) - Waive In Support  
Vice President Governmental Relations, Operation PAR  
7720 Washington St.  
Port Richey FL 34668  
Phone: (727) 992-8508

CS/HB 233

Fontaine, Mark (Lobbyist) - Information Only  
Executive Director, Florida Alcohol & Drug Abuse Association  
2868 Mahan Dr Ste 1  
Tallahassee FL 32308  
Phone: (850) 878-2196

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

**Location:** 404 HOB

**AMENDED**

**CS/HB 233 : Misdemeanor Probation Services (continued)**

**Appearances: (continued)**

CS/HB 233

Hurley, Lisa (General Public) - Information Only

Florida Association Counties

100 South Monroe

Tallahassee FL 32301

Phone: (850) 922-4300

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 233 (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  
2-22-12*

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

4 **Amendment (with title amendment)**

5 Remove lines 22-29 and insert:

6 (b) If the board of county commissioners or court has  
7 established a misdemeanor probation program for defendants  
8 convicted of a misdemeanor for possession of a controlled  
9 substance or drug paraphernalia under chapter 893, probation  
10 supervision services that include substance abuse education and  
11 intervention services shall be provided by a licensed substance  
12 abuse service provider under ch. 397, unless the provider is  
13 exempt from such licensure under s. 397.405.

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**T I T L E   A M E N D M E N T**

Remove lines 3-11 and insert:  
amending s. 948.15, F.S.; requiring probation supervision  
services for defendants convicted of certain misdemeanor  
controlled substance offenses that include substance abuse  
education and intervention services to be provided by a licensed  
substance abuse service provider in certain instances; providing  
an effective date.

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

Location: 404 HOB

AMENDED

### CS/CS/HB 319 : Residential Properties

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				
<b>Total Yeas: 13</b>		<b>Total Nays: 2</b>			

### CS/CS/HB 319 Amendments

#### Amendment 576969

Adopted Without Objection

#### Amendment 617391

Adopted Without Objection

#### Amendment 750347

Withdrawn

### Appearances:

CS/CS/HB 319, Amendment 1

Vickers, Alice (Lobbyist) - Opponent

Attorney, Florida Consumer Action Network

623 Beard Street

Tallahassee FL 32303

Phone: (850) 556-3121

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

**Location:** 404 HOB

**AMENDED**

**CS/CS/HB 319 : Residential Properties (continued)**

**Appearances: (continued)**

CS/CS/HB 319

Peyton, Mauri (General Public) - Opponent

Attorney, Community Associations

4758 W Commercial Blvd

Fort Lauderdale FL 33319

Phone: (954) 316-1336

CS/CS/HB 319

Moskovitz, Alex (General Public) - Opponent

Chief Financial Officer, Association Financial Services

4400 Biscayne Blvd Suite 550

Miami FL 33137

Phone: (305) 677-0022

CS/CS/HB 319

Ferguson, Diana (Lobbyist) - Proponent

Attorney, Community Advocacy Network

119 S Monroe St

Tallahassee FL 32308

Phone: (850) 681-6788

CS/CS/HB 319

Goldman, Trey (Lobbyist) - Waive In Support

Legislative Counsel, Florida Association of Realtors

200 S Monroe St

Tallahassee FL 32301

Phone: (850) 224-1400

CS/CS/HB 319

Fields, Michael (Lobbyist) - Proponent

Florida President, Bank of America

301 S Calhoun St

Tallahassee FL 32301

Phone: (850) 561-5922

CS/CS/HB 319

Henderson, Cynthia (Lobbyist) - Proponent

ALG

108 E Jefferson St

Tallahassee FL 32303

Phone: 850-210-5385

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 319 (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  
2-22-12*

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

**Amendment (with title amendment)**

5 Between lines 140 and 141, insert:

6 Section 3. Section 702.10, Florida Statutes, is amended to  
7 read:

8 702.10 Order to show cause; entry of final judgment of  
9 foreclosure; payment during foreclosure.-

10 (1) A lienholder ~~After a complaint in a foreclosure~~  
11 ~~proceeding has been filed, the mortgagee~~ may request an order to  
12 show cause for the entry of final judgment in a foreclosure  
13 action. For purposes of this section, the term "lienholder"  
14 includes the plaintiff and a defendant to the action who holds a  
15 lien encumbering the property or a defendant who, by virtue of  
16 its status as a condominium association, cooperative  
17 association, or homeowners' association, may file a lien against  
18 the real property subject to foreclosure. Upon filing, and the  
19 court shall immediately review the request and the court file in

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20 chambers and without a hearing ~~complaint~~. If, upon examination  
21 of the court file ~~complaint~~, the court finds that the complaint  
22 is verified, complies with s. 702.015, and alleges a cause of  
23 action to foreclose on real property, the court shall promptly  
24 issue an order directed to the other parties named in the action  
25 ~~defendant~~ to show cause why a final judgment of foreclosure  
26 should not be entered.

27 (a) The order shall:

28 1. Set the date and time for a hearing ~~on the order~~ to  
29 show cause. ~~However,~~ The date for the hearing may not occur ~~be~~  
30 ~~set~~ sooner than the later of 20 days after the service of the  
31 order to show cause or 45 days after the service of the initial  
32 complaint. When service is obtained by publication, the date for  
33 the hearing may not be set sooner than 55 ~~30~~ days after the  
34 first publication. ~~The hearing must be held within 60 days after~~  
35 ~~the date of service. Failure to hold the hearing within such~~  
36 ~~time does not affect the validity of the order to show cause or~~  
37 ~~the jurisdiction of the court to issue subsequent orders.~~

38 2. Direct the time within which service of the order to  
39 show cause and the complaint must be made upon the defendant.

40 3. State that the filing of defenses by a motion,  
41 responsive pleading, affidavits, or other papers ~~or by a~~  
42 ~~verified or sworn answer at or before the hearing to show cause~~  
43 may constitute ~~constitutes~~ cause for the court not to enter the  
44 attached final judgment.

45 4. State that a ~~the~~ defendant has the right to file  
46 affidavits or other papers before ~~at~~ the time of the hearing to  
47 show cause and may appear personally or by way of an attorney at

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48 the hearing.

49 5. State that, if a the defendant files defenses by a  
50 motion, a verified or sworn answer, affidavits, or other papers  
51 or appears personally or by way of an attorney at the time of  
52 the hearing, the hearing time will may be used to hear and  
53 consider the defendant's motion, answer, affidavits, other  
54 papers, and other evidence and argument as may be presented by  
55 the defendant or the defendant's attorney. The order shall also  
56 state that the court may enter an order of final judgment of  
57 foreclosure at the hearing. If such a determination is entered,  
58 the court shall enter a final judgment of foreclosure ordering  
59 the clerk of the court to conduct a foreclosure sale.

60 6. State that, if a the defendant fails to appear at the  
61 hearing to show cause or fails to file defenses by a motion or  
62 by a verified or sworn answer or files an answer not contesting  
63 the foreclosure, such the defendant may be considered to have  
64 waived the right to a hearing, and in such case, the court may  
65 enter a default against such defendant and, if appropriate, a  
66 final judgment of foreclosure ordering the clerk of the court to  
67 conduct a foreclosure sale.

68 7. State that if the mortgage provides for reasonable  
69 attorney attorney's fees and the requested attorney attorney's  
70 fees do not exceed 3 percent of the principal amount owed at the  
71 time of filing the complaint, it is unnecessary for the court to  
72 hold a hearing or adjudge the requested attorney attorney's fees  
73 to be reasonable.

74 8. Attach the form of the proposed final judgment of  
75 foreclosure which the movant requests the court to will enter,

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76 ~~if the defendant waives the right to be heard~~ at the hearing on  
77 the order to show cause. The form may contain blanks for the  
78 court to enter the amounts due.

79 9. Require the party seeking final judgment ~~mortgagee~~ to  
80 serve a copy of the order to show cause on the other parties ~~the~~  
81 ~~mortgagor~~ in the following manner:

82 a. If a party ~~the mortgagor~~ has been personally served  
83 with the complaint and original process, or the other party is  
84 the plaintiff in the action, service of the order to show cause  
85 on that party ~~order~~ may be made in the manner provided in the  
86 Florida Rules of Civil Procedure.

87 b. If a defendant ~~the mortgagor~~ has not been personally  
88 served with the complaint and original process, the order to  
89 show cause, together with the summons and a copy of the  
90 complaint, shall be served on the party ~~mortgagor~~ in the same  
91 manner as provided by law for original process.

92  
93 Any final judgment of foreclosure entered under this subsection  
94 is for in rem relief only. ~~Nothing in~~ This subsection does not  
95 ~~shall~~ preclude the entry of a deficiency judgment where  
96 otherwise allowed by law. It is the intent of the Legislature  
97 that this alternative procedure may run simultaneously with  
98 other court procedures.

99 (b) The right to be heard at the hearing to show cause is  
100 waived if a ~~the~~ defendant, after being served as provided by law  
101 with an order to show cause, engages in conduct that clearly  
102 shows that the defendant has relinquished the right to be heard  
103 on that order. The defendant's failure to file defenses by a

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104 motion or by a sworn or verified answer, affidavits, or other  
105 papers or to appear personally or by way of an attorney at the  
106 hearing duly scheduled on the order to show cause presumptively  
107 constitutes conduct that clearly shows that the defendant has  
108 relinquished the right to be heard. If a defendant files  
109 defenses by a motion, ~~or by~~ a verified or sworn answer,  
110 affidavits, or other papers at or before the hearing, such  
111 action may constitute ~~constitutes~~ cause and may preclude  
112 ~~precludes~~ the entry of a final judgment at the hearing to show  
113 cause.

114 (c) In a mortgage foreclosure proceeding, when a final  
115 ~~default~~ judgment of foreclosure has been entered against the  
116 mortgagor and the note or mortgage provides for the award of  
117 reasonable attorney ~~attorney's~~ fees, it is unnecessary for the  
118 court to hold a hearing or adjudge the requested attorney  
119 ~~attorney's~~ fees to be reasonable if the fees do not exceed 3  
120 percent of the principal amount owed on the note or mortgage at  
121 the time of filing, even if the note or mortgage does not  
122 specify the percentage of the original amount that would be paid  
123 as liquidated damages.

124 (d) If the court finds that all defendants have the  
125 ~~defendant has~~ waived the right to be heard as provided in  
126 paragraph (b), the court shall promptly enter a final judgment  
127 of foreclosure without the need for further hearing if the  
128 plaintiff has shown entitlement to a final judgment and upon the  
129 filing with the court of original note, satisfaction of the  
130 conditions for establishment of a lost note, or upon a showing  
131 to the court that the obligation to be foreclosed is not

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132 evidenced by a promissory note or other negotiable instrument.  
133 If the court finds that a ~~the~~ defendant has not waived the right  
134 to be heard on the order to show cause, the court shall ~~then~~  
135 determine whether there is cause not to enter a final judgment  
136 of foreclosure. If the court finds that the defendant has not  
137 shown cause, the court shall promptly enter a judgment of  
138 foreclosure. If the time allotted for the hearing is  
139 insufficient, the court may announce at the hearing a date and  
140 time for the continued hearing. Only the parties who appear,  
141 individually or through an attorney, at the initial hearing must  
142 be notified of the date and time of the continued hearing.

143 (2) This subsection does not apply to foreclosure of an owner-  
144 occupied residence. As part of any other ~~in an~~ action for  
145 foreclosure, and in addition to any other relief that the court  
146 may award ~~other than residential real estate,~~ the plaintiff the  
147 mortgagee may request that the court enter an order directing  
148 the mortgagor defendant to show cause why an order to make  
149 payments during the pendency of the foreclosure proceedings or  
150 an order to vacate the premises should not be entered.

151 (a) The order shall:

152 1. Set the date and time for hearing on the order to show  
153 cause. However, the date for the hearing may ~~shall~~ not be set  
154 sooner than 20 days after the service of the order. If where  
155 service is obtained by publication, the date for the hearing may  
156 shall not be set sooner than 30 days after the first  
157 publication.

158 2. Direct the time within which service of the order to  
159 show cause and the complaint shall be made upon each ~~the~~

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160 defendant.

161 3. State that a ~~the~~ defendant has the right to file  
162 affidavits or other papers at the time of the hearing and may  
163 appear personally or by way of an attorney at the hearing.

164 4. State that, if a ~~the~~ defendant fails to appear at the  
165 hearing to show cause and fails to file defenses by a motion or  
166 by a verified or sworn answer, the defendant is ~~may be~~ deemed to  
167 have waived the right to a hearing and in such case the court  
168 may enter an order to make payment or vacate the premises.

169 5. Require the movant mortgagee to serve a copy of the  
170 order to show cause on the defendant mortgagor in the following  
171 manner:

172 a. If a defendant ~~the mortgagor~~ has been served with the  
173 complaint and original process, service of the order may be made  
174 in the manner provided in the Florida Rules of Civil Procedure.

175 b. If a defendant ~~the mortgagor~~ has not been served with  
176 the complaint and original process, the order to show cause,  
177 together with the summons and a copy of the complaint, shall be  
178 served on the defendant mortgagor in the same manner as provided  
179 by law for original process.

180 (b) The right of a defendant to be heard at the hearing to  
181 show cause is waived if the defendant, after being served as  
182 provided by law with an order to show cause, engages in conduct  
183 that clearly shows that the defendant has relinquished the right  
184 to be heard on that order. A ~~The~~ defendant's failure to file  
185 defenses by a motion or by a sworn or verified answer or to  
186 appear at the hearing duly scheduled on the order to show cause  
187 presumptively constitutes conduct that clearly shows that the

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188 defendant has relinquished the right to be heard.

189 (c) If the court finds that a ~~the~~ defendant has waived the  
190 right to be heard as provided in paragraph (b), the court may  
191 promptly enter an order requiring payment in the amount provided  
192 in paragraph (f) or an order to vacate.

193 (d) If the court finds that the mortgagor has not waived  
194 the right to be heard on the order to show cause, the court  
195 shall, at the hearing on the order to show cause, consider the  
196 affidavits and other showings made by the parties appearing and  
197 make a determination of the probable validity of the underlying  
198 claim alleged against the mortgagor and the mortgagor's  
199 defenses. If the court determines that the plaintiff mortgagee  
200 is likely to prevail in the foreclosure action, the court shall  
201 enter an order requiring the mortgagor to make the payment  
202 described in paragraph (e) to the plaintiff mortgagee and  
203 provide for a remedy as described in paragraph (f). However, the  
204 order shall be stayed pending final adjudication of the claims  
205 of the parties if the mortgagor files with the court a written  
206 undertaking executed by a surety approved by the court in an  
207 amount equal to the unpaid balance of the lien being foreclosed  
208 ~~the mortgage on the property~~, including all principal, interest,  
209 unpaid taxes, and insurance premiums paid by the plaintiff the  
210 ~~mortgagee~~.

211 (e) ~~If In the event~~ the court enters an order requiring  
212 the mortgagor to make payments to the plaintiff mortgagee,  
213 payments shall be payable at such intervals and in such amounts  
214 provided for in the mortgage instrument before acceleration or  
215 maturity. The obligation to make payments pursuant to any order

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216 entered under this subsection shall commence from the date of  
217 the motion filed under this section hereunder. The order shall  
218 be served upon the mortgagor no later than 20 days before the  
219 date specified for the first payment. The order may permit, but  
220 may shall not require, the plaintiff mortgagee to take all  
221 appropriate steps to secure the premises during the pendency of  
222 the foreclosure action.

223 (f) If In the event the court enters an order requiring  
224 payments, the order shall also provide that the plaintiff is  
225 ~~mortgagee shall be~~ entitled to possession of the premises upon  
226 the failure of the mortgagor to make the payment required in the  
227 order unless at the hearing on the order to show cause the court  
228 finds good cause to order some other method of enforcement of  
229 its order.

230 (g) All amounts paid pursuant to this section shall be  
231 credited against the mortgage obligation in accordance with the  
232 terms of the loan documents; ~~provided, however, that any~~  
233 payments made under this section do shall not constitute a cure  
234 of any default or a waiver or any other defense to the mortgage  
235 foreclosure action.

236 (h) Upon the filing of an affidavit with the clerk that  
237 the premises have not been vacated pursuant to the court order,  
238 the clerk shall issue to the sheriff a writ for possession which  
239 shall be governed by the provisions of s. 83.62.

240 (i) For purposes of this subsection, there is a rebuttable  
241 presumption that a residential property for which a homestead  
242 exemption for taxation was granted according to the certified  
243 rolls of the latest assessment by the county property appraiser,

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244 before the filing of the foreclosure action, is an owner-  
245 occupied residential property.

246 (3) The Supreme Court is requested to amend the Florida  
247 Rules of Civil Procedure to provide for expedited foreclosure  
248 proceedings in conformity with this section and is requested to  
249 develop and publish forms for use under this section.

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

255

Remove line 9 and insert:

256

records request; amending s. 702.10, F.S.; expanding the class

257

of persons authorized to move for expedited foreclosure;

258

defining the term "lienholder"; providing requirements and

259

procedures with respect to an order directed to defendants to

260

show cause why a final judgment of foreclosure should not be

261

entered; providing that certain failures by a defendant to make

262

certain filings or to make certain appearances may have

263

specified legal consequences; requiring the court to enter a

264

final judgment of foreclosure and order a foreclosure sale under

265

certain circumstances; amending a restriction on a mortgagee to

266

request a court to order a mortgagor defendant to make payments

267

or to vacate the premises during an action to foreclose on

268

residential real estate to provide that the restriction applies

269

to all but owner-occupied residential property; providing a

270

presumption regarding owner-occupied residential property;

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requesting the Supreme Court to adopt rules and forms for use in

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272 expedited foreclosure proceedings; amending s. 718.112, F.S.;

273 revising

274

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 319 (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  
2-22-12*

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

3  
4 **Amendment**

5 Remove lines 719-846 and insert:

6 Section 9. Section 718.406, Florida Statutes, is created  
7 to read:

8 718.406 Condominiums created within condominium parcels.--

9 (1) Unless otherwise expressed in the declaration of  
10 condominium, if a condominium is created within a condominium  
11 parcel, the term:

12 (a) "Primary condominium" means any condominium that is  
13 not a secondary condominium and contains one or more subdivided  
14 parcels.

15 (b) "Primary condominium association" means any entity  
16 that operates a primary condominium.

17 (c) "Primary condominium declaration" means the instrument  
18 or instruments by which a primary condominium is created, as  
19 they are from time to time amended.

Amendment No. 2

20        (d) "Secondary condominium" means one or more condominium  
21 parcels that have been submitted to condominium ownership  
22 pursuant to a secondary condominium declaration.

23        (e) "Secondary condominium association" means any entity  
24 responsible for the operation of a secondary condominium.

25        (f) "Secondary condominium declaration" means the  
26 instrument or instruments by which a secondary condominium is  
27 created, as they are from time to time amended.

28        (g) "Secondary unit" means a unit that is part of a  
29 secondary condominium.

30        (h) "Subdivided parcel" means a condominium parcel in a  
31 primary condominium that has been submitted to condominium  
32 ownership pursuant to a secondary condominium declaration.

33        (2) Unless otherwise provided in the primary condominium  
34 declaration, if a condominium parcel is a subdivided parcel, the  
35 secondary condominium association responsible for operating the  
36 secondary condominium upon the subdivided parcel shall act on  
37 behalf of all of the unit owners of secondary units in the  
38 secondary condominium and shall exercise all rights of the  
39 secondary unit owners in the primary condominium association,  
40 other than the right of possession of the secondary unit. The  
41 secondary condominium association shall designate a  
42 representative who shall cast the vote of the subdivided parcel  
43 in the primary condominium association and, if no person is  
44 designated by the secondary condominium association to cast such  
45 vote, the vote shall be cast by the president of the secondary  
46 condominium association or the designee of the president.

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47       (3) Unless otherwise provided in the primary condominium  
48 declaration as originally recorded, no secondary condominium may  
49 be created upon any condominium parcel in the primary  
50 condominium, and no amendment to the primary condominium  
51 declaration may permit secondary condominiums to be created upon  
52 parcels in the primary condominium, unless the record owners of  
53 a majority of the condominium parcels join in the execution of  
54 the amendment.

55       (4) If the primary condominium declaration permits the  
56 creation of a secondary condominium and a condominium parcel in  
57 the primary condominium is being submitted for condominium  
58 ownership to create a secondary condominium upon the primary  
59 condominium parcel, the approval of the board of administration  
60 of the primary condominium association is required in order to  
61 create the secondary condominium on the primary condominium  
62 parcel. Unless otherwise provided in the primary condominium  
63 declaration, the owners of condominium parcels in the primary  
64 condominium that will not be part of the proposed secondary  
65 condominium and the holders of liens upon such primary  
66 condominium parcels shall not have approval rights regarding the  
67 creation of the secondary condominium or the contents of the  
68 secondary condominium declaration being submitted. Only the  
69 primary condominium association, the owner of the subdivided  
70 parcel, and the holders of liens upon the subdivided parcel  
71 shall have approval rights regarding the creation of the  
72 secondary condominium and the contents of the secondary  
73 condominium declaration. In order for the recording of the  
74 secondary condominium declaration to be effective to create the

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75 secondary condominium, the board of administration of the  
76 primary condominium association, the owner of the subdivided  
77 parcel, and all holders of liens on the subdivided parcel must  
78 execute the secondary condominium declaration for the purpose of  
79 evidencing their approval.

80 (5) An owner of a secondary unit is subject to both the  
81 primary condominium declaration and the secondary condominium  
82 declaration.

83 (6) The primary condominium association may provide  
84 insurance required by s. 718.111(11) for common elements and  
85 other improvements within the secondary condominium if the  
86 primary condominium declaration permits the primary condominium  
87 association to provide such insurance for the benefit of the  
88 condominium property included in the subdivided parcel, in lieu  
89 of such insurance being provided by the secondary condominium  
90 association.

91 (7) Unless otherwise provided in the primary condominium  
92 declaration, the board of administration of the primary  
93 condominium association may adopt hurricane shutter or hurricane  
94 protection specifications for each building within which  
95 subdivided parcels are located and govern any subdivided parcels  
96 in the primary condominium.

97 (8) Any unit owner of, or holder of a first mortgage on, a  
98 secondary unit may register such unit owner's or mortgagee's  
99 interest in the secondary unit with the primary condominium  
100 association by delivering written notice to the primary  
101 condominium association. Once registered, the primary  
102 condominium association must provide written notice to such

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103 secondary unit owner and his, her, or its first mortgagee at  
104 least 30 days before instituting any foreclosure action against  
105 the subdivided parcel in which the secondary unit owner and his,  
106 her, or its first mortgagee hold an interest for failure of the  
107 subdivided parcel owner to pay any assessments or other amounts  
108 due to the primary condominium association. A foreclosure action  
109 against a subdivided parcel is not effective without an  
110 affidavit indicating that written notice of the foreclosure was  
111 timely sent to the names and addresses of secondary unit owners  
112 and first mortgagees registered with the primary condominium  
113 association pursuant to this subsection. The registered  
114 secondary unit owner or mortgagee has a right to pay the  
115 proportionate amount of the delinquent assessment attributable  
116 to the secondary unit in which the registered unit owner or  
117 mortgagee holds an interest. Upon such payment, the primary  
118 condominium association shall be obligated to promptly modify or  
119 partially release the record of lien on the primary condominium  
120 association so that the lien no longer encumbers such secondary  
121 unit. Alternatively, a registered secondary unit owner or  
122 mortgagee may pay the amount of all delinquent assessments  
123 attributed to the subdivided parcel and seek reimbursement for  
124 all such amounts paid and all costs incurred from the secondary  
125 condominium association, including, without limitation, the  
126 costs of collection other than the share allocable to the  
127 secondary unit on behalf of which such payment was made.

128 (9) In the event of a conflict between the primary  
129 condominium declaration and the secondary condominium  
130 declaration, the primary condominium declaration controls.

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 319 (2012)

Amendment No. 2

131       (10) All common expenses due to the primary condominium  
132 association with respect to a subdivided parcel are a common  
133 expense of the secondary condominium association and shall be  
134 collected by the secondary condominium association from its  
135 members and paid to the primary condominium association.  
136

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  
2-22-12*

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

4 **Amendment (with title amendment)**

5 Between lines 1998 and 1999, insert:

6 Section 20. Subsection (1) of section 720.307, Florida  
7 Statutes, is amended to read:

8 720.307 Transition of association control in a community.-  
9 With respect to homeowners' associations:

10 (1) Members other than the developer are entitled to elect  
11 at least a majority of the members of the board of directors of  
12 the homeowners' association when the earlier of the following  
13 events occurs:

14 (a) Three months after 90 percent of the parcels in all  
15 phases of the community that will ultimately be operated by the  
16 homeowners' association have been conveyed to members; ~~or~~

17 (b) When development of all of the parcels that will  
18 ultimately be operated by the homeowners' association has been  
19 completed, some of the parcels have been conveyed to members,

Amendment No. 3

20 and no other parcels are being offered for sale by the developer  
21 in the ordinary course of business;

22 (c) When some of the parcels have been conveyed to members  
23 and no other parcels are being constructed or offered for sale  
24 by the developer in the ordinary course of business;

25 (d) When the developer files a petition seeking protection  
26 in bankruptcy;

27 (e) When a receiver for the developer is appointed by a  
28 circuit court and is not discharged within 30 days after such  
29 appointment, unless the court determines, within 30 days after  
30 appointment of the receiver, that transfer of control would be  
31 detrimental to the homeowners' association or its members; or

32 (f) ~~(b)~~ Such other percentage of the parcels has been  
33 conveyed to members, or such other date or event has occurred,  
34 as is set forth in the governing documents in order to comply  
35 with the requirements of any governmentally chartered entity  
36 with regard to the mortgage financing of parcels.

37  
38 For purposes of this section, the term "members other than the  
39 developer" shall not include builders, contractors, or others  
40 who purchase a parcel for the purpose of constructing  
41 improvements thereon for resale.

42  
43  
44  
45 -----  
46 **T I T L E A M E N D M E N T**

47 Remove line 108 and insert:

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 319 (2012)

Amendment No. 3

48 a certain time period; amending s. 720.307, F.S.;

49 revising when members other than the developer are

50 entitled to elect at least a majority of the members

51 of the board of directors of the homeowners'

52 association; amending s. 720.3085, F.S.;

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

Location: 404 HOB

AMENDED

### CS/CS/HB 455 : Sex Offenses

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				
<b>Total Yeas: 17</b>		<b>Total Nays: 0</b>			

### CS/CS/HB 455 Amendments

#### Amendment 656125

Adopted Without Objection

#### Appearances:

CS/CS/HB 455

Pitts, Brian (General Public) - Waive In Support

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: (727) 897-9291

CS/CS/HB 455

Hartley, Ron (General Public) - Waive In Support

Major, Hillsborough County Sheriffs Office

2008 8th Avenue

Tampa FL 33701

Phone: (813) 363-0375

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 455 (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  
2.22.12*

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

4 **Amendment**

5 Remove lines 193-1338 and insert:

6 change in enrollment, volunteer, or employment status shall be  
7 reported in person at the sheriff's office, or the Department of  
8 Corrections if the sexual predator is in the custody or control  
9 of or under the supervision of the Department of Corrections,  
10 within 48 hours after any change in status. The sheriff or the  
11 Department of Corrections shall promptly notify each institution  
12 of the sexual predator's presence and any change in the sexual  
13 predator's enrollment, volunteer, or employment status.

14 2. Any other information determined necessary by the  
15 department, including criminal and corrections records;  
16 nonprivileged personnel and treatment records; and evidentiary  
17 genetic markers when available.

18 (b) If the sexual predator is in the custody or control  
19 of, or under the supervision of, the Department of Corrections,

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 455 (2012)

Amendment No. 1

20 or is in the custody of a private correctional facility, the  
21 sexual predator must register with the Department of  
22 Corrections. A sexual predator who is under the supervision of  
23 the Department of Corrections but who is not incarcerated must  
24 register with the Department of Corrections within 3 business  
25 days after the court finds the offender to be a sexual predator.  
26 The Department of Corrections shall provide to the department  
27 registration information and the location of, and local  
28 telephone number for, any Department of Corrections office that  
29 is responsible for supervising the sexual predator. In addition,  
30 the Department of Corrections shall notify the department if the  
31 sexual predator escapes or absconds from custody or supervision  
32 or if the sexual predator dies.

33 (c) If the sexual predator is in the custody of a local  
34 jail, the custodian of the local jail shall register the sexual  
35 predator within 3 business days after intake of the sexual  
36 predator for any reason and upon release, and shall forward the  
37 registration information to the department. The custodian of the  
38 local jail shall also take a digitized photograph of the sexual  
39 predator while the sexual predator remains in custody and shall  
40 provide the digitized photograph to the department. The  
41 custodian shall notify the department if the sexual predator  
42 escapes from custody or dies.

43 (d) If the sexual predator is under federal supervision,  
44 the federal agency responsible for supervising the sexual  
45 predator may forward to the department any information regarding  
46 the sexual predator which is consistent with the information  
47 provided by the Department of Corrections under this section,

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48 and may indicate whether use of the information is restricted to  
49 law enforcement purposes only or may be used by the department  
50 for purposes of public notification.

51 (e)1. If the sexual predator is not in the custody or  
52 control of, or under the supervision of, the Department of  
53 Corrections or is not in the custody of a private correctional  
54 facility, the sexual predator shall register in person:

55 a. At the sheriff's office in the county where he or she  
56 establishes or maintains a residence within 48 hours after  
57 establishing or maintaining a residence in this state; and

58 b. At the sheriff's office in the county where he or she  
59 was designated a sexual predator by the court within 48 hours  
60 after such finding is made.

61 2. Any change in the sexual predator's permanent or  
62 temporary residence, name, ~~or any~~ electronic mail addresses,  
63 ~~address and or Internet identifiers any instant message name~~  
64 required to be provided pursuant to subparagraph (g)4., after  
65 the sexual predator registers in person at the sheriff's office  
66 as provided in subparagraph 1., shall be accomplished in the  
67 manner provided in paragraphs (g), (i), and (j). When a sexual  
68 predator registers with the sheriff's office, the sheriff shall  
69 take a photograph, and a set of fingerprints, and palm prints of  
70 the predator and forward the photographs, palm prints, and  
71 fingerprints to the department, along with the information that  
72 the predator is required to provide pursuant to this section.

73 (f) Within 48 hours after the registration required under  
74 paragraph (a) or paragraph (e), a sexual predator who is not  
75 incarcerated and who resides in the community, including a

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 455 (2012)

Amendment No. 1

76 sexual predator under the supervision of the Department of  
77 Corrections, shall register in person at a driver ~~driver's~~  
78 license office of the Department of Highway Safety and Motor  
79 Vehicles and shall present proof of registration. At the driver  
80 ~~driver's~~ license office the sexual predator shall:

81 1. If otherwise qualified, secure a Florida driver  
82 ~~driver's~~ license, renew a Florida driver ~~driver's~~ license, or  
83 secure an identification card. The sexual predator shall  
84 identify himself or herself as a sexual predator who is required  
85 to comply with this section, provide his or her place of  
86 permanent, temporary, or transient residence, including a rural  
87 route address and a post office box, and submit to the taking of  
88 a photograph for use in issuing a driver ~~driver's~~ license,  
89 renewed license, or identification card, and for use by the  
90 department in maintaining current records of sexual predators. A  
91 post office box shall not be provided in lieu of a physical  
92 residential address. If the sexual predator's place of residence  
93 is a motor vehicle, trailer, mobile home, or manufactured home,  
94 as defined in chapter 320, the sexual predator shall also  
95 provide to the Department of Highway Safety and Motor Vehicles  
96 the vehicle identification number; the license tag number; the  
97 registration number; and a description, including color scheme,  
98 of the motor vehicle, trailer, mobile home, or manufactured  
99 home. If a sexual predator's place of residence is a vessel,  
100 live-aboard vessel, or houseboat, as defined in chapter 327, the  
101 sexual predator shall also provide to the Department of Highway  
102 Safety and Motor Vehicles the hull identification number; the  
103 manufacturer's serial number; the name of the vessel, live-

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Bill No. CS/CS/HB 455 (2012)

Amendment No. 1

104 aboard vessel, or houseboat; the registration number; and a  
105 description, including color scheme, of the vessel, live-aboard  
106 vessel, or houseboat.

107 2. Pay the costs assessed by the Department of Highway  
108 Safety and Motor Vehicles for issuing or renewing a driver  
109 ~~driver's~~ license or identification card as required by this  
110 section. The driver ~~driver's~~ license or identification card  
111 issued to the sexual predator must be in compliance with s.  
112 322.141(3).

113 3. Provide, upon request, any additional information  
114 necessary to confirm the identity of the sexual predator,  
115 including a set of fingerprints.

116 (g)1. Each time a sexual predator's driver ~~driver's~~  
117 license or identification card is subject to renewal, and,  
118 without regard to the status of the predator's driver ~~driver's~~  
119 license or identification card, within 48 hours after any change  
120 of the predator's residence or change in the predator's name by  
121 reason of marriage or other legal process, the predator shall  
122 report in person to a driver ~~driver's~~ license office and shall  
123 be subject to the requirements specified in paragraph (f). The  
124 Department of Highway Safety and Motor Vehicles shall forward to  
125 the department and to the Department of Corrections all  
126 photographs and information provided by sexual predators.  
127 Notwithstanding the restrictions set forth in s. 322.142, the  
128 Department of Highway Safety and Motor Vehicles is authorized to  
129 release a reproduction of a color-photograph or digital-image  
130 license to the Department of Law Enforcement for purposes of  
131 public notification of sexual predators as provided in this

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132 section. A sexual predator who is unable to secure or update a  
133 driver license or identification card with the Department of  
134 Highway Safety and Motor Vehicles as provided in paragraph (f)  
135 and this paragraph must also report any change of the predator's  
136 residence or change in the predator's name by reason of marriage  
137 or other legal process within 48 hours after the change to the  
138 sheriff's office in the county where the predator resides or is  
139 located and provide confirmation that he or she reported such  
140 information to the Department of Highway Safety and Motor  
141 Vehicles.

142 2. A sexual predator who vacates a permanent, temporary,  
143 or transient residence and fails to establish or maintain  
144 another permanent, temporary, or transient residence shall,  
145 within 48 hours after vacating the permanent, temporary, or  
146 transient residence, report in person to the sheriff's office of  
147 the county in which he or she is located. The sexual predator  
148 shall specify the date upon which he or she intends to or did  
149 vacate such residence. The sexual predator must provide or  
150 update all of the registration information required under  
151 paragraph (a). The sexual predator must provide an address for  
152 the residence or other place that he or she is or will be  
153 located during the time in which he or she fails to establish or  
154 maintain a permanent or temporary residence.

155 3. A sexual predator who remains at a permanent,  
156 temporary, or transient residence after reporting his or her  
157 intent to vacate such residence shall, within 48 hours after the  
158 date upon which the predator indicated he or she would or did  
159 vacate such residence, report in person to the sheriff's office

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160 to which he or she reported pursuant to subparagraph 2. for the  
161 purpose of reporting his or her address at such residence. When  
162 the sheriff receives the report, the sheriff shall promptly  
163 convey the information to the department. An offender who makes  
164 a report as required under subparagraph 2. but fails to make a  
165 report as required under this subparagraph commits a felony of  
166 the second degree, punishable as provided in s. 775.082, s.  
167 775.083, or s. 775.084.

168 4. A sexual predator must register all any electronic mail  
169 addresses and Internet identifiers ~~address or instant message~~  
170 ~~name~~ with the department prior to using such electronic mail  
171 addresses and Internet identifiers ~~address or instant message~~  
172 ~~name on or after October 1, 2007~~. The department shall establish  
173 an online system through which sexual predators may securely  
174 access and update all electronic mail address and Internet  
175 identifier ~~instant message name~~ information.

176 (h) The department must notify the sheriff and the state  
177 attorney of the county and, if applicable, the police chief of  
178 the municipality, where the sexual predator maintains a  
179 residence.

180 (i) A sexual predator who intends to establish a  
181 permanent, temporary, or transient residence in another state or  
182 jurisdiction other than the State of Florida shall report in  
183 person to the sheriff of the county of current residence within  
184 48 hours before the date he or she intends to leave this state  
185 to establish residence in another state or jurisdiction or  
186 within 21 days before his or her planned departure date if the  
187 intended residence of 5 days or more is outside of the United

Amendment No. 1

188 States. The sexual predator must provide to the sheriff the  
189 address, municipality, county, ~~and~~ state, and country of  
190 intended residence. The sheriff shall promptly provide to the  
191 department the information received from the sexual predator.  
192 The department shall notify the statewide law enforcement  
193 agency, or a comparable agency, in the intended state, ~~or~~  
194 jurisdiction, or country of residence of the sexual predator's  
195 intended residence. The failure of a sexual predator to provide  
196 his or her intended place of residence is punishable as provided  
197 in subsection (10).

198 (j) A sexual predator who indicates his or her intent to  
199 establish a permanent, temporary, or transient residence in  
200 another state, a ~~or~~ jurisdiction other than the State of  
201 Florida, or another country and later decides to remain in this  
202 state shall, within 48 hours after the date upon which the  
203 sexual predator indicated he or she would leave this state,  
204 report in person to the sheriff to which the sexual predator  
205 reported the intended change of residence, and report his or her  
206 intent to remain in this state. If the sheriff is notified by  
207 the sexual predator that he or she intends to remain in this  
208 state, the sheriff shall promptly report this information to the  
209 department. A sexual predator who reports his or her intent to  
210 establish a permanent, temporary, or transient residence in  
211 another state, a ~~or~~ jurisdiction other than the State of  
212 Florida, or another country, but who remains in this state  
213 without reporting to the sheriff in the manner required by this  
214 paragraph, commits a felony of the second degree, punishable as  
215 provided in s. 775.082, s. 775.083, or s. 775.084.

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216 (k)1. The department is responsible for the online  
217 maintenance of current information regarding each registered  
218 sexual predator. The department must maintain hotline access for  
219 state, local, and federal law enforcement agencies to obtain  
220 instantaneous locator file and offender characteristics  
221 information on all released registered sexual predators for  
222 purposes of monitoring, tracking, and prosecution. The  
223 photograph and fingerprints do not have to be stored in a  
224 computerized format.

225 2. The department's sexual predator registration list,  
226 containing the information described in subparagraph (a)1., is a  
227 public record. The department is authorized to disseminate this  
228 public information by any means deemed appropriate, including  
229 operating a toll-free telephone number for this purpose. When  
230 the department provides information regarding a registered  
231 sexual predator to the public, department personnel must advise  
232 the person making the inquiry that positive identification of a  
233 person believed to be a sexual predator cannot be established  
234 unless a fingerprint comparison is made, and that it is illegal  
235 to use public information regarding a registered sexual predator  
236 to facilitate the commission of a crime.

237 3. The department shall adopt guidelines as necessary  
238 regarding the registration of sexual predators and the  
239 dissemination of information regarding sexual predators as  
240 required by this section.

241 (1) A sexual predator must maintain registration with the  
242 department for the duration of his or her life, unless the  
243 sexual predator has received a full pardon or has had a

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 455 (2012)

Amendment No. 1

244 conviction set aside in a postconviction proceeding for any  
245 offense that met the criteria for the sexual predator  
246 designation.

247 (8) VERIFICATION.—The department and the Department of  
248 Corrections shall implement a system for verifying the addresses  
249 of sexual predators. The system must be consistent with the  
250 provisions of the federal Adam Walsh Child Protection and Safety  
251 Act of 2006 and any other federal standards applicable to such  
252 verification or required to be met as a condition for the  
253 receipt of federal funds by the state. The Department of  
254 Corrections shall verify the addresses of sexual predators who  
255 are not incarcerated but who reside in the community under the  
256 supervision of the Department of Corrections and shall report to  
257 the department any failure by a sexual predator to comply with  
258 registration requirements. County and local law enforcement  
259 agencies, in conjunction with the department, shall verify the  
260 addresses of sexual predators who are not under the care,  
261 custody, control, or supervision of the Department of  
262 Corrections. Local law enforcement agencies shall report to the  
263 department any failure by a sexual predator to comply with  
264 registration requirements.

265 (a) A sexual predator must report in person each year  
266 during the month of the sexual predator's birthday and during  
267 every third month thereafter to the sheriff's office in the  
268 county in which he or she resides or is otherwise located to  
269 reregister. The sheriff's office may determine the appropriate  
270 times and days for reporting by the sexual predator, which shall  
271 be consistent with the reporting requirements of this paragraph.

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 455 (2012)

Amendment No. 1

272 Reregistration shall include any changes to the following  
273 information:

274 1. Name; social security number; age; race; sex; date of  
275 birth; height; weight; tattoos or other identifying marks; hair  
276 and eye color; address of any permanent residence and address of  
277 any current temporary residence, within the state or out of  
278 state, including a rural route address and a post office box; if  
279 no permanent or temporary address, any transient residence  
280 within the state; address, location or description, and dates of  
281 any current or known future temporary residence within the state  
282 or out of state; ~~any~~ electronic mail addresses ~~address and or~~  
283 Internet identifiers ~~any instant message name~~ required to be  
284 provided pursuant to subparagraph (6)(g)4.; home telephone  
285 numbers ~~number and any or~~ cellular telephone numbers ~~number~~;  
286 date and place of any employment; the vehicle make, model,  
287 color, registration number, and license tag number of any  
288 vehicles owned; fingerprints; palm prints; and photograph. A  
289 post office box shall not be provided in lieu of a physical  
290 residential address. The sexual predator must also produce his  
291 or her passport, if he or she has a passport, and, if he or she  
292 is an alien, must produce or provide information about documents  
293 establishing his or her immigration status. The sexual predator  
294 must also provide information about any professional licenses he  
295 or she may have.

296 2. If the sexual predator is enrolled, employed,  
297 volunteering, or carrying on a vocation at an institution of  
298 higher education in this state, the sexual predator shall also  
299 provide to the department the name, address, and county of each

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300 institution, including each campus attended, and the sexual  
301 predator's enrollment, volunteer, or employment status.

302 3. If the sexual predator's place of residence is a motor  
303 vehicle, trailer, mobile home, or manufactured home, as defined  
304 in chapter 320, the sexual predator shall also provide the  
305 vehicle identification number; the license tag number; the  
306 registration number; and a description, including color scheme,  
307 of the motor vehicle, trailer, mobile home, or manufactured  
308 home. If the sexual predator's place of residence is a vessel,  
309 live-aboard vessel, or houseboat, as defined in chapter 327, the  
310 sexual predator shall also provide the hull identification  
311 number; the manufacturer's serial number; the name of the  
312 vessel, live-aboard vessel, or houseboat; the registration  
313 number; and a description, including color scheme, of the  
314 vessel, live-aboard vessel, or houseboat.

315 (b) The sheriff's office shall, within 2 working days,  
316 electronically submit and update all information provided by the  
317 sexual predator to the department in a manner prescribed by the  
318 department.

319 (10) PENALTIES.—

320 (a) Except as otherwise specifically provided, a sexual  
321 predator who fails to register; who fails, after registration,  
322 to maintain, acquire, or renew a driver ~~driver's~~ license or  
323 identification card; who fails to provide required location  
324 information, electronic mail address information prior to use,  
325 Internet identifier ~~instant message name~~ information prior to  
326 use, all home telephone numbers ~~number~~ and ~~any~~ cellular  
327 telephone numbers ~~number~~, or change-of-name information; who

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Amendment No. 1

328 fails to make a required report in connection with vacating a  
329 permanent residence; who fails to reregister as required; who  
330 fails to respond to any address verification correspondence from  
331 the department within 3 weeks of the date of the correspondence;  
332 who knowingly provides false registration information by act or  
333 omission; or who otherwise fails, by act or omission, to comply  
334 with the requirements of this section, commits a felony of the  
335 third degree, punishable as provided in s. 775.082, s. 775.083,  
336 or s. 775.084.

337 Section 2. Section 800.03, Florida Statutes, is amended to  
338 read:

339 800.03 Exposure of sexual organs.—

340 (1) It is unlawful to expose or exhibit one's sexual  
341 organs in public or on the private premises of another, or so  
342 near thereto as to be seen from such private premises, in a  
343 vulgar or indecent manner, or to be naked in public except in  
344 any place provided or set apart for that purpose.

345 (2)(a) Except as provided in paragraph (b), a violation of  
346 this section is a misdemeanor of the first degree, punishable as  
347 provided in s. 775.082 or s. 775.083.

348 (b) A third or subsequent violation of this section is a  
349 felony of the third degree, punishable as provided in s.  
350 775.082, s. 775.083, or s. 775.084.

351 (3) A mother's breastfeeding of her baby does not under  
352 any circumstance violate this section.

353 Section 3. Paragraph (m) is added to subsection (2) of  
354 section 903.046, Florida Statutes, to read:

355 903.046 Purpose of and criteria for bail determination.—

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 455 (2012)

Amendment No. 1

356 (2) When determining whether to release a defendant on  
357 bail or other conditions, and what that bail or those conditions  
358 may be, the court shall consider:

359 (m) Whether the defendant, other than a defendant whose  
360 only criminal charge is a misdemeanor offense under chapter 316,  
361 is required to register as a sexual offender under s. 943.0435  
362 or a sexual predator under s. 775.21; and, if so, he or she is  
363 not eligible for release on bail or surety bond until the first  
364 appearance on the case in order to ensure the full participation  
365 of the prosecutor and the protection of the public.

366 Section 4. Paragraphs (a) and (g) of subsection (1),  
367 subsection (2), paragraphs (a) and (d) of subsection (4),  
368 subsections (7), (8), and (11), and paragraph (c) of subsection  
369 (14) of section 943.0435, Florida Statutes, are amended to read:

370 943.0435 Sexual offenders required to register with the  
371 department; penalty.—

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

373 (a)1. "Sexual offender" means a person who meets the  
374 criteria in sub-subparagraph a., sub-subparagraph b., sub-  
375 subparagraph c., or sub-subparagraph d., as follows:

376 a.(I) Has been convicted of committing, or attempting,  
377 soliciting, or conspiring to commit, any of the criminal  
378 offenses proscribed in the following statutes in this state or  
379 similar offenses in another jurisdiction: s. 393.135(2); s.  
380 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where  
381 the victim is a minor and the defendant is not the victim's  
382 parent or guardian; s. 794.011, excluding s. 794.011(10); s.  
383 794.05; s. 796.03; s. 796.035; s. 796.045; s. 800.04; s.

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384 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.  
385 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s.  
386 916.1075(2); or s. 985.701(1); or any similar offense committed  
387 in this state which has been redesignated from a former statute  
388 number to one of those listed in this sub-sub-subparagraph; and

389 (II) Has been released on or after October 1, 1997, from  
390 the sanction imposed for any conviction of an offense described  
391 in sub-sub-subparagraph (I). For purposes of sub-sub-  
392 subparagraph (I), a sanction imposed in this state or in any  
393 other jurisdiction includes, but is not limited to, a fine,  
394 probation, community control, parole, conditional release,  
395 control release, or incarceration in a state prison, federal  
396 prison, private correctional facility, or local detention  
397 facility;

398 b. Establishes or maintains a residence in this state and  
399 who has not been designated as a sexual predator by a court of  
400 this state but who has been designated as a sexual predator, as  
401 a sexually violent predator, or by another sexual offender  
402 designation in another state or jurisdiction and was, as a  
403 result of such designation, subjected to registration or  
404 community or public notification, or both, or would be if the  
405 person were a resident of that state or jurisdiction, without  
406 regard to whether the person otherwise meets the criteria for  
407 registration as a sexual offender;

408 c. Establishes or maintains a residence in this state who  
409 is in the custody or control of, or under the supervision of,  
410 any other state or jurisdiction as a result of a conviction for  
411 committing, or attempting, soliciting, or conspiring to commit,

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412 any of the criminal offenses proscribed in the following  
413 statutes or similar offense in another jurisdiction: s.  
414 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.  
415 787.025(2)(c), where the victim is a minor and the defendant is  
416 not the victim's parent or guardian; s. 794.011, excluding s.  
417 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 796.045; s.  
418 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,  
419 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;  
420 s. 916.1075(2); or s. 985.701(1); or any similar offense  
421 committed in this state which has been redesignated from a  
422 former statute number to one of those listed in this sub-  
423 subparagraph; or

424 d. On or after July 1, 2007, has been adjudicated  
425 delinquent for committing, or attempting, soliciting, or  
426 conspiring to commit, any of the criminal offenses proscribed in  
427 the following statutes in this state or similar offenses in  
428 another jurisdiction when the juvenile was 14 years of age or  
429 older at the time of the offense:

430 (I) Section 794.011, excluding s. 794.011(10);

431 (II) Section 800.04(4)(b) where the victim is under 12  
432 years of age or where the court finds sexual activity by the use  
433 of force or coercion;

434 (III) Section 800.04(5)(c)1. where the court finds  
435 molestation involving unclothed genitals; or

436 (IV) Section 800.04(5)(d) where the court finds the use of  
437 force or coercion and unclothed genitals.

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438 2. For all qualifying offenses listed in sub-subparagraph  
439 (1)(a)1.d., the court shall make a written finding of the age of  
440 the offender at the time of the offense.

441

442 For each violation of a qualifying offense listed in this  
443 subsection, except for a violation of s. 794.011, the court  
444 shall make a written finding of the age of the victim at the  
445 time of the offense. For a violation of s. 800.04(4), the court  
446 shall additionally make a written finding indicating that the  
447 offense did or did not involve sexual activity and indicating  
448 that the offense did or did not involve force or coercion. For a  
449 violation of s. 800.04(5), the court shall additionally make a  
450 written finding that the offense did or did not involve  
451 unclothed genitals or genital area and that the offense did or  
452 did not involve the use of force or coercion.

453 (g) "Internet identifier Instant message name" has the  
454 same meaning as provided in s. 775.21 ~~means an identifier that~~  
455 ~~allows a person to communicate in real time with another person~~  
456 ~~using the Internet.~~

457 (2) A sexual offender shall:

458 (a) Report in person at the sheriff's office:

459 1. In the county in which the offender establishes or  
460 maintains a permanent, temporary, or transient residence within  
461 48 hours after:

462 a. Establishing permanent, temporary, or transient  
463 residence in this state; or

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464 b. Being released from the custody, control, or  
465 supervision of the Department of Corrections or from the custody  
466 of a private correctional facility; or

467 2. In the county where he or she was convicted within 48  
468 hours after being convicted for a qualifying offense for  
469 registration under this section if the offender is not in the  
470 custody or control of, or under the supervision of, the  
471 Department of Corrections, or is not in the custody of a private  
472 correctional facility.

473

474 Any change in the information required to be provided pursuant  
475 to paragraph (b), including, but not limited to, any change in  
476 the sexual offender's permanent, temporary, or transient  
477 residence, name, ~~any electronic mail addresses address and or~~  
478 Internet identifiers ~~any instant message name~~ required to be  
479 provided pursuant to paragraph (4)(d), after the sexual offender  
480 reports in person at the sheriff's office, shall be accomplished  
481 in the manner provided in subsections (4), (7), and (8).

482 (b) Provide his or her name; date of birth; social  
483 security number; race; sex; height; weight; hair and eye color;  
484 tattoos or other identifying marks; occupation and place of  
485 employment; address of permanent or legal residence or address  
486 of any current temporary residence, within the state or out of  
487 state, including a rural route address and a post office box; if  
488 no permanent or temporary address, any transient residence  
489 within the state, address, location or description, and dates of  
490 any current or known future temporary residence within the state  
491 or out of state; the make, model, color, registration number,

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492 and license tag number of all vehicles owned; all home telephone  
493 numbers ~~number~~ and any cellular telephone numbers ~~number~~; all  
494 any electronic mail addresses ~~address~~ and all Internet  
495 identifiers ~~any instant message name~~ required to be provided  
496 pursuant to paragraph (4)(d); fingerprints; palm prints;  
497 photograph; date and place of each conviction; and a brief  
498 description of the crime or crimes committed by the offender. A  
499 post office box shall not be provided in lieu of a physical  
500 residential address. The sexual offender must also produce his  
501 or her passport, if he or she has a passport, and, if he or she  
502 is an alien, must produce or provide information about documents  
503 establishing his or her immigration status. The sexual offender  
504 must also provide information about any professional licenses he  
505 or she may have.

506 1. If the sexual offender's place of residence is a motor  
507 vehicle, trailer, mobile home, or manufactured home, as defined  
508 in chapter 320, the sexual offender shall also provide to the  
509 department through the sheriff's office written notice of the  
510 vehicle identification number; the license tag number; the  
511 registration number; and a description, including color scheme,  
512 of the motor vehicle, trailer, mobile home, or manufactured  
513 home. If the sexual offender's place of residence is a vessel,  
514 live-aboard vessel, or houseboat, as defined in chapter 327, the  
515 sexual offender shall also provide to the department written  
516 notice of the hull identification number; the manufacturer's  
517 serial number; the name of the vessel, live-aboard vessel, or  
518 houseboat; the registration number; and a description, including  
519 color scheme, of the vessel, live-aboard vessel, or houseboat.

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520 2. If the sexual offender is enrolled, employed,  
521 volunteering, or carrying on a vocation at an institution of  
522 higher education in this state, the sexual offender shall also  
523 provide to the department through the sheriff's office the name,  
524 address, and county of each institution, including each campus  
525 attended, and the sexual offender's enrollment, volunteer, or  
526 employment status. Each change in enrollment, volunteer, or  
527 employment status shall be reported in person at the sheriff's  
528 office, within 48 hours after any change in status. The sheriff  
529 shall promptly notify each institution of the sexual offender's  
530 presence and any change in the sexual offender's enrollment,  
531 volunteer, or employment status.

532 (c) Provide any other information determined necessary by  
533 the department, including criminal and corrections records;  
534 nonprivileged personnel and treatment records; and evidentiary  
535 genetic markers, when available.

536  
537 When a sexual offender reports at the sheriff's office, the  
538 sheriff shall take a photograph, and a set of fingerprints, and  
539 palm prints of the offender and forward the photographs, palm  
540 prints, and fingerprints to the department, along with the  
541 information provided by the sexual offender. The sheriff shall  
542 promptly provide to the department the information received from  
543 the sexual offender.

544 (4)(a) Each time a sexual offender's driver ~~driver's~~  
545 license or identification card is subject to renewal, and,  
546 without regard to the status of the offender's driver ~~driver's~~  
547 license or identification card, within 48 hours after any change

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548 in the offender's permanent, temporary, or transient residence  
549 or change in the offender's name by reason of marriage or other  
550 legal process, the offender shall report in person to a driver  
551 ~~driver's~~ license office, and shall be subject to the  
552 requirements specified in subsection (3). The Department of  
553 Highway Safety and Motor Vehicles shall forward to the  
554 department all photographs and information provided by sexual  
555 offenders. Notwithstanding the restrictions set forth in s.  
556 322.142, the Department of Highway Safety and Motor Vehicles is  
557 authorized to release a reproduction of a color-photograph or  
558 digital-image license to the Department of Law Enforcement for  
559 purposes of public notification of sexual offenders as provided  
560 in this section and ss. 943.043 and 944.606. A sexual offender  
561 who is unable to secure or update a driver license or  
562 identification card with the Department of Highway Safety and  
563 Motor Vehicles as provided in subsection (3) and this subsection  
564 must also report any change in the sexual offender's permanent,  
565 temporary, or transient residence or change in the offender's  
566 name by reason of marriage or other legal process within 48  
567 hours after the change to the sheriff's office in the county  
568 where the offender resides or is located and provide  
569 confirmation that he or she reported such information to the  
570 Department of Highway Safety and Motor Vehicles.

571 (d) A sexual offender must register all any electronic  
572 mail addresses and Internet identifiers ~~address or instant~~  
573 ~~message name~~ with the department prior to using such electronic  
574 mail addresses and Internet identifiers ~~address or instant~~  
575 ~~message name on or after October 1, 2007.~~ The department shall

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576 establish an online system through which sexual offenders may  
577 securely access and update all electronic mail address and  
578 Internet identifier ~~instant message name~~ information.

579 (7) A sexual offender who intends to establish a  
580 permanent, temporary, or transient residence in another state or  
581 jurisdiction other than the State of Florida shall report in  
582 person to the sheriff of the county of current residence within  
583 48 hours before the date he or she intends to leave this state  
584 to establish residence in another state or jurisdiction or  
585 within 21 days before his or her planned departure date if the  
586 intended residence of 5 days or more is outside of the United  
587 States. The notification must include the address, municipality,  
588 county, ~~and~~ state, and country of intended residence. The  
589 sheriff shall promptly provide to the department the information  
590 received from the sexual offender. The department shall notify  
591 the statewide law enforcement agency, or a comparable agency, in  
592 the intended state, ~~or~~ jurisdiction, or country of residence of  
593 the sexual offender's intended residence. The failure of a  
594 sexual offender to provide his or her intended place of  
595 residence is punishable as provided in subsection (9).

596 (8) A sexual offender who indicates his or her intent to  
597 establish a permanent, temporary, or transient residence in  
598 another state, a ~~or~~ jurisdiction other than the State of  
599 Florida, or another country and later decides to remain in this  
600 state shall, within 48 hours after the date upon which the  
601 sexual offender indicated he or she would leave this state,  
602 report in person to the sheriff to which the sexual offender  
603 reported the intended change of permanent, temporary, or

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604 transient residence, and report his or her intent to remain in  
605 this state. The sheriff shall promptly report this information  
606 to the department. A sexual offender who reports his or her  
607 intent to establish a permanent, temporary, or transient  
608 residence in another state, a ~~ex~~ jurisdiction other than the  
609 State of Florida, or another country but who remains in this  
610 state without reporting to the sheriff in the manner required by  
611 this subsection commits a felony of the second degree,  
612 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

613 (11) Except as provided in this subsection and s.  
614 943.04354, a sexual offender must maintain registration with the  
615 department for the duration of his or her life, unless the  
616 sexual offender has received a full pardon or has had a  
617 conviction set aside in a postconviction proceeding for any  
618 offense that meets the criteria for classifying the person as a  
619 sexual offender for purposes of registration. ~~However, a sexual~~  
620 ~~offender.~~

621 (a)1. A sexual offender may petition the criminal division  
622 of the circuit court of the circuit in which the sexual offender  
623 resides for the purpose of removing the requirement for  
624 registration as a sexual offender if ~~who has been lawfully~~  
625 ~~released from confinement, supervision, or sanction, whichever~~  
626 ~~is later, for at least 25 years and has not been arrested for~~  
627 ~~any felony or misdemeanor offense since release, provided that~~  
628 ~~the sexual offender's requirement to register was not based upon~~  
629 ~~an adult conviction:~~

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630 a. Twenty-five years have elapsed since the sexual  
631 offender's registration period for the most recent conviction  
632 that required the offender to register began;

633 b. The sexual offender has not been convicted or  
634 adjudicated delinquent of any felony offense or of an offense  
635 punishable by more than 1 year of imprisonment during the 25  
636 years preceding the petition to the court;

637 c. The sexual offender has successfully completed all  
638 sanctions imposed for all offenses that required the offender to  
639 register;

640 d. The sexual offender's requirement to register was not  
641 based upon an adult conviction for a violation of s. 787.01, s.  
642 794.011, excluding s. 794.011(10), s. 800.04(4)(b) where the  
643 court finds the offense involved a victim under 12 years of age  
644 or sexual activity by the use of force or coercion, s.  
645 800.04(5)(b), or s. 800.04(5)(c)2. where the court finds the  
646 offense involved unclothed genitals or genital area; for any  
647 attempt or conspiracy to commit any offense listed in this sub-  
648 subparagraph; or for a violation of similar law of another  
649 jurisdiction; and

650 e. For sexual offenders whose requirement to register is  
651 based upon a conviction in another state, the sexual offender is  
652 not required to register as a sexual offender pursuant to the  
653 laws of the state where the conviction occurred. Such offenders  
654 must provide the court written confirmation that he or she is  
655 not required to register in the state where the conviction  
656 occurred.

657 ~~a. For a violation of s. 787.01 or s. 787.02;~~

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658 ~~b. For a violation of s. 794.011, excluding s.~~  
659 ~~794.011(10);~~

660 ~~c. For a violation of s. 800.04(4)(b) where the court~~  
661 ~~finds the offense involved a victim under 12 years of age or~~  
662 ~~sexual activity by the use of force or coercion;~~

663 ~~d. For a violation of s. 800.04(5)(b);~~

664 ~~e. For a violation of s. 800.04(5)c.2. where the court~~  
665 ~~finds the offense involved unclothed genitals or genital area;~~

666 ~~f. For any attempt or conspiracy to commit any such~~  
667 ~~offense; or~~

668 ~~g. For a violation of similar law of another jurisdiction,~~

669  
670 ~~may petition the criminal division of the circuit court of the~~  
671 ~~circuit in which the sexual offender resides for the purpose of~~  
672 ~~removing the requirement for registration as a sexual offender.~~

673 2. A sexual offender whose requirement to register was  
674 based upon an adult conviction for a violation of s. 787.02 or  
675 s. 827.071(5), for any attempt or conspiracy to commit any  
676 offense listed in this subparagraph, or for a violation of  
677 similar law of another jurisdiction may petition the criminal  
678 division of the circuit court of the circuit in which the sexual  
679 offender resides for the purpose of removing the requirement for  
680 registration as a sexual offender if:

681 a. Fifteen years have elapsed since the sexual offender's  
682 registration period for the most recent conviction that required  
683 the offender to register began;

684 b. The sexual offender has not been convicted or  
685 adjudicated delinquent of any felony offense or of an offense

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686 punishable by more than 1 year of imprisonment during the 10  
687 years preceding the petition to the court;

688 c. The sexual offender has successfully completed all  
689 sanctions imposed for all offenses that required the offender to  
690 register; and

691 d. For sexual offenders whose requirement to register is  
692 based upon a conviction in another state, the sexual offender is  
693 not required to register as a sexual offender pursuant to the  
694 laws of the state where the conviction occurred. Such offenders  
695 must provide the court written confirmation that he or she is  
696 not required to register in the state where the conviction  
697 occurred.

698 3. A sexual offender required to register under sub-  
699 subparagraph (1)(a)1.d. may petition the criminal division of  
700 the circuit court of the circuit in which the sexual offender  
701 resides for the purpose of removing the requirement for  
702 registration as a sexual offender if:

703 a. Twenty-five years have elapsed since the sexual  
704 offender's registration period for the most recent adjudication  
705 that required the offender to register began;

706 b. The sexual offender has not been convicted or  
707 adjudicated delinquent of any felony offense or of an offense  
708 punishable by more than 1 year of imprisonment during the 25  
709 years preceding the petition to the court; and

710 c. The sexual offender has successfully completed all  
711 sanctions imposed for any offense that required the offender to  
712 register.

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713        4.2. The court may grant or deny relief if the offender  
714 demonstrates to the court that ~~he or she has not been arrested~~  
715 ~~for any crime since release~~; the requested relief complies with  
716 this paragraph, ~~the provisions of~~ the federal Adam Walsh Child  
717 Protection and Safety Act of 2006, and any other federal  
718 standards applicable to the removal of registration requirements  
719 for a sexual offender or required to be met as a condition for  
720 the receipt of federal funds by the state; and the court is  
721 otherwise satisfied that the offender is not a current or  
722 potential threat to public safety. The state attorney in the  
723 circuit in which the petition is filed and the department must  
724 be given notice of the petition at least 3 weeks before the  
725 hearing on the matter. The state attorney may present evidence  
726 in opposition to the requested relief or may otherwise  
727 demonstrate the reasons why the petition should be denied. If  
728 the court grants the petition, the court shall instruct the  
729 petitioner to provide the department with a certified copy of  
730 the order granting relief. If the court denies the petition, the  
731 court may set a future date at which the sexual offender may  
732 again petition the court for relief, subject to the standards  
733 for relief provided in this subsection.

734        5.3. The department shall remove an offender from  
735 classification as a sexual offender for purposes of registration  
736 if the offender provides to the department a certified copy of  
737 the court's written findings or order that indicates that the  
738 offender is no longer required to comply with the requirements  
739 for registration as a sexual offender.

740        6. For purposes of this paragraph:

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741       a. The registration period of a sexual offender sentenced  
742 to a term of incarceration or committed to a residential program  
743 begins upon the offender's release from incarceration or  
744 commitment for the most recent conviction that required the  
745 offender to register.

746       b. A sexual offender's registration period is tolled  
747 during any period in which the offender is incarcerated, civilly  
748 committed, detained pursuant to chapter 985, or committed to a  
749 residential program.

750       (b) A sexual offender as defined in sub-subparagraph  
751 (1)(a)1.b. must maintain registration with the department for  
752 the duration of his or her life until the person provides the  
753 department with an order issued by the court that designated the  
754 person as a sexual predator, as a sexually violent predator, or  
755 by another sexual offender designation in the state or  
756 jurisdiction in which the order was issued which states that  
757 such designation has been removed or demonstrates to the  
758 department that such designation, if not imposed by a court, has  
759 been removed by operation of law or court order in the state or  
760 jurisdiction in which the designation was made, and provided  
761 such person no longer meets the criteria for registration as a  
762 sexual offender under the laws of this state.

763       (14)

764       (c) The sheriff's office may determine the appropriate  
765 times and days for reporting by the sexual offender, which shall  
766 be consistent with the reporting requirements of this  
767 subsection. Reregistration shall include any changes to the  
768 following information:

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769 1. Name; social security number; age; race; sex; date of  
770 birth; height; weight; hair and eye color; address of any  
771 permanent residence and address of any current temporary  
772 residence, within the state or out of state, including a rural  
773 route address and a post office box; if no permanent or  
774 temporary address, any transient residence within the state;  
775 address, location or description, and dates of any current or  
776 known future temporary residence within the state or out of  
777 state; ~~any~~ electronic mail addresses ~~address and~~ or Internet  
778 identifiers ~~any instant message name~~ required to be provided  
779 pursuant to paragraph (4)(d); home telephone numbers ~~number~~ and  
780 or any cellular telephone numbers ~~number~~; date and place of any  
781 employment; the ~~vehicle~~ make, model, color, registration number,  
782 and license tag number of any vehicles owned; fingerprints; palm  
783 prints; and photograph. A post office box may shall not be  
784 provided in lieu of a physical residential address. The sexual  
785 offender must also produce his or her passport, if he or she has  
786 a passport, and, if he or she is an alien, must produce or  
787 provide information about documents establishing his or her  
788 immigration status. The sexual offender must also provide  
789 information about any professional licenses he or she may have.

790 2. If the sexual offender is enrolled, volunteering,  
791 employed, or carrying on a vocation at an institution of higher  
792 education in this state, the sexual offender shall also provide  
793 to the department the name, address, and county of each  
794 institution, including each campus attended, and the sexual  
795 offender's enrollment, volunteer, or employment status.

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796 3. If the sexual offender's place of residence is a motor  
797 vehicle, trailer, mobile home, or manufactured home, as defined  
798 in chapter 320, the sexual offender shall also provide the  
799 vehicle identification number; the license tag number; the  
800 registration number; and a description, including color scheme,  
801 of the motor vehicle, trailer, mobile home, or manufactured  
802 home. If the sexual offender's place of residence is a vessel,  
803 live-aboard vessel, or houseboat, as defined in chapter 327, the  
804 sexual offender shall also provide the hull identification  
805 number; the manufacturer's serial number; the name of the  
806 vessel, live-aboard vessel, or houseboat; the registration  
807 number; and a description, including color scheme, of the  
808 vessel, live-aboard vessel or houseboat.

809 4. Any sexual offender who fails to report in person as  
810 required at the sheriff's office, ~~or~~ who fails to respond to any  
811 address verification correspondence from the department within 3  
812 weeks of the date of the correspondence, ~~or~~ who fails to report  
813 all electronic mail addresses and all Internet identifiers prior  
814 to use ~~or instant message names, or who knowingly provides false~~  
815 registration information by act or omission commits a felony of  
816 the third degree, punishable as provided in s. 775.082, s.  
817 775.083, or s. 775.084.

818 Section 5. Section 943.04351, Florida Statutes, is amended  
819 to read:

820 943.04351 Search of registration information regarding  
821 sexual predators and sexual offenders required prior to  
822 appointment or employment.--A state agency or governmental  
823 subdivision, prior to making any decision to appoint or employ a

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824 person to work, whether for compensation or as a volunteer, at  
825 any park, playground, day care center, or other place where  
826 children regularly congregate, must conduct a search of that  
827 person's name or other identifying information against the  
828 registration information regarding sexual predators and sexual  
829 offenders maintained by the Department of Law Enforcement under  
830 s. 943.043. The agency or governmental subdivision may conduct  
831 the search using the Internet site maintained by the Department  
832 of Law Enforcement. Also, a national search must be conducted  
833 through the Dru Sjodin National Sex Offender Public Website  
834 maintained by the United States Department of Justice. This  
835 section does not apply to those positions or appointments within  
836 a state agency or governmental subdivision for which a state and  
837 national criminal history background check is conducted.

838 Section 6. Section 943.04354, Florida Statutes, is amended  
839 to read:

840 943.04354 Removal of the requirement to register as a  
841 sexual offender or sexual predator in special circumstances.-

842 (1) For purposes of this section, a person shall be  
843 considered for removal of the requirement to register as a  
844 sexual offender or sexual predator only if the person:

845 (a) Was or will be convicted, regardless of adjudication,  
846 or adjudicated delinquent of a violation of s. 794.011, s.  
847 800.04, s. 827.071, or s. 847.0135(5), or a similar offense in  
848 another jurisdiction, or the person committed a violation of s.  
849 794.011, s. 800.04, s. 827.071, or s. 847.0135(5) for which  
850 adjudication of guilt was or will be withheld, and the person  
851 does not have any other conviction, regardless of adjudication,

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852 ~~or adjudication of delinquency, or withhold of adjudication of~~  
853 ~~guilt~~ for a violation of s. 794.011, s. 800.04, s. 827.071, or  
854 s. 847.0135(5), or a similar offense in another jurisdiction;

855 (b) 1. Was convicted, regardless of adjudication, or  
856 adjudicated delinquent of an offense listed in paragraph (a) and  
857 is required to register as a sexual offender or sexual predator  
858 solely on the basis of this conviction or adjudication  
859 violation; or and

860 2. Was convicted, regardless of adjudication, or  
861 adjudicated delinquent of an offense in another jurisdiction  
862 that is similar to an offense listed in paragraph (a) and no  
863 longer meets the criteria for registration as a sexual offender  
864 or sexual predator under the laws of the jurisdiction where the  
865 similar offense occurred; and

866 (c) Is not more than 4 years older than the victim of this  
867 violation who was 13 ~~14~~ years of age or older but less ~~not more~~  
868 than 18 ~~17~~ years of age at the time the person committed this  
869 violation.

870 (2) If a person meets the criteria in subsection (1) ~~and~~  
871 ~~the violation of s. 794.011, s. 800.04, s. 827.071, or s.~~  
872 ~~847.0135(5) was committed on or after July 1, 2007, the person~~  
873 may move the criminal court of the circuit in which the offense  
874 occurred or the sentencing court or, for persons convicted or  
875 adjudicated delinquent of a qualifying offense in another  
876 jurisdiction, the criminal circuit court of the circuit in which  
877 the person resides that will sentence or dispose of this  
878 ~~violation~~ to remove the requirement that the person register as  
879 a sexual offender or sexual predator. The person must allege in

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880 the motion that he or she meets the criteria in subsection (1)  
881 and that removal of the registration requirement will not  
882 conflict with federal law. Persons convicted or adjudicated  
883 delinquent of an offense in another jurisdiction that is similar  
884 to an offense listed in paragraph (1)(a) must provide the court  
885 written confirmation that he or she is not required to register  
886 in the state where the conviction or adjudication occurred. The  
887 state attorney and the department must be given notice of the  
888 motion at least 21 days before the date of sentencing, ~~or~~  
889 disposition of the this violation, or hearing on the motion and  
890 may present evidence in opposition to the requested relief or  
891 may otherwise demonstrate why the motion should be denied. At  
892 sentencing, ~~or~~ disposition of the this violation, or hearing on  
893 the motion, the court shall rule on this motion and, if the  
894 court determines the person meets the criteria in subsection (1)  
895 and the removal of the registration requirement will not  
896 conflict with federal law, it may grant the motion and order the  
897 removal of the registration requirement. The court shall  
898 instruct the person to provide the department a certified copy  
899 of the order granting relief. If the court denies the motion,  
900 the person is not authorized under this section to file another  
901 motion petition for removal of the registration requirement.

902 ~~(3)(a) This subsection applies to a person who:~~

903 ~~1. Is not a person described in subsection (2) because the~~  
904 ~~violation of s. 794.011, s. 800.04, or s. 827.071 was not~~  
905 ~~committed on or after July 1, 2007;~~

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906           2. ~~Is subject to registration as a sexual offender or~~  
907 ~~sexual predator for a violation of s. 794.011, s. 800.04, or s.~~  
908 ~~827.071; and~~

909           3. ~~Meets the criteria in subsection (1).~~

910           (b) ~~A person may petition the court in which the sentence~~  
911 ~~or disposition for the violation of s. 794.011, s. 800.04, or s.~~  
912 ~~827.071 occurred for removal of the requirement to register as a~~  
913 ~~sexual offender or sexual predator. The person must allege in~~  
914 ~~the petition that he or she meets the criteria in subsection (1)~~  
915 ~~and removal of the registration requirement will not conflict~~  
916 ~~with federal law. The state attorney must be given notice of the~~  
917 ~~petition at least 21 days before the hearing on the petition and~~  
918 ~~may present evidence in opposition to the requested relief or~~  
919 ~~may otherwise demonstrate why the petition should be denied. The~~  
920 ~~court shall rule on the petition and, if the court determines~~  
921 ~~the person meets the criteria in subsection (1) and removal of~~  
922 ~~the registration requirement will not conflict with federal law,~~  
923 ~~it may grant the petition and order the removal of the~~  
924 ~~registration requirement. If the court denies the petition, the~~  
925 ~~person is not authorized under this section to file any further~~  
926 ~~petition for removal of the registration requirement.~~

927           (3)(4) If a person provides to the Department of Law  
928 Enforcement a certified copy of the court's order removing the  
929 requirement that the person register as a sexual offender or  
930 sexual predator for the violation of s. 794.011, s. 800.04, s.  
931 827.071, or s. 847.0135(5), or a similar offense in another  
932 jurisdiction, the registration requirement will not apply to the  
933 person and the department shall remove all information about the

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934 person from the public registry of sexual offenders and sexual  
935 predators maintained by the department. However, the removal of  
936 this information from the public registry does not mean that the  
937 public is denied access to information about the person's  
938 criminal history or record that is otherwise available as a  
939 public record.

940 Section 7. Subsection (2) and paragraph (a) of subsection  
941 (3) of section 943.0437, Florida Statutes, are amended to read:

942 943.0437 Commercial social networking websites.—

943 (2) The department may provide information relating to  
944 electronic mail addresses and Internet identifiers ~~instant~~  
945 ~~message names~~ maintained as part of the sexual offender registry  
946 to commercial social networking websites or third parties  
947 designated by commercial social networking websites. The  
948 commercial social networking website may use this information  
949 for the purpose of comparing registered users and screening  
950 potential users of the commercial social networking website  
951 against the list of electronic mail addresses and Internet  
952 identifiers ~~instant message names~~ provided by the department.

953 (3) This section shall not be construed to impose any  
954 civil liability on a commercial social networking website for:

955 (a) Any action voluntarily taken in good faith to remove  
956 or disable any profile of a registered user associated with an  
957 electronic mail address or Internet identifier ~~instant message~~  
958 ~~name~~ contained in the sexual offender registry.

959 Section 8. Paragraphs (b) and (d) of subsection (1) and  
960 paragraph (a) of subsection (3) of section 944.606, Florida  
961 Statutes, are amended to read:

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962 944.606 Sexual offenders; notification upon release.—

963 (1) As used in this section:

964 (b) "Sexual offender" means a person who has been  
965 convicted of committing, or attempting, soliciting, or  
966 conspiring to commit, any of the criminal offenses proscribed in  
967 the following statutes in this state or similar offenses in  
968 another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01,  
969 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and  
970 the defendant is not the victim's parent or guardian; s.  
971 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s.  
972 796.045; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s.  
973 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s.  
974 847.0138; s. 847.0145; s. 916.1075(2); or s. 985.701(1); or any  
975 similar offense committed in this state which has been  
976 redesignated from a former statute number to one of those listed  
977 in this subsection, when the department has received verified  
978 information regarding such conviction; an offender's  
979 computerized criminal history record is not, in and of itself,  
980 verified information.

981 (d) "Internet identifier ~~Instant message name~~" has the  
982 same meaning as provided in s. 775.21 ~~means an identifier that~~  
983 ~~allows a person to communicate in real time with another person~~  
984 ~~using the Internet.~~

985 (3)(a) The department must provide information regarding  
986 any sexual offender who is being released after serving a period  
987 of incarceration for any offense, as follows:

988 1. The department must provide: the sexual offender's  
989 name, any change in the offender's name by reason of marriage or

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990 other legal process, and any alias, if known; the correctional  
991 facility from which the sexual offender is released; the sexual  
992 offender's social security number, race, sex, date of birth,  
993 height, weight, and hair and eye color; address of any planned  
994 permanent residence or temporary residence, within the state or  
995 out of state, including a rural route address and a post office  
996 box; if no permanent or temporary address, any transient  
997 residence within the state; address, location or description,  
998 and dates of any known future temporary residence within the  
999 state or out of state; date and county of sentence and each  
1000 crime for which the offender was sentenced; a copy of the  
1001 offender's fingerprints, palm prints, and a digitized photograph  
1002 taken within 60 days before release; the date of release of the  
1003 sexual offender; all any electronic mail addresses ~~address~~ and  
1004 all Internet identifiers ~~any instant message name~~ required to be  
1005 provided pursuant to s. 943.0435(4)(d); all ~~and~~ home telephone  
1006 numbers ~~number~~ and ~~any~~ cellular telephone numbers; information  
1007 about any professional licenses the offender may have, if known;  
1008 and passport information, if he or she has a passport, and, if  
1009 he or she is an alien, information about documents establishing  
1010 his or her immigration status ~~number~~. The department shall  
1011 notify the Department of Law Enforcement if the sexual offender  
1012 escapes, absconds, or dies. If the sexual offender is in the  
1013 custody of a private correctional facility, the facility shall  
1014 take the digitized photograph of the sexual offender within 60  
1015 days before the sexual offender's release and provide this  
1016 photograph to the Department of Corrections and also place it in  
1017 the sexual offender's file. If the sexual offender is in the

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1018 custody of a local jail, the custodian of the local jail shall  
1019 register the offender within 3 business days after intake of the  
1020 offender for any reason and upon release, and shall notify the  
1021 Department of Law Enforcement of the sexual offender's release  
1022 and provide to the Department of Law Enforcement the information  
1023 specified in this paragraph and any information specified in  
1024 subparagraph 2. that the Department of Law Enforcement requests.

1025 2. The department may provide any other information deemed  
1026 necessary, including criminal and corrections records,  
1027 nonprivileged personnel and treatment records, when available.

1028 Section 9. Paragraphs (a) and (f) of subsection (1),  
1029 subsection (4), and paragraph (c) of subsection (13) of section  
1030 944.607, Florida Statutes, are amended to read:

1031 944.607 Notification to Department of Law Enforcement of  
1032 information on sexual offenders.-

1033 (1) As used in this section, the term:

1034 (a) "Sexual offender" means a person who is in the custody  
1035 or control of, or under the supervision of, the department or is  
1036 in the custody of a private correctional facility:

1037 1. On or after October 1, 1997, as a result of a  
1038 conviction for committing, or attempting, soliciting, or  
1039 conspiring to commit, any of the criminal offenses proscribed in  
1040 the following statutes in this state or similar offenses in  
1041 another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01,  
1042 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and  
1043 the defendant is not the victim's parent or guardian; s.  
1044 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s.  
1045 796.035; s. 796.045; s. 800.04; s. 825.1025; s. 827.071; s.

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1046 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s.  
1047 847.0138; s. 847.0145; s. 916.1075(2); or s. 985.701(1); or any  
1048 similar offense committed in this state which has been  
1049 redesignated from a former statute number to one of those listed  
1050 in this paragraph; or

1051 2. Who establishes or maintains a residence in this state  
1052 and who has not been designated as a sexual predator by a court  
1053 of this state but who has been designated as a sexual predator,  
1054 as a sexually violent predator, or by another sexual offender  
1055 designation in another state or jurisdiction and was, as a  
1056 result of such designation, subjected to registration or  
1057 community or public notification, or both, or would be if the  
1058 person were a resident of that state or jurisdiction, without  
1059 regard as to whether the person otherwise meets the criteria for  
1060 registration as a sexual offender.

1061 (f) "Internet identifier ~~Instant message name~~" has the  
1062 same meaning as provided in s. 775.21 ~~means an identifier that~~  
1063 ~~allows a person to communicate in real time with another person~~  
1064 ~~using the Internet.~~

1065 (4) A sexual offender, as described in this section, who  
1066 is under the supervision of the Department of Corrections but is  
1067 not incarcerated must register with the Department of  
1068 Corrections within 3 business days after sentencing for a  
1069 registrable offense and otherwise provide information as  
1070 required by this subsection.

1071 (a) The sexual offender shall provide his or her name;  
1072 date of birth; social security number; race; sex; height;  
1073 weight; hair and eye color; tattoos or other identifying marks;

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1074 | all any electronic mail addresses address and all Internet  
1075 | identifiers any instant message name required to be provided  
1076 | pursuant to s. 943.0435(4)(d); all home telephone numbers and  
1077 | cellular telephone numbers; the make, model, color, registration  
1078 | number, and license tag number of all vehicles owned; permanent  
1079 | or legal residence and address of temporary residence within the  
1080 | state or out of state while the sexual offender is under  
1081 | supervision in this state, including any rural route address or  
1082 | post office box; if no permanent or temporary address, any  
1083 | transient residence within the state; and address, location or  
1084 | description, and dates of any current or known future temporary  
1085 | residence within the state or out of state. The sexual offender  
1086 | must also produce his or her passport, if he or she has a  
1087 | passport, and, if he or she is an alien, must produce or provide  
1088 | information about documents establishing his or her immigration  
1089 | status. The sexual offender must also provide information about  
1090 | any professional licenses he or she may have. The Department of  
1091 | Corrections shall verify the address of each sexual offender in  
1092 | the manner described in ss. 775.21 and 943.0435. The department  
1093 | shall report to the Department of Law Enforcement any failure by  
1094 | a sexual predator or sexual offender to comply with registration  
1095 | requirements.

1096 | (b) If the sexual offender is enrolled, employed,  
1097 | volunteering, or carrying on a vocation at an institution of  
1098 | higher education in this state, the sexual offender shall  
1099 | provide the name, address, and county of each institution,  
1100 | including each campus attended, and the sexual offender's  
1101 | enrollment, volunteer, or employment status. Each change in

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1102 enrollment, volunteer, or employment status shall be reported to  
1103 the department within 48 hours after the change in status. The  
1104 Department of Corrections shall promptly notify each institution  
1105 of the sexual offender's presence and any change in the sexual  
1106 offender's enrollment, volunteer, or employment status.

1107 (13)

1108 (c) The sheriff's office may determine the appropriate  
1109 times and days for reporting by the sexual offender, which shall  
1110 be consistent with the reporting requirements of this  
1111 subsection. Reregistration shall include any changes to the  
1112 following information:

1113 1. Name; social security number; age; race; sex; date of  
1114 birth; height; weight; hair and eye color; address of any  
1115 permanent residence and address of any current temporary  
1116 residence, within the state or out of state, including a rural  
1117 route address and a post office box; if no permanent or  
1118 temporary address, any transient residence; address, location or  
1119 description, and dates of any current or known future temporary  
1120 residence within the state or out of state; ~~any~~ electronic mail  
1121 addresses ~~address and~~ or Internet identifiers ~~any instant~~  
1122 ~~message name~~ required to be provided pursuant to s.  
1123 943.0435(4)(d); home telephone numbers or cellular telephone  
1124 numbers; date and place of any employment; the vehicle make,  
1125 model, color, registration number, and license tag number of any  
1126 vehicles owned; fingerprints; palm prints; and photograph. A  
1127 post office box shall not be provided in lieu of a physical  
1128 residential address. The sexual offender must also produce his  
1129 or her passport, if he or she has a passport, and, if he or she

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1130 is an alien, must produce or provide information about documents  
1131 establishing his or her immigration status. The sexual offender  
1132 must also provide information about any professional licenses he  
1133 or she may have.

1134 2. If the sexual offender is enrolled, employed,  
1135 volunteering, or carrying on a vocation at an institution of  
1136 higher education in this state, the sexual offender shall also  
1137 provide to the department the name, address, and county of each  
1138 institution, including each campus attended, and the sexual  
1139 offender's enrollment, volunteer, or employment status.

1140 3. If the sexual offender's place of residence is a motor  
1141 vehicle, trailer, mobile home, or manufactured home, as defined  
1142 in chapter 320, the sexual offender shall also provide the  
1143 vehicle identification number; the license tag number; the  
1144 registration number; and a description, including color scheme,  
1145 of the motor vehicle, trailer, mobile home, or manufactured  
1146 home. If the sexual offender's place of residence is a vessel,  
1147 live-aboard vessel, or houseboat, as defined in chapter 327, the  
1148 sexual offender shall also provide the hull identification  
1149 number; the manufacturer's serial number; the name of the  
1150 vessel, live-aboard vessel, or houseboat; the registration  
1151 number; and a description, including color scheme, of the  
1152 vessel, live-aboard vessel or houseboat.

1153 4. Any sexual offender who fails to report in person as  
1154 required at the sheriff's office, ~~or~~ who fails to respond to any  
1155 address verification correspondence from the department within 3  
1156 weeks of the date of the correspondence, ~~or~~ who fails to report  
1157 all electronic mail addresses or all Internet identifiers prior

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1158 to use ~~or instant message names~~, or who knowingly provides false  
1159 registration information by act or omission commits a felony of  
1160 the third degree, punishable as provided in s. 775.082, s.  
1161 775.083, or s. 775.084.



# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

Location: 404 HOB

AMENDED

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

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				
<b>Total Yeas: 17</b>		<b>Total Nays: 0</b>			

### CS/CS/CS/HB 481 Amendments

#### Amendment 323217

Adopted Without Objection

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  
2.22.12*

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

**Amendment (with title amendment)**

Between lines 44 and 45, insert:

Section 2. Effective July 1, 2013, section 28.211, Florida Statutes, is amended to read:

28.211 Clerk to keep docket.—The clerk of the circuit court shall keep a progress docket in which he or she shall note the filing of each pleading, motion, or other paper and any step taken by him or her in connection with each action, appeal, or other proceeding before the court. The clerk may keep separate progress dockets for civil and criminal matters. The clerk shall keep an alphabetical index, direct and inverse, for the docket. Notwithstanding any other law, a clerk may not charge a fee to view or print a copy of a docket via the Internet.

Remove lines 472-473 and insert:

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19 Section 11. Except as expressly provided in this act, this  
20 act shall take effect upon becoming a law.  
21

22 -----  
23 **T I T L E A M E N D M E N T**

24 Remove line 5 and insert:

25 electronically time stamped; amending s. 28.211, F.S.;  
26 prohibiting a clerk from charging a fee to view or  
27 print a copy of a docket via the Internet; amending s.  
28 28.222, F.S.;

29  
30 Remove line 28 and insert:

31 subject to a tax sale; providing effective dates.

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

Location: 404 HOB

AMENDED

### HB 609 : Wage Protection for Employees

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				
<b>Total Yeas: 12</b>		<b>Total Nays: 6</b>			

### HB 609 Amendments

#### Amendment 467847

Failed to Adopt

#### Amendment 020083

Failed to Adopt

#### Amendment 039561

Failed to Adopt

#### Amendment 292357

Adopted Without Objection

#### Amendment 439369

Withdrawn

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

Location: 404 HOB

AMENDED

HB 609 : Wage Protection for Employees (continued)

Amendment 797485

Not Considered

### Appearances:

HB 609

Rogers, John (Lobbyist) - Proponent

Senior Vice President & General Counsel, FL. Retail Federation

227 S. Adams St

Tallahassee FL 32301

Phone: (850) 222-4082

HB 609

Turner, Richard (Lobbyist) - Waive In Support

Vice President Government Relations, Florida Restaurant and Lodging Association

230 S Adams St

Tallahassee FL 32302-7710

Phone: (850) 224-2250

HB 609

Husband, Warren (Lobbyist) - Waive In Support

Florida Associated General Contractors

PO Box 10909

Tallahassee FL 32302

Phone: (850) 205-9000

HB 609

Bowen, Carol (Lobbyist) - Waive In Support

Vice President Government Affairs, Associated Builders & Contractors of Florida

3730 Coconut Creek Pkwy Suite 200

Coconut Creek FL 32329

Phone: (954) 984-0075

HB 609

Smith, Jeanette (General Public) - Opponent

South Florida Interfaith Worker Justice

150 SW 13th Ave

Miami FL 33135

HB 609

Perry, Gail Marie (General Public) - Waive In Opposition

Chair, Communications Workers of America Council of Florida

P O Box 1766

Pompano Beach FL 33061

Phone: (954) 850-4055

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

AMENDED

Location: 404 HOB

**HB 609 : Wage Protection for Employees (continued)**

**Appearances: (continued)**

HB 609

Linton, Glynda (General Public) - Opponent

1 SW 58 Ave

Plantation FL 33317

Phone: (954) 648-5571

HB 609

Templin, Rich (Lobbyist) - Proponent

Florida AFL-CIO

135 S. Monroe

Tallahassee FL 32301

Phone: (850) 224-6926

HB 609

Godinez-Samperio, Jose Manuel (General Public) - Waive In Opposition

Advocates for Immigrant and Refugee Rights (AIRR)

5411 Maple Ln

Tampa FL 33610

Phone: (813) 600-0004

HB 609

Marciano, Anthony (General Public) - Waive In Opposition

10221 Dorchester Dr.

Boca Raton FL 33428

Phone: (954) 632-6878

HB 609

Bevis, Fred (General Public) - Waive In Opposition

1115 Alfred Dr

Orlando FL 32810

Phone: (321) 277-3486

HB 609

Tate, Joseph (General Public) - Waive In Opposition

5973 Copper Creek Dr.

Jacksonville FL 32218

Phone: (904) 765-3746

HB 609

Hopkins, Sheila (Lobbyist) - Opponent

Associate Director, Florida Catholic Conference

201 W Park Ave

Tallahassee FL 32301

Phone: (850) 205-6826

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

AMENDED

**Location:** 404 HOB

**HB 609 : Wage Protection for Employees (continued)**

**Appearances: (continued)**

HB 609

Rosenberg, Arthur (Lobbyist) - Opponent  
Attorney, Florida Legal Services  
3000 Biscayne Blvd #102  
Miami FL 33137  
Phone: (850) 509-2085

HB 609

McCarty, Jess (Lobbyist) - Opponent  
Assistant County Attorney, Miami-Dade County  
111 NW 1st Street Suite 2810  
Miami Florida 33128  
Phone: (305) 979-7110

HB 609

Lewandowski, Andrew (General Public) - Waive In Opposition  
AFL-CIO  
Hudson FL

HB 609

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

HB 609

Thomas, William (General Public) - Waive In Opposition  
8227 Alveron Ave  
Orlando FL 32817  
Phone: (321) 279-5092

HB 609

Woodall, Karen (Lobbyist) - Opponent  
Florida Center for Fiscal and Economic Policy  
545 E. Tennessee Street  
Tallahassee FL 32308  
Phone: 850-321-9386

HB 609

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

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 609 (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 \_\_\_\_\_

*Unfavorable -  
Superseded by  
Amendment 292357  
2.22.12*

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

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

6 Section 1. (1) (a) The Legislature finds, as a matter of  
7 public policy, that it is necessary to declare that the theft of  
8 wages through the denial of compensation for work completed at  
9 the amount agreed upon by an employer and employee is against  
10 the law and policies of the state.

11 (b) The Legislature further finds that employers,  
12 employees, local communities, the overall business climate, and  
13 the public all benefit from wage theft policies and programs  
14 that ensure that agreed upon or promised rates of pay are  
15 enforced.

16 (2) As used in this section, the term "wage theft" means  
17 an underpayment or nonpayment of an individual worker's wages,  
18 salaries, commissions, or other similar compensation agreed upon  
19 by an employer and employee.



Amendment No. 1

20       (3) (a) A wage theft violation exists when an employer  
21 fails to pay any portion of wages, salaries, commissions, or  
22 other similar form of compensation due to an employee for the  
23 work that those wages were agreed to and which were due, within  
24 a reasonable time after the date on which the employee performed  
25 the work according to the applicable rate and the employer's own  
26 pay schedule established by policy or practice, but in no case  
27 later than 30 days after the date the work was performed.

28       (b) If a pay schedule has not been established, a  
29 reasonable time after the date on which that employee performed  
30 the work shall be 2 weeks.

31       (4) (a) In the event of a finding of wage theft, the  
32 employer shall be liable for the actual back wages due and owing  
33 and may be liable for administrative costs in an amount not to  
34 exceed \$1,500. In addition, liquidated damages shall be awarded  
35 to the employee. Liquidated damages shall be limited to twice  
36 the amount a respondent employer is found to have unlawfully  
37 failed to pay the complainant employee.

38       (b) For a second violation, a fine of \$1,000 shall be  
39 charged against the employer in addition to liquidated damages  
40 and any administrative costs.

41       (c) For a third or subsequent violation, an employer shall  
42 be subject to a fine of \$2,000 per aggrieved worker, and may be  
43 liable for administrative costs in an amount not to exceed  
44 \$2,500.

45       (5) Any action brought under this section shall be  
46 commenced within 1 year after the last date upon which wages

Amendment No. 1

47 were due to the employee that is the subject of the wage theft  
48 claim.

49 (6) (a) A county may, by local ordinance, establish an  
50 administrative process to address wage theft. The process shall  
51 afford the parties involved an opportunity to negotiate a  
52 resolution to the wages in question. A county, municipality, or  
53 political subdivision may not adopt or maintain in effect any  
54 ordinance or rule that creates requirements or regulations for  
55 the purpose of addressing wage theft other than to establish the  
56 administrative process provided for in this section.

57 (b) Local ordinances must establish a system that  
58 provides:

59 1. A process by which a complaint can be submitted to the  
60 county by, or on behalf of, an aggrieved employee, in which a  
61 wage theft violation must be alleged.

62 2. Requirements relating to service of the complaint and  
63 written notice on the respondent employer alleged to have  
64 committed a wage theft practice, setting forth the allegations  
65 put forth in the complaint and the rights and obligations of the  
66 parties, which shall include the right of the respondent to file  
67 an answer to the complaint, the right to a conciliation process  
68 between the two parties, and the right to a hearing on the  
69 matter before a county hearing officer.

70 (c) It shall be the policy of each county to encourage  
71 conciliation of the charges made, and to work with the parties  
72 in an attempt to conciliate and resolve the matter. A hearing  
73 officer may be appointed only if the matter is not resolved  
74 through conciliation in accordance with this paragraph.

Amendment No. 1

75 (d) The final determination of a hearing officer is  
76 subject to appeal to a court of competent jurisdiction.

77 (e) If a preponderance of the evidence demonstrates a wage  
78 theft violation has occurred, the hearing officer shall order  
79 the employer to pay wage theft restitution to the affected  
80 employee along with liquidated damages and any administrative  
81 costs.

82 (f) The regulation of wage theft through local ordinance  
83 shall be limited to requiring that employers pay their employees  
84 for work performed at the agreed upon rate of pay and  
85 establishing a fair procedure and program to review and enforce  
86 wage agreements.

87 (g) An employee not timely paid wages, final compensation,  
88 or wage supplements by his or her employer as required by this  
89 section shall be entitled to recover through a claim filed in a  
90 process or program established in the employee's county of  
91 employment, or in a civil action, but not both.

92 (7) If the employer is found to have acted in good faith  
93 or if the employer had reason to believe that the act or  
94 omission was not intentional or was not wage theft, the  
95 administrative costs against the employer may be waived.

96 (8) Any local ordinance adopted and implemented before  
97 this act takes effect shall remain in place until the local  
98 government amends or repeals it.

99 Section 2. This act shall take effect July 1, 2012.

100

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Amendment No. 1

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**T I T L E   A M E N D M E N T**

Remove the entire title and insert:

A bill to be entitled

An act relating to wage protection for employees;  
providing legislative findings; providing a  
definition; providing when a wage theft violation  
exists; providing employer liability; providing fines;  
providing a statute of limitations; authorizing a  
county to establish an administrative process to  
address wage theft by local ordinance; providing  
requirements; authorizing administrative costs against  
the employer to be waived under certain conditions;  
providing that any prior local ordinance adopted and  
implemented shall remain in place until such time that  
the local government elects to amend or repeal it;  
providing an effective date.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 609 (2012)

Amendment No. 1a

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  
2-22-12*

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

3  
 4 **Amendment to Amendment (467847) by Representative Soto**  
 5 **(with title amendment)**

6 Between lines 98 and 99 of the amendment, insert:  
 7 Section 2. The Legislature, with the consultation of  
 8 affected stakeholders, shall conduct an interim project to study  
 9 issues related to wage theft in the state and to determine an  
 10 approach for a statewide wage theft enforcement process.

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

Remove line 118 of the amendment and insert:

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 609 (2012)

Amendment No. 1a

18 requiring the Legislature to conduct an interim project to study  
19 issues related to wage theft in the state and to determine an  
20 approach for a statewide wage theft enforcement process;  
21

Amendment No. 1s

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  
2.22.12*

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

3  
4 **Substitute Amendment for Amendment (467847) by**  
5 **Representative Steinberg (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. (1) There is created a civil cause of action  
8 for the collection of unpaid wages.

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

10 (a) "Wages" means wages, salaries, commissions, or other  
11 similar forms of compensation.

12 (b) "Unpaid wages" means the improper underpayment or  
13 nonpayment of wages within a reasonable time after the date on  
14 which the employee performed the work for which the wages are  
15 compensable.

16 (3) An employer shall pay the wages due to an employee for  
17 the work that the employee performed and which are due within a  
18 reasonable time after the date on which the employee performed  
19 the work. The employer shall pay the wages according to the

Amendment No. 1s

20 applicable rate and the employer's own pay schedule established  
21 by policy or practice. If a pay schedule has not been  
22 established, a reasonable time following the date on which that  
23 employee performed the work is presumed to be 2 weeks.

24 (4) As a condition precedent to bringing a claim for  
25 unpaid wages, the claimant shall notify in writing the employer  
26 alleged to have violated this section of the employee's intent  
27 to initiate a claim. The notice must identify the amount that  
28 the claimant alleges he or she is owed, the actual or estimated  
29 work dates and hours for which payment is sought, and the total  
30 amount of alleged unpaid wages through the date of the notice.  
31 The employer has 15 days following the date of service of the  
32 notice to pay the total amount of unpaid wages or otherwise  
33 resolve the claim to the satisfaction of the claimant.

34 (5) The claim shall have its venue in the county where the  
35 work was performed or where the employer resides. A claim for  
36 unpaid wages shall be tried before the court and not before a  
37 jury. The claimant does not have a right to a class action to  
38 enforce such unpaid wage claims.

39 (6) A claim for unpaid wages under this section must be  
40 filed within 1 year following the last date that the allegedly  
41 unpaid work was performed by the employee.

42 (7) A prevailing claimant is entitled to damages, which  
43 shall be the actual wages due and owing, plus court costs and  
44 interest.

45 (8)(a) A county, municipality, or political subdivision  
46 may establish an administrative, nonjudicial complaint process  
47 by which an unpaid wage claim may be filed by, or on behalf of,



Amendment No. 1s

48 an aggrieved employee in order to assist in the collection of  
49 wages owed to the employee. Any such process shall afford the  
50 parties involved an opportunity to negotiate a resolution to the  
51 wages in question.

52 (b) A county, municipality, or political subdivision may  
53 not adopt or maintain in effect any law, ordinance, or rule that  
54 creates requirements or regulations for the purpose of  
55 addressing unpaid wage claims other than to establish the  
56 administrative process provided for in this section.

57 (c) Any other regulation, ordinance, or provision for the  
58 recovery of unpaid wages by a county, municipality, or political  
59 subdivision is expressly prohibited and is preempted to the  
60 state.

61 (9) This section does not apply to an employer whose  
62 annual gross volume of sales is more than \$500,000, exclusive of  
63 sales tax collected or excise taxes paid.

64 Section 2. This act shall take effect July 1, 2012.

65  
66  
67 -----  
68 **T I T L E A M E N D M E N T**

69 Remove the entire title and insert:

70 A bill to be entitled

71 An act relating to wage protection for employees;  
72 creating a civil cause of action for the collection of  
73 unpaid wages; defining terms; requiring an employer to  
74 pay the wages due to an employee for the work that the  
75 employee performed within a reasonable time after the

Amendment No. 1s

76 date on which the employee performed the work;  
77 requiring a claimant, as a condition precedent to  
78 bringing a claim for unpaid wages, to notify in  
79 writing the employer of the employee's intention to  
80 initiate a claim; providing for the content of the  
81 notice; allotting the employer a specific time to pay  
82 the total amount of unpaid wages or otherwise resolve  
83 the claim to the satisfaction of the claimant;  
84 providing for the venue of such claims; prohibiting  
85 the maintenance of a class action; providing for  
86 damages to include court costs and interest;  
87 authorizing a county, municipality, or political  
88 subdivision to establish an administrative,  
89 nonjudicial process by which a claim may be filed by,  
90 or on behalf of, an aggrieved employee; prohibiting a  
91 county, municipality, or political subdivision from  
92 adopting or maintaining in effect a law, ordinance, or  
93 rule for the purpose of addressing unpaid wage claims  
94 other than to establish an administrative process as  
95 provided in the act; providing that any regulation,  
96 ordinance, or other provision for recovery of unpaid  
97 wages by counties, municipalities, or political  
98 subdivisions is prohibited and preempted to the state;  
99 providing a limitation of applicability to certain  
100 employers; providing an effective date.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 609 (2012)

Amendment No. 1sa

COMMITTEE/SUBCOMMITTEE ACTION

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

*unfavorable  
2.22.12*

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

3  
4 **Amendment to Substitute Amendment (292357) by**  
5 **Representative Goodson (with title amendment)**

6 Between lines 63 and 64 of the substitute amendment,  
7 insert:

8 Section 2. The Legislature, with the consultation of  
9 affected stakeholders, shall conduct an interim project to study  
10 issues related to wage theft in the state and to determine an  
11 approach for a statewide wage theft enforcement process.

12  
13  
14  
15 -----  
16 **T I T L E A M E N D M E N T**

17 Remove line 100 of the substitute amendment and insert:  
18 employers; requiring the Legislature to conduct an interim  
19 project to study issues related to wage theft in the state and

020083 - h0609sa1-1.docx

Published On: 2/22/2012 7:29:15 AM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 609 (2012)

Amendment No. 1sa

20 | to determine an approach for a statewide wage theft enforcement  
21 | process; providing an effective date

22

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 609 (2012)

Amendment No. 1sa2

COMMITTEE/SUBCOMMITTEE ACTION

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

*Unfavorable  
2-22-12*

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

3  
4 **Amendment to Substitute Amendment (292357) by**  
5 **Representative Goodson**

6 Between lines 63 and 64 of the substitute amendment,  
7 insert:

8 (10) Any local ordinance adopted and implemented before  
9 this act takes effect shall remain in place until the local  
10 government amends or repeals it.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 609 (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 \_\_\_\_\_

*Not considered -  
2-22-12*

1 Committee/Subcommittee hearing bill: Judiciary Committee

2 Representative Soto offered the following:

4 **Amendment (with title amendment)**

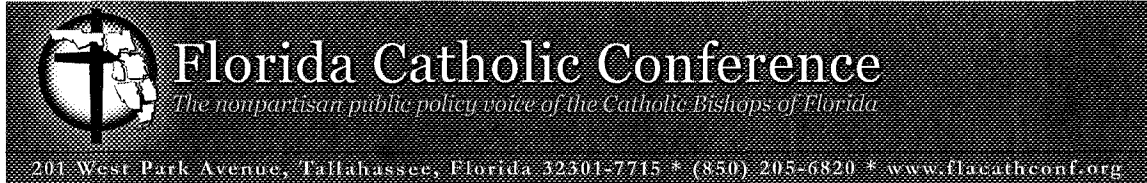
5 Between lines 22 and 23, insert:

6 Section 2. The Legislature, with the consultation of  
7 affected stakeholders, shall conduct an interim project to study  
8 issues related to wage theft in the state and to determine an  
9 approach for a statewide wage theft enforcement process.

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

13 Remove line 8 and insert:

14 the state; defining the term "wage theft"; requiring the  
15 Legislature to conduct an interim project to study issues  
16 related to wage theft in the state and to determine an approach  
17 for a statewide wage theft enforcement process; providing



## **WAGE THEFT: A MORAL CRISIS IN OUR COMMUNITIES**

*One Monday in 2011, four men, standing at a corner in West Palm Beach, were picked up for work by a subcontractor. He promised them \$300 each if they worked for a week. He drove them each day to the worksite in Tequesta, about 45 minutes away. They worked 8 hours each day, and at the end of the day the subcontractor dropped them off. On Friday, he picked them up as usual. When it turned evening and paycheck time, he went to get them drinks. He never returned. Not only did he not pay them, but he left them stranded in Tequesta, with no idea where they were or how to get home.*

Every day, workers in communities across Florida are under paid, or not paid at all, for their labor in industries where there are equal opportunities for injustice. By any standard, wage theft is immoral, bad for the economy, unfair to ethical employers, and devastating to workers who are struggling to make ends meet.

Going to court to recover wages owed can be time consuming, take too long to receive the money needed to pay for immediate needs such as food and housing and also would require taking time off work, assuming they have another job. There is also the expense of court filing fees and the fear of going to court for the average worker.

SB 862 and HB 609, bills titled “wage protection for employees”, would take away the ability of local government to address this issue with no specific solution offered at the state level. This would allow the ongoing denial of basic human rights – the ability to receive the just fruits for one’s labor – by unscrupulous employers who place profit over principles. While there have been attempts to come to agreement on amendments to the bill language, these have been centered on legal solutions that would burden an already underfunded court system and disadvantage claimants who have no money for court filing fees or legal counsel.

This is an enormous problem that needs a workable solution. Because of the diversity and economic differences among the 67 counties, a better first step may be to study what has worked and craft a solution that includes an expeditious, user-friendly, cost-free process that does not simply push these victims into an overloaded court system that would further delay payment of their earned wages. Going to court may be an option but not necessarily the first step. In Miami Dade County, an administrative model has existed since February 2010 which has enabled recovery of wages through conciliation as a first step and if unsuccessful, an administrative hearing which, between the two processes, has resulted in recovery of over \$500,000 in back wages.

While different options are being explored, one thing is clear. “The economy” as Pope Benedict XVI says “needs ethics to function correctly; not any ethics whatsoever, but an ethics that is people centered.”

Archbishop Thomas G. Wenski of Miami  
President, Florida Catholic Conference

KATHLEEN MURPHY

---

1520 Northeast 105th Street  
Miami Shores, Florida 33138

Senate Judiciary Committee  
The Florida Senate  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Regarding: SB 862

Dear Honorable Members of the Senate Judiciary Committee,

I am writing to you today to detail how the Wage Theft Ordinance in Miami-Dade County has benefited me and to ask that SB 862 not be allowed to pass.

On August 10, 2010 I resigned from my position as Executive Director at a nonprofit in Miami-Dade County because they had consistently refused to pay my wages as well as reimburse me for a substantial amount of unreimbursed expenses. After no response to my many requests for payment from my ex-employer, I met with four separate lawyers who told me to not bother to sue my ex-employers as I would be wasting my time. When I saw the mention of the Wage Theft Ordinance in the Miami Herald, I immediately contacted the appropriate office at Miami-Dade County. They were extremely helpful in walking me through the complaint process and as of January of this year the wages that were owed me have been paid, although not the unreimbursed expenses.

Although I am still owed a large amount of money by my ex-employer, having received my past wages was very helpful and has allowed me to pay some of the debt incurred while working for them.

Some employers feel that they can get away with not paying their employees, something easy to do before the Wage Theft Ordinance. I feel that it would be a great disservice to do away with the ability of local government to help workers that are treated in this way and who have no other recourse.

I once again ask that you stop BS 862 and preserve the right of Miami-Dade County to help other workers when they are robbed of their wages by their employers.

Thank you for your time.

Sincerely,



Kathleen Murphy



February 12, 2012

Ron Lay, President  
Lobbying Team  
ASSOCIATED BUILDERS AND CONTRACTORS OF FLORIDA, INC.  
2008 N. Himes  
Tampa, FL 33607

**RE HB 609 / SB 862 Wage Theft Preemption Bill**

Dear Mr. Lay and Associates,

We are writing to ask that you extend your advocacy on behalf of the construction industry to include the workers upon whom the industry is built. Respectfully, Associated Builders and Contractors refers to itself as "*The Voice of Commercial Construction*", yet the voices of the workers are not heard. While we build luxury condominiums, lay the marble in financial districts, and serve as the backbone for the companies for whom we work, Associated Builders and Contractors seeks to undermine our ability to be paid for our labors.

As you and all within the construction industry know, wage theft is rampant in our industry and has been for decades. A recent report by the Research Industry for Social and Economic Policy analyzed wage theft in Florida based on available data and found construction to be one of the worst industries for incidents of wage theft. But none of us needed a report to tell us how much wage theft occurs in the construction industry; each of the undersigned has experienced at least one incident of wage theft during the past two months and we are simply one small group of workers compared to the many who are experiencing wage theft throughout the state.

We recognize that there are many ethical contractors within the industry and know that wage theft undermines them as well as it does us. Smaller contractors are particularly at risk when they are underbid by unscrupulous employers who intend to use wage theft as part of their business model. They are additionally at risk when they file low bids in order to compete against these bad actors and find themselves unable to meet their financial obligations. Further, both developers and general contractors are undermined when a sub-contractor does not or is unable to pay its workers. The widespread wage theft within our industry affects us all.

We ask that you withdraw your support for HB 609 and SB 862 (Wage Theft Protection for Employees). The misnamed bills do not protect workers but instead undermine efforts by local

governments to address the rampant wage theft that harms us all. We ask that you say no to wage theft and work with us to improve the construction industry.

We ask that you stand with us to build a better Florida.

Sincerely,

Juan D THOMAS

Or Cristian REVE

Sosa M. Alvarez.

~~Juan Carlos~~

Mario Savala

German Vasquez

Delfino Martinez

Ezequiel Percastegui

Alexandro Santiago

Agustin Gonzalez

Dario J. Calderon

Carlos Hernandez

Ildebrando Alvarez 69

Wifredo Leon

Wilder A. Ochoa

Edy R. Aplicano

Carlos Guerrero

Herlin Garcia

m-zamora

Angel E Silva

Oscar B. Lopez

Maria Moreno

Hector Santos

Juan P Torres

Jose Luis Hernandez

governments to address the rampant wage theft that harms us all. We ask that you say no to wage theft and work with us to improve the construction industry.

We ask that you stand with us to build a better Florida.

Sincerely,

Marelo Bonilla

Rebeca Arce

William Acosta

José Fuentes

Yovany Lopez

[Signature]

Juan Lopez

[Signature] Beyer

Waldo Ochoa

Carlos Rodriguez

[Signature]

Yosay Espinoza

Samir Espinoza

Juan Moreno

Ramon Morillo

[Signature]

Teribio Tecum

BIDRO Perez

Milton Montero

Leonel Calderin

Diliver A Diaz

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

Location: 404 HOB

AMENDED

HB 777 : Securities Law Violations

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				
<b>Total Yeas: 17</b>		<b>Total Nays: 0</b>			

### Appearances:

HB 777

Pewitt, Jacob (Lobbyist) (State Employee) - Waive In Support

Special Assistant, Office of Financial Regulation

200 E. Gaines St. Suite 118

Tallahassee FL 32399

Phone: (850) 410-9665

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

Location: 404 HOB

AMENDED

### CS/HB 885 : Transactions by Secondhand Dealers and Secondary Metals Recyclers

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				
<b>Total Yeas: 18</b>		<b>Total Nays: 0</b>			

#### Appearances:

CS/HB 885

Messersmith, Frank (Lobbyist) - Waive In Support

Florida Sheriffs Association

2901 Bradford

Tallahassee FL 32310

Phone: (850) 576-5858

CS/HB 885

Punyko, Carl (Lobbyist) - Waive In Support

Government Affairs Manager, Gulf Power Company

Pensacola FL 32520

Phone: (850)712-0692

CS/HB 885

Holley, John (Lobbyist) - Waive In Support

Florida Power & Light

CS/HB 885

Simmons, Donna (Lobbyist) - Waive In Support

Director State Government Affairs, TECO Energy

106 E College Ave

Tallahassee FL 32301

Phone: (850) 681-6785

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

AMENDED

Location: 404 HOB

**CS/HB 885 : Transactions by Secondhand Dealers and Secondary Metals Recyclers (continued)**

**Appearances: (continued)**

CS/HB 885

Mateo, Paula (Lobbyist) - Waive In Support  
Area Manager, AT&T  
150 S Monroe St  
Tallahassee FL 32301  
Phone: (850) 541-6002

CS/HB 885

Hartley, Ron (General Public) - Waive In Support  
Major, Hillsborough County Sheriffs Office  
2008 8th Avenue  
Tampa FL 33701  
Phone: (813) 363-0375

CS/HB 885

Magill, James (Lobbyist) - Waive In Support  
Florida Recyclers Association  
101 N Monroe  
Tallahassee FL 32001  
Phone: (850) 681-0411

CS/HB 885

Jeffries, Mark (Lobbyist) - Waive In Support  
Public Affairs Director, Orange County  
201 S Rosalind Ave  
Orlando FL 32801  
Phone: (407) 836-5909

CS/HB 885

Gabbard, Jim (Lobbyist) - Waive In Support  
The Florida Police Chiefs Association  
924 N Gadsen St  
Tallahassee FL 32317  
Phone: (850) 219-3640

CS/HB 885

Shiver, Stephen (Lobbyist) - Waive In Support  
City of Ocala  
215 S Monroe St Suite 602  
Tallahassee FL 34471  
Phone: (850) 222-8900

CS/HB 885

Russell, Kathleen (Lobbyist) - Waive In Support  
Director of Government Relations, City of Orlando  
400 S Orange Ave  
Orlando FL 32801  
Phone: (407) 383-2075

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

**Location:** 404 HOB

**AMENDED**

**CS/HB 885 : Transactions by Secondhand Dealers and Secondary Metals Recyclers (continued)**

**Appearances: (continued)**

CS/HB 885

Watson, Richard (Lobbyist) - Waive In Support  
Legislative Counsel, Associated Builders & Contractors of Florida  
P O Box 10038  
Tallahassee FL 32302  
Phone: (850) 222-0000

CS/HB 885

McCarty, Jess (Lobbyist) - Waive In Support  
Assistant County Attorney, Miami-Dade County  
111 NW 1st St Ste 2810  
Miami FL 33128  
Phone: (305) 979-7110

CS/HB 885

Cory, Keyna (Lobbyist) - Waive In Support  
Associated Industries of Florida  
110 E College Ave  
Tallahassee FL 32301  
Phone: (850) 681-1065

CS/HB 885

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

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

Location: 404 HOB

AMENDED

### CS/HB 921 : Landlords and Tenants

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				
<b>Total Yeas: 9</b>		<b>Total Nays: 6</b>			

### CS/HB 921 Amendments

#### Amendment 503191

Adopted Without Objection

### Appearances:

CS/HB 921

Vickers, Alice (Lobbyist) - Opponent  
Attorney, Florida Consumer Action Network  
623 Beard St  
Tallahassee FL 32303  
Phone: (850) 556-3121

CS/HB 921

Rosenberg, Arthur (Lobbyist) - Opponent  
Attorney, Florida Legal Services  
3000 Biscayne Blvd #102  
Miami FL 33137  
Phone: (850) 509-2085

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 921 (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  
2-22-12*

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

**Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Subsection (2) of section 83.42, Florida  
7 Statutes, is amended to read:

8 83.42 Exclusions from application of part.—This part does  
9 not apply to:

10 (2) Occupancy under a contract of sale of a dwelling unit  
11 or the property of which it is a part in which at least one  
12 month's rent has been paid and the buyer has paid a deposit of  
13 at least 5 percent of the purchase price of the property, or in  
14 which the buyer has paid at least 12 months' rent.

15 Section 2. Section 83.48, Florida Statutes, is amended to  
16 read:

17 83.48 Attorney ~~Attorney's~~ fees.—In any civil action  
18 brought to enforce the provisions of the rental agreement or  
19 this part, the party in whose favor a judgment or decree has

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20 been rendered may recover reasonable court costs, including, and  
21 attorney attorney's fees, from the nonprevailing party. The  
22 right to attorney fees in this section may not be waived in a  
23 lease agreement. However, attorney fees may not be awarded under  
24 this section in a claim for personal injury damages based on a  
25 breach of duty under s. 83.51.

26 Section 3. Subsections (2), (3), and (7) of section 83.49,  
27 Florida Statutes, are amended to read:

28 83.49 Deposit money or advance rent; duty of landlord and  
29 tenant.—

30 (2) The landlord shall, in the lease agreement or within  
31 30 days after ~~of~~ receipt of advance rent or a security deposit,  
32 furnish written notice to notify the tenant which includes  
33 disclosure of in writing of the manner in which the landlord is  
34 holding the advance rent or security deposit and the rate of  
35 interest, if any, which the tenant is to receive and the time of  
36 interest payments to the tenant. Such written notice shall:

37 ~~(a) Be given in person or by mail to the tenant.~~

38 ~~(b) State the name and address of the depository where the~~  
39 ~~advance rent or security deposit is being held, whether the~~  
40 ~~advance rent or security deposit is being held in a separate~~  
41 ~~account for the benefit of the tenant or is commingled with~~  
42 ~~other funds of the landlord, and, if commingled, whether such~~  
43 ~~funds are deposited in an interest bearing account in a Florida~~  
44 ~~banking institution.~~

45 ~~(c) Include a copy of the provisions of subsection (3).~~

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47 Subsequent to providing such notice, if the landlord changes the  
48 manner or location in which he or she is holding the advance  
49 rent or security deposit, he or she shall notify the tenant  
50 within 30 days after ~~of~~ the change according to the provisions  
51 of paragraphs (a)-(d) herein set forth. The landlord is not  
52 required to give a new notice or an additional notice solely  
53 because the depository has merged with another financial  
54 institution, changed its name, or transferred ownership to a  
55 different financial institution. This subsection does not apply  
56 to any landlord who rents fewer than five individual dwelling  
57 units. Failure to provide this notice is shall not be a defense  
58 to the payment of rent when due. Such written notice must:

59 (a) Be given in person or by mail to the tenant;

60 (b) State the name and address of the depository where the  
61 advance rent or security deposit is being held, or state that  
62 the landlord has posted a surety bond as provided by law;

63 (c) State whether the tenant is entitled to interest on  
64 the deposit; and

65 (d) Include the following disclosure:

66  
67 YOUR LEASE REQUIRES PAYMENT OF CERTAIN DEPOSITS. THE  
68 LANDLORD MAY TRANSFER ADVANCE RENTS TO THE LANDLORD'S  
69 ACCOUNT AS THEY ARE DUE AND WITHOUT NOTICE. WHEN YOU  
70 MOVE OUT, YOU MUST GIVE THE LANDLORD YOUR NEW ADDRESS  
71 SO THAT THE LANDLORD CAN SEND YOU NOTICES REGARDING  
72 YOUR DEPOSIT. THE LANDLORD MUST MAIL YOU NOTICE,  
73 WITHIN 30 DAYS AFTER YOU MOVE OUT, OF THE LANDLORD'S  
74 INTENT TO IMPOSE A CLAIM AGAINST THE DEPOSIT. IF YOU

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75 DO NOT REPLY TO THE LANDLORD STATING YOUR OBJECTION TO  
76 THE CLAIM WITHIN 15 DAYS AFTER RECEIPT OF THE  
77 LANDLORD'S NOTICE, THE LANDLORD WILL COLLECT THE CLAIM  
78 AND MUST MAIL YOU THE REMAINING DEPOSIT, IF ANY. IF  
79 YOU TIMELY OBJECT, THE LANDLORD MUST HOLD THE DEPOSIT  
80 AND EITHER YOU OR THE LANDLORD WILL HAVE TO FILE A  
81 LAWSUIT SO THAT THE COURT CAN RESOLVE THE DISPUTE.

82  
83 IF THE LANDLORD FAILS TO TIMELY MAIL YOU NOTICE, THE  
84 LANDLORD MUST RETURN THE DEPOSIT BUT MAY LATER FILE A  
85 LAWSUIT AGAINST YOU FOR DAMAGES. IF YOU FAIL TO TIMELY  
86 OBJECT TO A CLAIM, THE LANDLORD MAY COLLECT FROM THE  
87 DEPOSIT BUT YOU MAY LATER FILE A LAWSUIT CLAIMING A  
88 REFUND.

89  
90 YOU SHOULD ATTEMPT TO INFORMALLY RESOLVE ANY DISPUTE  
91 BEFORE FILING A LAWSUIT. GENERALLY, THE PARTY IN WHOSE  
92 FAVOR A JUDGMENT HAS BEEN RENDERED WILL BE AWARDED  
93 COSTS AND ATTORNEY FEES PAYABLE BY THE LOSING PARTY.

94  
95 THIS DISCLOSURE IS BASIC. PLEASE REFER TO PART II OF  
96 CHAPTER 83, FLORIDA STATUTES, TO DETERMINE YOUR LEGAL  
97 RIGHTS AND OBLIGATIONS.

98  
99 (3) The landlord or the landlord's agent may disburse  
100 advance rents from the deposit account to the landlord's benefit  
101 when the advance rental period commences and without notice to  
102 the tenant. For all other deposits:

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103 (a) Upon the vacating of the premises for termination of  
104 the lease, if the landlord does not intend to impose a claim on  
105 the security deposit, the landlord shall have 15 days to return  
106 the security deposit together with interest if otherwise  
107 required, or the landlord shall have 30 days to give the tenant  
108 written notice by certified mail to the tenant's last known  
109 mailing address of his or her intention to impose a claim on the  
110 deposit and the reason for imposing the claim. The notice shall  
111 contain a statement in substantially the following form:  
112

113 This is a notice of my intention to impose a claim for  
114 damages in the amount of .... upon your security deposit, due to  
115 ..... It is sent to you as required by s. 83.49(3), Florida  
116 Statutes. You are hereby notified that you must object in  
117 writing to this deduction from your security deposit within 15  
118 days from the time you receive this notice or I will be  
119 authorized to deduct my claim from your security deposit. Your  
120 objection must be sent to ...(landlord's address)....  
121

122 If the landlord fails to give the required notice within the 30-  
123 day period, he or she forfeits the right to impose a claim upon  
124 the security deposit and may not seek a setoff against the  
125 deposit but may file an action for damages after return of the  
126 deposit.

127 (b) Unless the tenant objects to the imposition of the  
128 landlord's claim or the amount thereof within 15 days after  
129 receipt of the landlord's notice of intention to impose a claim,  
130 the landlord may then deduct the amount of his or her claim and

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131 shall remit the balance of the deposit to the tenant within 30  
132 days after the date of the notice of intention to impose a claim  
133 for damages. The failure of the tenant to make a timely  
134 objection does not waive any rights of the tenant to seek  
135 damages in a separate action.

136 (c) If either party institutes an action in a court of  
137 competent jurisdiction to adjudicate the party's right to the  
138 security deposit, the prevailing party is entitled to receive  
139 his or her court costs plus a reasonable fee for his or her  
140 attorney. The court shall advance the cause on the calendar.

141 (d) Compliance with this section by an individual or  
142 business entity authorized to conduct business in this state,  
143 including Florida-licensed real estate brokers and sales  
144 associates, constitutes ~~shall constitute~~ compliance with all  
145 other relevant Florida Statutes pertaining to security deposits  
146 held pursuant to a rental agreement or other landlord-tenant  
147 relationship. Enforcement personnel shall look solely to this  
148 section to determine compliance. This section prevails over any  
149 conflicting provisions in chapter 475 and in other sections of  
150 the Florida Statutes, and shall operate to permit licensed real  
151 estate brokers to disburse security deposits and deposit money  
152 without having to comply with the notice and settlement  
153 procedures contained in s. 475.25(1)(d).

154 (7) Upon the sale or transfer of title of the rental  
155 property from one owner to another, or upon a change in the  
156 designated rental agent, any and all security deposits or  
157 advance rents being held for the benefit of the tenants shall be  
158 transferred to the new owner or agent, together with any earned

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159 interest and with an accurate accounting showing the amounts to  
160 be credited to each tenant account. Upon the transfer of such  
161 funds and records to the new owner or agent as stated herein,  
162 and upon transmittal of a written receipt therefor, the  
163 transferor ~~is shall be~~ free from the obligation imposed in  
164 subsection (1) to hold such moneys on behalf of the tenant.  
165 There is a rebuttable presumption that any new owner or agent  
166 received the security deposits from the previous owner or agent;  
167 however, the limit of this presumption is one month's rent. This  
168 subsection does not ~~However, nothing herein shall~~ excuse the  
169 landlord or agent for a violation of other ~~the~~ provisions of  
170 this section while in possession of such deposits.

171 Section 4. The Legislature recognizes that landlords may  
172 have stocks of preprinted lease forms that contain disclosures  
173 compliant with current law. Accordingly, changes to the  
174 disclosure required of a landlord and made by amendments to s.  
175 83.49, Florida Statutes, in this act, are conditional for leases  
176 entered into between July 1, 2012, and December 31, 2012. During  
177 that period, the landlord may elect to give notice required by  
178 former s. 83.49, Florida Statutes, or the disclosure required  
179 under this act. The disclosure required by this act is required  
180 for all leases entered into on or after January 1, 2013.

181 Section 5. Section 83.50, Florida Statutes, is amended to  
182 read:

183 83.50 Disclosure of landlord's address.-

184 ~~(1)~~ In addition to other disclosures required by law, the  
185 landlord, or a person authorized to enter into a rental  
186 agreement on the landlord's behalf, shall disclose in writing to

COMMITTEE/SUBCOMMITTEE AMENDMENT

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187 the tenant, at or before the commencement of the tenancy, the  
188 name and address of the landlord or a person authorized to  
189 receive notices and demands in the landlord's behalf. The person  
190 so authorized to receive notices and demands retains authority  
191 until the tenant is notified otherwise. All notices of such  
192 names and addresses or changes thereto shall be delivered to the  
193 tenant's residence or, if specified in writing by the tenant, to  
194 any other address.

195 ~~(2) The landlord or the landlord's authorized~~  
196 ~~representative, upon completion of construction of a building~~  
197 ~~exceeding three stories in height and containing dwelling units,~~  
198 ~~shall disclose to the tenants initially moving into the building~~  
199 ~~the availability or lack of availability of fire protection.~~

200 Section 6. Subsection (1) and paragraph (a) of subsection  
201 (2) of section 83.51, Florida Statutes, are amended to read:

202 83.51 Landlord's obligation to maintain premises.—

203 (1) The landlord at all times during the tenancy shall:

204 (a) Comply with the requirements of applicable building,  
205 housing, and health codes; or

206 (b) Where there are no applicable building, housing, or  
207 health codes, maintain the roofs, windows, ~~screens,~~ doors,  
208 floors, steps, porches, exterior walls, foundations, and all  
209 other structural components in good repair and capable of  
210 resisting normal forces and loads and the plumbing in reasonable  
211 working condition. ~~However,~~ The landlord is ~~shall~~ not be  
212 required to maintain a mobile home or other structure owned by  
213 the tenant.

214



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215 The landlord's obligations under this subsection may be altered  
216 or modified in writing with respect to a single-family home or  
217 duplex.

218 (2)(a) Unless otherwise agreed in writing, in addition to  
219 the requirements of subsection (1), the landlord of a dwelling  
220 unit other than a single-family home or duplex shall, at all  
221 times during the tenancy, make reasonable provisions for:

222 1. The extermination of rats, mice, roaches, ants, wood-  
223 destroying organisms, and bedbugs. When vacation of the premises  
224 is required for such extermination, the landlord is ~~shall~~ not be  
225 liable for damages but shall abate the rent. The tenant must  
226 ~~shall be required to~~ temporarily vacate the premises for a  
227 period of time not to exceed 4 days, on 7 days' written notice,  
228 if necessary, for extermination pursuant to this subparagraph.

229 2. Locks and keys.

230 3. The clean and safe condition of common areas.

231 4. Garbage removal and outside receptacles therefor.

232 5. Functioning facilities for heat during winter, running  
233 water, and hot water.

234 Section 7. Subsections (2) through (5) of section 83.56,  
235 Florida Statutes, are amended to read:

236 83.56 Termination of rental agreement.—

237 (2) If the tenant materially fails to comply with s. 83.52  
238 or material provisions of the rental agreement, other than a  
239 failure to pay rent, or reasonable rules or regulations, the  
240 landlord may:

241 (a) If such noncompliance is of a nature that the tenant  
242 should not be given an opportunity to cure it or if the

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243 noncompliance constitutes a subsequent or continuing  
244 noncompliance within 12 months of a written warning by the  
245 landlord of a similar violation, deliver a written notice to the  
246 tenant specifying the noncompliance and the landlord's intent to  
247 terminate the rental agreement by reason thereof. Examples of  
248 noncompliance which are of a nature that the tenant should not  
249 be given an opportunity to cure include, but are not limited to,  
250 destruction, damage, or misuse of the landlord's or other  
251 tenants' property by intentional act or a subsequent or  
252 continued unreasonable disturbance. In such event, the landlord  
253 may terminate the rental agreement, and the tenant shall have 7  
254 days from the date that the notice is delivered to vacate the  
255 premises. The notice shall be ~~adequate if it is~~ in substantially  
256 the following form:

257

258       You are advised that your lease is terminated effective  
259 immediately. You shall have 7 days from the delivery of this  
260 letter to vacate the premises. This action is taken because  
261 ... (cite the noncompliance) ....

262

263       (b) If such noncompliance is of a nature that the tenant  
264 should be given an opportunity to cure it, deliver a written  
265 notice to the tenant specifying the noncompliance, including a  
266 notice that, if the noncompliance is not corrected within 7 days  
267 from the date the written notice is delivered, the landlord  
268 shall terminate the rental agreement by reason thereof. Examples  
269 of such noncompliance include, but are not limited to,  
270 activities in contravention of the lease or this part ~~act~~ such

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271 as having or permitting unauthorized pets, guests, or vehicles;  
272 parking in an unauthorized manner or permitting such parking; or  
273 failing to keep the premises clean and sanitary. If there is a  
274 noncompliance within 12 months after notice, an eviction action  
275 may commence without the necessity of delivering a subsequent  
276 notice pursuant to paragraph (a) or this paragraph. The notice  
277 shall be ~~adequate if it is~~ in substantially the following form:  
278

279       You are hereby notified that ...(cite the  
280 noncompliance).... Demand is hereby made that you remedy the  
281 noncompliance within 7 days of receipt of this notice or your  
282 lease shall be deemed terminated and you shall vacate the  
283 premises upon such termination. If this same conduct or conduct  
284 of a similar nature is repeated within 12 months, your tenancy  
285 is subject to termination without further warning and without  
286 your being given an opportunity to cure the noncompliance.  
287

288       (3) If the tenant fails to pay rent when due and the  
289 default continues for 3 days, excluding Saturday, Sunday, and  
290 legal holidays, after delivery of written demand by the landlord  
291 for payment of the rent or possession of the premises, the  
292 landlord may terminate the rental agreement. Legal holidays for  
293 the purpose of this section shall be court-observed holidays  
294 only. The total amount claimed may include all moneys owed to  
295 the landlord through the date of the notice, including, but not  
296 limited to, late fees. The 3-day notice shall contain a  
297 statement in substantially the following form:  
298

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299 You are hereby notified that you are indebted to me in the  
300 sum of .... dollars for the rent and use of the premises  
301 ...(address of leased premises, including county)..., Florida,  
302 now occupied by you and that I demand payment of the rent or  
303 possession of the premises within 3 days (excluding Saturday,  
304 Sunday, and legal holidays) from the date of delivery of this  
305 notice, to wit: on or before the .... day of ....., ...(year)....  
306 ...(landlord's name, address and phone number)...

307

308 (4) The delivery of the written notices required by  
309 subsections (1), (2), and (3) shall be by mailing or delivery of  
310 a true copy thereof or, if the tenant is absent from the  
311 premises, by leaving a copy thereof at the residence. The notice  
312 requirements of subsections (1), (2), and (3) may not be waived  
313 in the lease.

314 (5) (a) If the landlord accepts rent with actual knowledge  
315 of a noncompliance by the tenant or accepts performance by the  
316 tenant of any other provision of the rental agreement that is at  
317 variance with its provisions, or if the tenant pays rent with  
318 actual knowledge of a noncompliance by the landlord or accepts  
319 performance by the landlord of any other provision of the rental  
320 agreement that is at variance with its provisions, the landlord  
321 or tenant waives his or her right to terminate the rental  
322 agreement or to bring a civil action for that noncompliance, but  
323 not for any subsequent or continuing noncompliance. However, a  
324 landlord does not waive the right to terminate the rental  
325 agreement or to bring a civil action for that noncompliance by  
326 accepting partial rent for the period.

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327        (b) Any tenant who wishes to defend against an action by  
328 the landlord for possession of the unit for noncompliance of the  
329 rental agreement or of relevant statutes must ~~shall~~ comply with  
330 ~~the provisions in~~ s. 83.60(2). The court may not set a date for  
331 mediation or trial unless the provisions of s. 83.60(2) have  
332 been met, but must ~~shall~~ enter a default judgment for removal of  
333 the tenant with a writ of possession to issue immediately if the  
334 tenant fails to comply with s. 83.60(2).

335        (c) This subsection does not apply to that portion of rent  
336 subsidies received from a local, state, or national government  
337 or an agency of local, state, or national government; however,  
338 waiver will occur if an action has not been instituted within 45  
339 days after the landlord obtains actual knowledge of the  
340 noncompliance.

341        Section 8. Subsection (1) of section 83.575, Florida  
342 Statutes, is amended to read:

343        83.575 Termination of tenancy with specific duration.—

344        (1) A rental agreement with a specific duration may  
345 contain a provision requiring the tenant to notify the landlord  
346 before vacating the premises at the end of the rental agreement  
347 if the provision also requires that the landlord notify the  
348 tenant, using the same notice period, if the rental agreement  
349 will not be renewed; however, a rental agreement may not require  
350 more than 60 days' notice from either the tenant or the landlord  
351 ~~before vacating the premises~~.

352        Section 9. Section 83.58, Florida Statutes, is amended to  
353 read:

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354 83.58 Remedies; tenant holding over.—If the tenant holds  
355 over and continues in possession of the dwelling unit or any  
356 part thereof after the expiration of the rental agreement  
357 without the permission of the landlord, the landlord may recover  
358 possession of the dwelling unit in the manner provided for in s.  
359 83.59 ~~{F.S. 1973}~~. The landlord may also recover double the  
360 amount of rent due on the dwelling unit, or any part thereof,  
361 for the period during which the tenant refuses to surrender  
362 possession.

363 Section 10. Subsection (2) of section 83.59, Florida  
364 Statutes, is amended to read:

365 83.59 Right of action for possession.—

366 (2) A landlord, the landlord's attorney, or the landlord's  
367 agent, applying for the removal of a tenant, shall file in the  
368 county court of the county where the premises are situated a  
369 complaint describing the dwelling unit and stating the facts  
370 that authorize its recovery. A landlord's agent is not permitted  
371 to take any action other than the initial filing of the  
372 complaint, unless the landlord's agent is an attorney. The  
373 landlord is entitled to the summary procedure provided in s.  
374 51.011 ~~{F.S. 1971}~~, and the court shall advance the cause on the  
375 calendar.

376 Section 11. Section 83.60, Florida Statutes, is amended to  
377 read:

378 83.60 Defenses to action for rent or possession;  
379 procedure.—

380 (1) (a) In an action by the landlord for possession of a  
381 dwelling unit based upon nonpayment of rent or in an action by

Amendment No. 1

382 the landlord under s. 83.55 seeking to recover unpaid rent, the  
383 tenant may defend upon the ground of a material noncompliance  
384 with s. 83.51(1) ~~{F.S. 1973}~~, or may raise any other defense,  
385 whether legal or equitable, that he or she may have, including  
386 the defense of retaliatory conduct in accordance with s. 83.64.  
387 The landlord must be given an opportunity to cure a deficiency  
388 in a notice or in the pleadings prior to dismissal of the  
389 action.

390 (b) The defense of a material noncompliance with s.  
391 83.51(1) ~~{F.S. 1973}~~ may be raised by the tenant if 7 days have  
392 elapsed after the delivery of written notice by the tenant to  
393 the landlord, specifying the noncompliance and indicating the  
394 intention of the tenant not to pay rent by reason thereof. Such  
395 notice by the tenant may be given to the landlord, the  
396 landlord's representative as designated pursuant to s. 83.50~~(1)~~,  
397 a resident manager, or the person or entity who collects the  
398 rent on behalf of the landlord. A material noncompliance with s.  
399 83.51(1) ~~{F.S. 1973}~~ by the landlord is a complete defense to an  
400 action for possession based upon nonpayment of rent, and, upon  
401 hearing, the court or the jury, as the case may be, shall  
402 determine the amount, if any, by which the rent is to be reduced  
403 to reflect the diminution in value of the dwelling unit during  
404 the period of noncompliance with s. 83.51(1) ~~{F.S. 1973}~~. After  
405 consideration of all other relevant issues, the court shall  
406 enter appropriate judgment.

407 (2) In an action by the landlord for possession of a  
408 dwelling unit, if the tenant interposes any defense other than  
409 payment, including, but not limited to, the defense of a

COMMITTEE/SUBCOMMITTEE AMENDMENT

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410 defective 3-day notice, the tenant shall pay into the registry  
411 of the court the accrued rent as alleged in the complaint or as  
412 determined by the court and the rent that ~~which~~ accrues during  
413 the pendency of the proceeding, when due. The clerk shall notify  
414 the tenant of such requirement in the summons. Failure of the  
415 tenant to pay the rent into the registry of the court or to file  
416 a motion to determine the amount of rent to be paid into the  
417 registry within 5 days, excluding Saturdays, Sundays, and legal  
418 holidays, after the date of service of process constitutes an  
419 absolute waiver of the tenant's defenses other than payment, and  
420 the landlord is entitled to an immediate default judgment for  
421 removal of the tenant with a writ of possession to issue without  
422 further notice or hearing thereon. If ~~In the event~~ a motion to  
423 determine rent is filed, documentation in support of the  
424 allegation that the rent as alleged in the complaint is in error  
425 is required. Public housing tenants or tenants receiving rent  
426 subsidies are ~~shall be~~ required to deposit only that portion of  
427 the full rent for which they are ~~the tenant is~~ responsible  
428 pursuant to the federal, state, or local program in which they  
429 are participating.

430 Section 12. Subsection (1) of section 83.62, Florida  
431 Statutes, is amended to read:

432 83.62 Restoration of possession to landlord.-

433 (1) In an action for possession, after entry of judgment  
434 in favor of the landlord, the clerk shall issue a writ to the  
435 sheriff describing the premises and commanding the sheriff to  
436 put the landlord in possession after 24 hours' notice



Amendment No. 1

437 conspicuously posted on the premises. Weekends and legal  
438 holidays do not stay the 24-hour notice period.

439 Section 13. Section 83.63, Florida Statutes, is amended to  
440 read:

441 83.63 Casualty damage.—If the premises are damaged or  
442 destroyed other than by the wrongful or negligent acts of the  
443 tenant so that the enjoyment of the premises is substantially  
444 impaired, the tenant may terminate the rental agreement and  
445 immediately vacate the premises. The tenant may vacate the part  
446 of the premises rendered unusable by the casualty, in which case  
447 the tenant's liability for rent shall be reduced by the fair  
448 rental value of that part of the premises damaged or destroyed.  
449 If the rental agreement is terminated, the landlord shall comply  
450 with s. 83.49(3) ~~{F.S. 1973}~~.

451 Section 14. Subsection (1) of section 83.64, Florida  
452 Statutes, is amended to read:

453 83.64 Retaliatory conduct.—

454 (1) It is unlawful for a landlord to discriminatorily  
455 increase a tenant's rent or decrease services to a tenant, or to  
456 bring or threaten to bring an action for possession or other  
457 civil action, primarily because the landlord is retaliating  
458 against the tenant. In order for the tenant to raise the defense  
459 of retaliatory conduct, the tenant must have acted in good  
460 faith. Examples of conduct for which the landlord may not  
461 retaliate include, but are not limited to, situations where:

462 (a) The tenant has complained to a governmental agency  
463 charged with responsibility for enforcement of a building,

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 921 (2012)

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464 housing, or health code of a suspected violation applicable to  
465 the premises;

466 (b) The tenant has organized, encouraged, or participated  
467 in a tenants' organization;

468 (c) The tenant has complained to the landlord pursuant to  
469 s. 83.56(1); ~~or~~

470 (d) The tenant is a servicemember who has terminated a  
471 rental agreement pursuant to s. 83.682;

472 (e) The tenant has paid rents to a condominium,  
473 cooperative, or homeowners' association after demand from the  
474 association in order to pay the landlord's obligation to the  
475 association; or

476 (f) The tenant has exercised his or her rights under  
477 local, state, or federal fair housing laws.

478 Section 15. Subsection (1) of section 723.063, Florida  
479 Statutes, is amended to read:

480 723.063 Defenses to action for rent or possession;  
481 procedure.—

482 (1) (a) In any action based upon nonpayment of rent or  
483 seeking to recover unpaid rent, or a portion thereof, the mobile  
484 home owner may defend upon the ground of a material  
485 noncompliance with any portion of this chapter or may raise any  
486 other defense, whether legal or equitable, which he or she may  
487 have. The mobile home park owner must be given an opportunity to  
488 cure a deficiency in a notice or in the pleadings prior to  
489 dismissal of the action.

490 (b) The defense of material noncompliance may be raised by  
491 the mobile home owner only if 7 days have elapsed after he or

Amendment No. 1

492 she has notified the park owner in writing of his or her  
493 intention not to pay rent, or a portion thereof, based upon the  
494 park owner's noncompliance with portions of this chapter,  
495 specifying in reasonable detail the provisions in default. A  
496 material noncompliance with this chapter by the park owner is a  
497 complete defense to an action for possession based upon  
498 nonpayment of rent, or a portion thereof, and, upon hearing, the  
499 court or the jury, as the case may be, shall determine the  
500 amount, if any, by which the rent is to be reduced to reflect  
501 the diminution in value of the lot during the period of  
502 noncompliance with any portion of this chapter. After  
503 consideration of all other relevant issues, the court shall  
504 enter appropriate judgment.

505 Section 16. This act shall take effect July 1, 2012.

506

507

508

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

509

Remove the entire title and insert:

510

511 An act relating to landlords and tenants; amending s. 83.42,  
512 F.S.; revising exclusions from application of part II of ch. 83,  
513 F.S., relating to residential tenancies; amending s. 83.48,  
514 F.S.; providing that the right to attorney fees may not be  
515 waived in a lease agreement; providing that attorney fees may  
516 not be awarded in a claim for personal injury damages based on a  
517 breach of duty of premises maintenance; amending s. 83.49, F.S.;  
518 revising and providing landlord disclosure requirements with  
519 respect to deposit money and advance rent; providing

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Published On: 2/21/2012 7:02:30 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 921 (2012)

Amendment No. 1

520 requirements for the disbursement of advance rents; providing a  
521 limited rebuttable presumption of receipt of security deposits;  
522 providing for certain changes to disclosure requirements to be  
523 phased in; amending s. 83.50, F.S.; removing certain landlord  
524 disclosure requirements relating to fire protection; amending s.  
525 83.51, F.S.; revising a landlord's obligation to maintain a  
526 premises with respect to screens; amending s. 83.56, F.S.;  
527 revising procedures for the termination of a rental agreement by  
528 a landlord; revising notice and payment procedures; providing  
529 that a landlord does not waive the right to terminate the rental  
530 agreement or to bring a civil action for noncompliance by  
531 accepting partial rent, subject to certain notice; providing  
532 that the period to institute an action before an exemption  
533 involving rent subsidies is waived begins upon actual knowledge;  
534 amending s. 83.575, F.S.; revising requirements for the  
535 termination of a tenancy having a specific duration to provide  
536 for reciprocal notice provisions in rental agreements; amending  
537 ss. 83.58 and 83.59, F.S.; conforming cross-references; amending  
538 s. 83.60, F.S.; providing that a landlord must be given an  
539 opportunity to cure a deficiency in any notice or pleadings  
540 prior to dismissal of an eviction action; making technical  
541 changes; amending s. 83.62, F.S.; revising procedures for the  
542 restoration of possession to a landlord to provide that weekends  
543 and holidays do not stay the applicable notice period; amending  
544 s. 83.63, F.S.; conforming a cross-reference; amending s. 83.64,  
545 F.S.; providing examples of conduct for which the landlord may  
546 not retaliate; amending s. 723.063, F.S.; providing that a  
547 mobile home park owner must be given an opportunity to cure a

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Published On: 2/21/2012 7:02:30 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 921 (2012)

Amendment No. 1

548 deficiency in any notice or pleadings prior to dismissal of an  
549 eviction action; providing an effective date.

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

Location: 404 HOB

AMENDED

### CS/HB 947 : Possession of a Firearm or Destructive Device During the Commission of an Offense

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				
<b>Total Yeas: 17</b>		<b>Total Nays: 0</b>			

### CS/HB 947 Amendments

#### Amendment 905267

Adopted Without Objection

### Appearances:

CS/HB 947

Messersmith, Frank (Lobbyist) - Waive In Support  
Florida Sheriffs Association  
2901 Bradford  
Tallahassee FL 32310  
Phone: (850) 576-5858

CS/HB 947

Summers, Shane (General Public) - Waive In Support  
Captain, Florida Sheriffs Association  
P.O Box 569  
Deland FL 32724  
Phone: (386) 736-5961

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

Location: 404 HOB

AMENDED

**CS/HB 947 : Possession of a Firearm or Destructive Device During the Commission of an Offense  
(continued)**

**Appearances: (continued)**

CS/HB 947

Bradford, Gary (Lobbyist) - Waive In Support  
Legislative Services, Florida Police Benevolent Association  
300 E Brevard St  
Tallahassee FL 32301  
Phone: (800) 733-3722

CS/HB 947

Gabbard, Jim (Lobbyist) - Waive In Support  
The Florida Police Chiefs Association  
924 N Gadsen St  
Tallahassee FL 32317  
Phone: (850) 219-3640

CS/HB 947

Moreland, Earl (State Employee) - Waive In Support  
Florida Prosecuting Attorney's Association  
12th Judicial Circuit  
FL  
Phone: (850) 356-3786

CS/HB 947

Hartley, Ronald (General Public) - Waive In Support  
Major, Hillsborough County Sheriffs Office  
2008 8th Avenue  
Tampa FL 33701  
Phone: (813) 363-0375

CS/HB 947

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

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 947 (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  
2.22.12*

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

3  
4 **Amendment**

5 Remove lines 53-61 and insert:  
6 defined in s. 790.001, shall be sentenced to a minimum term of  
7 imprisonment of 10 years, except that a person who is convicted  
8 for aggravated assault, possession of a firearm by a felon, or  
9 burglary of a conveyance shall be sentenced to a minimum term of  
10 imprisonment of 3 years if such person possessed a "firearm" or  
11 "destructive device" during the commission of the offense.  
12 However, if an offender who is convicted of the offense of  
13 possession of a firearm by a felon has a previous conviction of  
14 committing or attempting to commit a felony listed in s.  
15 775.084(1)(b)1. and actually possessed a firearm or destructive  
16 device during the commission of the prior felony, the offender  
17 shall be sentenced to a minimum term of imprisonment of 10  
18 years.  
19



# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

Location: 404 HOB

AMENDED

### CS/HB 1173 : Criminal Gang Prevention

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				
<b>Total Yeas: 18</b>		<b>Total Nays: 0</b>			

### CS/HB 1173 Amendments

#### Amendment 100863

Adopted Without Objection

#### Appearances:

CS/HB 1173

Pitts, Brian (General Public) - Opponent

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: (727) 897-9291

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1173 (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  
2.22.12*

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

**Amendment (with title amendment)**

Remove lines 109-116 and insert:

(11) GANG STATUS OF INMATES.—A county or municipal  
detention facility may designate an individual to be responsible  
for assessing whether each current inmate is a criminal gang  
member or associate using the criteria in s. 874.03. The  
individual should at least once biweekly transmit information on  
inmates believed to be a criminal gang member or associate to  
the arresting law enforcement agency.

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

Remove lines 13-16 and insert:

an individual to be responsible for assessing whether each  
inmate is a criminal gang member or associate; providing duties  
of such

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

Location: 404 HOB

AMENDED

### HB 1195 : Advanced Registered Nurse Practitioners

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				
<b>Total Yeas: 18</b>		<b>Total Nays: 0</b>			

### HB 1195 Amendments

#### Amendment 430969

Adopted Without Objection

### Appearances:

HB 1195

Mixon, Corinne (Lobbyist) - Waive In Support

Florida Academy of Physician Assistants

222 S Westimonte Dr Ste 101

Altamonte Springs FL 32714

Phone: (850)222-2591

HB 1195

Whittaker, Stan (General Public) - Waive In Support

Fl Council of Advance Practice Nurses

6294 nw Torreya pk Rd.

Bristol Fl undefined

Phone: 850-545-8301

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

AMENDED

**Location:** 404 HOB

**HB 1195 : Advanced Registered Nurse Practitioners (continued)**

**Appearances: (continued)**

HB 1195

Carvajal, Allison (Lobbyist) - Waive In Support  
Florida Nurse Practitioner Network, Inc  
PO Box 25422  
Tampa FL 33622  
Phone: (850)201-8899

HB 1195

Lynch, Susan (General Public) - Waive In Support  
1388 Voltaire  
Deltona FL 32725  
Phone: 386-532-3488

HB 1195

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

HB 1195

Kung, Yong Mai (State Employee) - Waive In Support  
ARNPs  
3712 Longchamp Cir  
Tallahassee FL 32309  
Phone: (850) 510-7500

HB 1195

Snow, Chris (Lobbyist) - Waive In Support  
Florida Nursing Association  
2568 Centerville Court  
Tallahassee FL 32308  
Phone: 850-556-0203

HB 1195

Cloud, Timra (General Public) - Waive In Support  
Panhandle Nurse Practitioner Coalition  
4432 Peanut Road  
Cottondale FL 32431  
Phone: 850-326-2278

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1195 (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  
2-22-12*

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

**Amendment (with title amendment)**

5 Remove line 46 and insert:

6 3. A physician, physician assistant, clinical  
7 psychologist, psychiatric nurse,

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

12 Remove lines 2-3 and insert:

13 An act relating to involuntary examinations under the  
14 Baker Act; amending s. 394.463, F.S.; authorizing  
15 physician assistants and  
16

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

Location: 404 HOB

AMENDED

HB 1209

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				
<b>Total Yeas: 14</b>		<b>Total Nays: 1</b>			

### Appearances:

HB 1209

Porras, Carn (General Public) - Opponent  
Chair Elect, Family Law Section Florida Bar  
100 NE Third Ave #480  
Fort Lauderdale FL 33301  
Phone: (954) 527-2855

HB 1209

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

HB 1209

Hall, Kris Anne (General Public) - Proponent  
Constitutional Ed & Consulting  
8220 25th Dr  
Wellborn FL 32094  
Phone: (386) 466-4556

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

Location: 404 HOB

AMENDED

CS/HB 1323 : Metal Theft

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				
<b>Total Yeas: 18</b>		<b>Total Nays: 0</b>			

### Appearances:

CS/HB 1323

Goss, Suzanne (Lobbyist) - Waive In Support  
Government Relations Specialist, JEA  
21 W Church St  
Jacksonville FL 32202  
Phone: (904) 665-8331

CS/HB 1323

Holley, John (Lobbyist) - Waive In Support  
Florida Power & Light

CS/HB 1323

Simmons, Donna (Lobbyist) - Waive In Support  
Director State Government Affairs, TECO Energy  
106 E College Ave  
Tallahassee FL 32301  
Phone: (850) 681-6785

CS/HB 1323

Bjorklund, Michael (Lobbyist) - Waive In Support  
Director of Legislative Affairs, Florida Electric Cooperatives Association  
2916 Apalachee Pky  
Tallahassee FL 32301  
Phone: (850) 877-6166

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

**Location:** 404 HOB

**AMENDED**

**CS/HB 1323 : Metal Theft (continued)**

**Appearances: (continued)**

CS/HB 1323

Gabbard, Jim (Lobbyist) - Waive In Support

The Florida Police Chiefs Association

924 N Gadsen St

Tallahassee FL 32303

Phone: (850) 219-3640

CS/HB 1323

Punyko, Carl (Lobbyist) - Waive In Support

Government Affairs Manager, Gulf Power Company

Pensacola FL 32520

Phone: (850) 712-0692

CS/HB 1323

McCarty, Jess (Lobbyist) - Waive In Support

Assistant County Attorney, Miami-Dade County

111 NW 1st Street Suite 2810

Miami Florida 33128

Phone: (305) 979-7110

CS/HB 1323

Cory, Keyna (Lobbyist) - Waive In Support

Associated Industries of Florida

110 E College Ave

Tallahassee FL 32301

Phone: (850) 681-1065

Committee meeting was reported out: Wednesday, February 22, 2012 5:46:16PM



# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2012 8:00:00AM

Location: 404 HOB

AMENDED

### HB 7047 : Sex Offenses

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				
<b>Total Yeas: 18</b>		<b>Total Nays: 0</b>			

### HB 7047 Amendments

#### Amendment 702811

Adopted Without Objection

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7047 (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  
2-22-12*

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

4 **Amendment**

5 Remove lines 188-1333 and insert:

6 change in enrollment, volunteer, or employment status shall be  
7 reported in person at the sheriff's office, or the Department of  
8 Corrections if the sexual predator is in the custody or control  
9 of or under the supervision of the Department of Corrections,  
10 within 48 hours after any change in status. The sheriff or the  
11 Department of Corrections shall promptly notify each institution  
12 of the sexual predator's presence and any change in the sexual  
13 predator's enrollment, volunteer, or employment status.

14 2. Any other information determined necessary by the  
15 department, including criminal and corrections records;  
16 nonprivileged personnel and treatment records; and evidentiary  
17 genetic markers when available.

18 (b) If the sexual predator is in the custody or control  
19 of, or under the supervision of, the Department of Corrections,

Amendment No. 1

20 or is in the custody of a private correctional facility, the  
21 sexual predator must register with the Department of  
22 Corrections. A sexual predator who is under the supervision of  
23 the Department of Corrections but who is not incarcerated must  
24 register with the Department of Corrections within 3 business  
25 days after the court finds the offender to be a sexual predator.  
26 The Department of Corrections shall provide to the department  
27 registration information and the location of, and local  
28 telephone number for, any Department of Corrections office that  
29 is responsible for supervising the sexual predator. In addition,  
30 the Department of Corrections shall notify the department if the  
31 sexual predator escapes or absconds from custody or supervision  
32 or if the sexual predator dies.

33 (c) If the sexual predator is in the custody of a local  
34 jail, the custodian of the local jail shall register the sexual  
35 predator within 3 business days after intake of the sexual  
36 predator for any reason and upon release, and shall forward the  
37 registration information to the department. The custodian of the  
38 local jail shall also take a digitized photograph of the sexual  
39 predator while the sexual predator remains in custody and shall  
40 provide the digitized photograph to the department. The  
41 custodian shall notify the department if the sexual predator  
42 escapes from custody or dies.

43 (d) If the sexual predator is under federal supervision,  
44 the federal agency responsible for supervising the sexual  
45 predator may forward to the department any information regarding  
46 the sexual predator which is consistent with the information  
47 provided by the Department of Corrections under this section,

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48 and may indicate whether use of the information is restricted to  
49 law enforcement purposes only or may be used by the department  
50 for purposes of public notification.

51 (e)1. If the sexual predator is not in the custody or  
52 control of, or under the supervision of, the Department of  
53 Corrections or is not in the custody of a private correctional  
54 facility, the sexual predator shall register in person:

55 a. At the sheriff's office in the county where he or she  
56 establishes or maintains a residence within 48 hours after  
57 establishing or maintaining a residence in this state; and

58 b. At the sheriff's office in the county where he or she  
59 was designated a sexual predator by the court within 48 hours  
60 after such finding is made.

61 2. Any change in the sexual predator's permanent or  
62 temporary residence, name, ~~or any~~ electronic mail addresses,  
63 ~~address and or Internet identifiers any instant message name~~  
64 required to be provided pursuant to subparagraph (g)4., after  
65 the sexual predator registers in person at the sheriff's office  
66 as provided in subparagraph 1., shall be accomplished in the  
67 manner provided in paragraphs (g), (i), and (j). When a sexual  
68 predator registers with the sheriff's office, the sheriff shall  
69 take a photograph, and a set of fingerprints, and palm prints of  
70 the predator and forward the photographs, palm prints, and  
71 fingerprints to the department, along with the information that  
72 the predator is required to provide pursuant to this section.

73 (f) Within 48 hours after the registration required under  
74 paragraph (a) or paragraph (e), a sexual predator who is not  
75 incarcerated and who resides in the community, including a

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76 sexual predator under the supervision of the Department of  
77 Corrections, shall register in person at a driver ~~driver's~~  
78 license office of the Department of Highway Safety and Motor  
79 Vehicles and shall present proof of registration. At the driver  
80 ~~driver's~~ license office the sexual predator shall:

81 1. If otherwise qualified, secure a Florida driver  
82 ~~driver's~~ license, renew a Florida driver ~~driver's~~ license, or  
83 secure an identification card. The sexual predator shall  
84 identify himself or herself as a sexual predator who is required  
85 to comply with this section, provide his or her place of  
86 permanent, temporary, or transient residence, including a rural  
87 route address and a post office box, and submit to the taking of  
88 a photograph for use in issuing a driver ~~driver's~~ license,  
89 renewed license, or identification card, and for use by the  
90 department in maintaining current records of sexual predators. A  
91 post office box shall not be provided in lieu of a physical  
92 residential address. If the sexual predator's place of residence  
93 is a motor vehicle, trailer, mobile home, or manufactured home,  
94 as defined in chapter 320, the sexual predator shall also  
95 provide to the Department of Highway Safety and Motor Vehicles  
96 the vehicle identification number; the license tag number; the  
97 registration number; and a description, including color scheme,  
98 of the motor vehicle, trailer, mobile home, or manufactured  
99 home. If a sexual predator's place of residence is a vessel,  
100 live-aboard vessel, or houseboat, as defined in chapter 327, the  
101 sexual predator shall also provide to the Department of Highway  
102 Safety and Motor Vehicles the hull identification number; the  
103 manufacturer's serial number; the name of the vessel, live-

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104 aboard vessel, or houseboat; the registration number; and a  
105 description, including color scheme, of the vessel, live-aboard  
106 vessel, or houseboat.

107 2. Pay the costs assessed by the Department of Highway  
108 Safety and Motor Vehicles for issuing or renewing a driver  
109 ~~driver's~~ license or identification card as required by this  
110 section. The driver ~~driver's~~ license or identification card  
111 issued to the sexual predator must be in compliance with s.  
112 322.141(3).

113 3. Provide, upon request, any additional information  
114 necessary to confirm the identity of the sexual predator,  
115 including a set of fingerprints.

116 (g)1. Each time a sexual predator's driver ~~driver's~~  
117 license or identification card is subject to renewal, and,  
118 without regard to the status of the predator's driver ~~driver's~~  
119 license or identification card, within 48 hours after any change  
120 of the predator's residence or change in the predator's name by  
121 reason of marriage or other legal process, the predator shall  
122 report in person to a driver ~~driver's~~ license office and shall  
123 be subject to the requirements specified in paragraph (f). The  
124 Department of Highway Safety and Motor Vehicles shall forward to  
125 the department and to the Department of Corrections all  
126 photographs and information provided by sexual predators.  
127 Notwithstanding the restrictions set forth in s. 322.142, the  
128 Department of Highway Safety and Motor Vehicles is authorized to  
129 release a reproduction of a color-photograph or digital-image  
130 license to the Department of Law Enforcement for purposes of  
131 public notification of sexual predators as provided in this

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132 section. A sexual predator who is unable to secure or update a  
133 driver license or identification card with the Department of  
134 Highway Safety and Motor Vehicles as provided in paragraph (f)  
135 and this paragraph must also report any change of the predator's  
136 residence or change in the predator's name by reason of marriage  
137 or other legal process within 48 hours after the change to the  
138 sheriff's office in the county where the predator resides or is  
139 located and provide confirmation that he or she reported such  
140 information to the Department of Highway Safety and Motor  
141 Vehicles.

142 2. A sexual predator who vacates a permanent, temporary,  
143 or transient residence and fails to establish or maintain  
144 another permanent, temporary, or transient residence shall,  
145 within 48 hours after vacating the permanent, temporary, or  
146 transient residence, report in person to the sheriff's office of  
147 the county in which he or she is located. The sexual predator  
148 shall specify the date upon which he or she intends to or did  
149 vacate such residence. The sexual predator must provide or  
150 update all of the registration information required under  
151 paragraph (a). The sexual predator must provide an address for  
152 the residence or other place that he or she is or will be  
153 located during the time in which he or she fails to establish or  
154 maintain a permanent or temporary residence.

155 3. A sexual predator who remains at a permanent,  
156 temporary, or transient residence after reporting his or her  
157 intent to vacate such residence shall, within 48 hours after the  
158 date upon which the predator indicated he or she would or did  
159 vacate such residence, report in person to the sheriff's office

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160 to which he or she reported pursuant to subparagraph 2. for the  
161 purpose of reporting his or her address at such residence. When  
162 the sheriff receives the report, the sheriff shall promptly  
163 convey the information to the department. An offender who makes  
164 a report as required under subparagraph 2. but fails to make a  
165 report as required under this subparagraph commits a felony of  
166 the second degree, punishable as provided in s. 775.082, s.  
167 775.083, or s. 775.084.

168 4. A sexual predator must register all any electronic mail  
169 addresses and Internet identifiers ~~address or instant message~~  
170 ~~name~~ with the department prior to using such electronic mail  
171 addresses and Internet identifiers ~~address or instant message~~  
172 ~~name on or after October 1, 2007~~. The department shall establish  
173 an online system through which sexual predators may securely  
174 access and update all electronic mail address and Internet  
175 identifier ~~instant message name~~ information.

176 (h) The department must notify the sheriff and the state  
177 attorney of the county and, if applicable, the police chief of  
178 the municipality, where the sexual predator maintains a  
179 residence.

180 (i) A sexual predator who intends to establish a  
181 permanent, temporary, or transient residence in another state or  
182 jurisdiction other than the State of Florida shall report in  
183 person to the sheriff of the county of current residence within  
184 48 hours before the date he or she intends to leave this state  
185 to establish residence in another state or jurisdiction or  
186 within 21 days before his or her planned departure date if the  
187 intended residence of 5 days or more is outside of the United



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188 States. The sexual predator must provide to the sheriff the  
189 address, municipality, county, ~~and state~~, and country of  
190 intended residence. The sheriff shall promptly provide to the  
191 department the information received from the sexual predator.  
192 The department shall notify the statewide law enforcement  
193 agency, or a comparable agency, in the intended state, ~~or~~  
194 jurisdiction, or country of residence of the sexual predator's  
195 intended residence. The failure of a sexual predator to provide  
196 his or her intended place of residence is punishable as provided  
197 in subsection (10).

198 (j) A sexual predator who indicates his or her intent to  
199 establish a permanent, temporary, or transient residence in  
200 another state, a ~~or~~ jurisdiction other than the State of  
201 Florida, or another country and later decides to remain in this  
202 state shall, within 48 hours after the date upon which the  
203 sexual predator indicated he or she would leave this state,  
204 report in person to the sheriff to which the sexual predator  
205 reported the intended change of residence, and report his or her  
206 intent to remain in this state. If the sheriff is notified by  
207 the sexual predator that he or she intends to remain in this  
208 state, the sheriff shall promptly report this information to the  
209 department. A sexual predator who reports his or her intent to  
210 establish a permanent, temporary, or transient residence in  
211 another state, a ~~or~~ jurisdiction other than the State of  
212 Florida, or another country, but who remains in this state  
213 without reporting to the sheriff in the manner required by this  
214 paragraph, commits a felony of the second degree, punishable as  
215 provided in s. 775.082, s. 775.083, or s. 775.084.

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216 (k)1. The department is responsible for the online  
217 maintenance of current information regarding each registered  
218 sexual predator. The department must maintain hotline access for  
219 state, local, and federal law enforcement agencies to obtain  
220 instantaneous locator file and offender characteristics  
221 information on all released registered sexual predators for  
222 purposes of monitoring, tracking, and prosecution. The  
223 photograph and fingerprints do not have to be stored in a  
224 computerized format.

225 2. The department's sexual predator registration list,  
226 containing the information described in subparagraph (a)1., is a  
227 public record. The department is authorized to disseminate this  
228 public information by any means deemed appropriate, including  
229 operating a toll-free telephone number for this purpose. When  
230 the department provides information regarding a registered  
231 sexual predator to the public, department personnel must advise  
232 the person making the inquiry that positive identification of a  
233 person believed to be a sexual predator cannot be established  
234 unless a fingerprint comparison is made, and that it is illegal  
235 to use public information regarding a registered sexual predator  
236 to facilitate the commission of a crime.

237 3. The department shall adopt guidelines as necessary  
238 regarding the registration of sexual predators and the  
239 dissemination of information regarding sexual predators as  
240 required by this section.

241 (l) A sexual predator must maintain registration with the  
242 department for the duration of his or her life, unless the  
243 sexual predator has received a full pardon or has had a

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244 conviction set aside in a postconviction proceeding for any  
245 offense that met the criteria for the sexual predator  
246 designation.

247 (8) VERIFICATION.—The department and the Department of  
248 Corrections shall implement a system for verifying the addresses  
249 of sexual predators. The system must be consistent with the  
250 provisions of the federal Adam Walsh Child Protection and Safety  
251 Act of 2006 and any other federal standards applicable to such  
252 verification or required to be met as a condition for the  
253 receipt of federal funds by the state. The Department of  
254 Corrections shall verify the addresses of sexual predators who  
255 are not incarcerated but who reside in the community under the  
256 supervision of the Department of Corrections and shall report to  
257 the department any failure by a sexual predator to comply with  
258 registration requirements. County and local law enforcement  
259 agencies, in conjunction with the department, shall verify the  
260 addresses of sexual predators who are not under the care,  
261 custody, control, or supervision of the Department of  
262 Corrections. Local law enforcement agencies shall report to the  
263 department any failure by a sexual predator to comply with  
264 registration requirements.

265 (a) A sexual predator must report in person each year  
266 during the month of the sexual predator's birthday and during  
267 every third month thereafter to the sheriff's office in the  
268 county in which he or she resides or is otherwise located to  
269 reregister. The sheriff's office may determine the appropriate  
270 times and days for reporting by the sexual predator, which shall  
271 be consistent with the reporting requirements of this paragraph.

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272 Reregistration shall include any changes to the following  
273 information:

274 1. Name; social security number; age; race; sex; date of  
275 birth; height; weight; tattoos or other identifying marks; hair  
276 and eye color; address of any permanent residence and address of  
277 any current temporary residence, within the state or out of  
278 state, including a rural route address and a post office box; if  
279 no permanent or temporary address, any transient residence  
280 within the state; address, location or description, and dates of  
281 any current or known future temporary residence within the state  
282 or out of state; ~~any~~ electronic mail addresses ~~address and or~~  
283 Internet identifiers ~~any instant message name~~ required to be  
284 provided pursuant to subparagraph (6)(g)4.; home telephone  
285 numbers ~~number and any or~~ cellular telephone numbers ~~number~~;  
286 date and place of any employment; the ~~vehicle~~ make, model,  
287 color, registration number, and license tag number of any  
288 vehicles owned; fingerprints; palm prints; and photograph. A  
289 post office box shall not be provided in lieu of a physical  
290 residential address. The sexual predator must also produce his  
291 or her passport, if he or she has a passport, and, if he or she  
292 is an alien, must produce or provide information about documents  
293 establishing his or her immigration status. The sexual predator  
294 must also provide information about any professional licenses he  
295 or she may have.

296 2. If the sexual predator is enrolled, employed,  
297 volunteering, or carrying on a vocation at an institution of  
298 higher education in this state, the sexual predator shall also  
299 provide to the department the name, address, and county of each

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300 institution, including each campus attended, and the sexual  
301 predator's enrollment, volunteer, or employment status.

302 3. If the sexual predator's place of residence is a motor  
303 vehicle, trailer, mobile home, or manufactured home, as defined  
304 in chapter 320, the sexual predator shall also provide the  
305 vehicle identification number; the license tag number; the  
306 registration number; and a description, including color scheme,  
307 of the motor vehicle, trailer, mobile home, or manufactured  
308 home. If the sexual predator's place of residence is a vessel,  
309 live-aboard vessel, or houseboat, as defined in chapter 327, the  
310 sexual predator shall also provide the hull identification  
311 number; the manufacturer's serial number; the name of the  
312 vessel, live-aboard vessel, or houseboat; the registration  
313 number; and a description, including color scheme, of the  
314 vessel, live-aboard vessel, or houseboat.

315 (b) The sheriff's office shall, within 2 working days,  
316 electronically submit and update all information provided by the  
317 sexual predator to the department in a manner prescribed by the  
318 department.

319 (10) PENALTIES.—

320 (a) Except as otherwise specifically provided, a sexual  
321 predator who fails to register; who fails, after registration,  
322 to maintain, acquire, or renew a driver ~~driver's~~ license or  
323 identification card; who fails to provide required location  
324 information, electronic mail address information prior to use,  
325 Internet identifier ~~instant message name~~ information prior to  
326 use, all home telephone numbers ~~number~~ and ~~any~~ cellular  
327 telephone numbers ~~number~~, or change-of-name information; who

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328 fails to make a required report in connection with vacating a  
329 permanent residence; who fails to reregister as required; who  
330 fails to respond to any address verification correspondence from  
331 the department within 3 weeks of the date of the correspondence;  
332 who knowingly provides false registration information by act or  
333 omission; or who otherwise fails, by act or omission, to comply  
334 with the requirements of this section, commits a felony of the  
335 third degree, punishable as provided in s. 775.082, s. 775.083,  
336 or s. 775.084.

337 Section 2. Section 800.03, Florida Statutes, is amended to  
338 read:

339 800.03 Exposure of sexual organs.—

340 (1) It is unlawful to expose or exhibit one's sexual  
341 organs in public or on the private premises of another, or so  
342 near thereto as to be seen from such private premises, in a  
343 vulgar or indecent manner, or to be naked in public except in  
344 any place provided or set apart for that purpose.

345 (2) (a) Except as provided in paragraph (b), a violation of  
346 this section is a misdemeanor of the first degree, punishable as  
347 provided in s. 775.082 or s. 775.083.

348 (b) A third or subsequent violation of this section is a  
349 felony of the third degree, punishable as provided in s.  
350 775.082, s. 775.083, or s. 775.084.

351 (3) A mother's breastfeeding of her baby does not under  
352 any circumstance violate this section.

353 Section 3. Paragraph (m) is added to subsection (2) of  
354 section 903.046, Florida Statutes, to read:

355 903.046 Purpose of and criteria for bail determination.—

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356 (2) When determining whether to release a defendant on  
357 bail or other conditions, and what that bail or those conditions  
358 may be, the court shall consider:

359 (m) Whether the defendant, other than a defendant whose  
360 only criminal charge is a misdemeanor offense under chapter 316,  
361 is required to register as a sexual offender under s. 943.0435  
362 or a sexual predator under s. 775.21; and, if so, he or she is  
363 not eligible for release on bail or surety bond until the first  
364 appearance on the case in order to ensure the full participation  
365 of the prosecutor and the protection of the public.

366 Section 4. Paragraphs (a) and (g) of subsection (1),  
367 subsection (2), paragraphs (a) and (d) of subsection (4),  
368 subsections (7), (8), and (11), and paragraph (c) of subsection  
369 (14) of section 943.0435, Florida Statutes, are amended to read:

370 943.0435 Sexual offenders required to register with the  
371 department; penalty.—

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

373 (a)1. "Sexual offender" means a person who meets the  
374 criteria in sub-subparagraph a., sub-subparagraph b., sub-  
375 subparagraph c., or sub-subparagraph d., as follows:

376 a.(I) Has been convicted of committing, or attempting,  
377 soliciting, or conspiring to commit, any of the criminal  
378 offenses proscribed in the following statutes in this state or  
379 similar offenses in another jurisdiction: s. 393.135(2); s.  
380 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where  
381 the victim is a minor and the defendant is not the victim's  
382 parent or guardian; s. 794.011, excluding s. 794.011(10); s.  
383 794.05; s. 796.03; s. 796.035; s. 796.045; s. 800.04; s.

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384 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.  
385 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s.  
386 916.1075(2); or s. 985.701(1); or any similar offense committed  
387 in this state which has been redesignated from a former statute  
388 number to one of those listed in this sub-sub-subparagraph; and

389 (II) Has been released on or after October 1, 1997, from  
390 the sanction imposed for any conviction of an offense described  
391 in sub-sub-subparagraph (I). For purposes of sub-sub-  
392 subparagraph (I), a sanction imposed in this state or in any  
393 other jurisdiction includes, but is not limited to, a fine,  
394 probation, community control, parole, conditional release,  
395 control release, or incarceration in a state prison, federal  
396 prison, private correctional facility, or local detention  
397 facility;

398 b. Establishes or maintains a residence in this state and  
399 who has not been designated as a sexual predator by a court of  
400 this state but who has been designated as a sexual predator, as  
401 a sexually violent predator, or by another sexual offender  
402 designation in another state or jurisdiction and was, as a  
403 result of such designation, subjected to registration or  
404 community or public notification, or both, or would be if the  
405 person were a resident of that state or jurisdiction, without  
406 regard to whether the person otherwise meets the criteria for  
407 registration as a sexual offender;

408 c. Establishes or maintains a residence in this state who  
409 is in the custody or control of, or under the supervision of,  
410 any other state or jurisdiction as a result of a conviction for  
411 committing, or attempting, soliciting, or conspiring to commit,

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412 any of the criminal offenses proscribed in the following  
413 statutes or similar offense in another jurisdiction: s.  
414 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.  
415 787.025(2)(c), where the victim is a minor and the defendant is  
416 not the victim's parent or guardian; s. 794.011, excluding s.  
417 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 796.045; s.  
418 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,  
419 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;  
420 s. 916.1075(2); or s. 985.701(1); or any similar offense  
421 committed in this state which has been redesignated from a  
422 former statute number to one of those listed in this sub-  
423 subparagraph; or

424 d. On or after July 1, 2007, has been adjudicated  
425 delinquent for committing, or attempting, soliciting, or  
426 conspiring to commit, any of the criminal offenses proscribed in  
427 the following statutes in this state or similar offenses in  
428 another jurisdiction when the juvenile was 14 years of age or  
429 older at the time of the offense:

430 (I) Section 794.011, excluding s. 794.011(10);

431 (II) Section 800.04(4)(b) where the victim is under 12  
432 years of age or where the court finds sexual activity by the use  
433 of force or coercion;

434 (III) Section 800.04(5)(c)1. where the court finds  
435 molestation involving unclothed genitals; or

436 (IV) Section 800.04(5)(d) where the court finds the use of  
437 force or coercion and unclothed genitals.

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438 2. For all qualifying offenses listed in sub-subparagraph  
439 (1)(a)1.d., the court shall make a written finding of the age of  
440 the offender at the time of the offense.

441  
442 For each violation of a qualifying offense listed in this  
443 subsection, except for a violation of s. 794.011, the court  
444 shall make a written finding of the age of the victim at the  
445 time of the offense. For a violation of s. 800.04(4), the court  
446 shall additionally make a written finding indicating that the  
447 offense did or did not involve sexual activity and indicating  
448 that the offense did or did not involve force or coercion. For a  
449 violation of s. 800.04(5), the court shall additionally make a  
450 written finding that the offense did or did not involve  
451 unclothed genitals or genital area and that the offense did or  
452 did not involve the use of force or coercion.

453 (g) "Internet identifier Instant message name" has the  
454 same meaning as provided in s. 775.21 ~~means an identifier that~~  
455 ~~allows a person to communicate in real time with another person~~  
456 ~~using the Internet.~~

457 (2) A sexual offender shall:

458 (a) Report in person at the sheriff's office:

459 1. In the county in which the offender establishes or  
460 maintains a permanent, temporary, or transient residence within  
461 48 hours after:

462 a. Establishing permanent, temporary, or transient  
463 residence in this state; or

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464           b. Being released from the custody, control, or  
465 supervision of the Department of Corrections or from the custody  
466 of a private correctional facility; or

467           2. In the county where he or she was convicted within 48  
468 hours after being convicted for a qualifying offense for  
469 registration under this section if the offender is not in the  
470 custody or control of, or under the supervision of, the  
471 Department of Corrections, or is not in the custody of a private  
472 correctional facility.

473

474 Any change in the information required to be provided pursuant  
475 to paragraph (b), including, but not limited to, any change in  
476 the sexual offender's permanent, temporary, or transient  
477 residence, name, ~~any~~ electronic mail addresses ~~address and or~~  
478 Internet identifiers ~~any instant message name~~ required to be  
479 provided pursuant to paragraph (4)(d), after the sexual offender  
480 reports in person at the sheriff's office, shall be accomplished  
481 in the manner provided in subsections (4), (7), and (8).

482           (b) Provide his or her name; date of birth; social  
483 security number; race; sex; height; weight; hair and eye color;  
484 tattoos or other identifying marks; occupation and place of  
485 employment; address of permanent or legal residence or address  
486 of any current temporary residence, within the state or out of  
487 state, including a rural route address and a post office box; if  
488 no permanent or temporary address, any transient residence  
489 within the state, address, location or description, and dates of  
490 any current or known future temporary residence within the state  
491 or out of state; the make, model, color, registration number,

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492 and license tag number of all vehicles owned; all home telephone  
493 numbers ~~number~~ and ~~any~~ cellular telephone numbers ~~number~~; all  
494 ~~any~~ electronic mail addresses ~~address~~ and all Internet  
495 identifiers ~~any instant message name~~ required to be provided  
496 pursuant to paragraph (4)(d); fingerprints; palm prints;  
497 photograph; date and place of each conviction; and a brief  
498 description of the crime or crimes committed by the offender. A  
499 post office box shall not be provided in lieu of a physical  
500 residential address. The sexual offender must also produce his  
501 or her passport, if he or she has a passport, and, if he or she  
502 is an alien, must produce or provide information about documents  
503 establishing his or her immigration status. The sexual offender  
504 must also provide information about any professional licenses he  
505 or she may have.

506 1. If the sexual offender's place of residence is a motor  
507 vehicle, trailer, mobile home, or manufactured home, as defined  
508 in chapter 320, the sexual offender shall also provide to the  
509 department through the sheriff's office written notice of the  
510 vehicle identification number; the license tag number; the  
511 registration number; and a description, including color scheme,  
512 of the motor vehicle, trailer, mobile home, or manufactured  
513 home. If the sexual offender's place of residence is a vessel,  
514 live-aboard vessel, or houseboat, as defined in chapter 327, the  
515 sexual offender shall also provide to the department written  
516 notice of the hull identification number; the manufacturer's  
517 serial number; the name of the vessel, live-aboard vessel, or  
518 houseboat; the registration number; and a description, including  
519 color scheme, of the vessel, live-aboard vessel, or houseboat.

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520 2. If the sexual offender is enrolled, employed,  
521 volunteering, or carrying on a vocation at an institution of  
522 higher education in this state, the sexual offender shall also  
523 provide to the department through the sheriff's office the name,  
524 address, and county of each institution, including each campus  
525 attended, and the sexual offender's enrollment, volunteer, or  
526 employment status. Each change in enrollment, volunteer, or  
527 employment status shall be reported in person at the sheriff's  
528 office, within 48 hours after any change in status. The sheriff  
529 shall promptly notify each institution of the sexual offender's  
530 presence and any change in the sexual offender's enrollment,  
531 volunteer, or employment status.

532 (c) Provide any other information determined necessary by  
533 the department, including criminal and corrections records;  
534 nonprivileged personnel and treatment records; and evidentiary  
535 genetic markers, when available.

536  
537 When a sexual offender reports at the sheriff's office, the  
538 sheriff shall take a photograph, and a set of fingerprints, and  
539 palm prints of the offender and forward the photographs, palm  
540 prints, and fingerprints to the department, along with the  
541 information provided by the sexual offender. The sheriff shall  
542 promptly provide to the department the information received from  
543 the sexual offender.

544 (4) (a) Each time a sexual offender's driver ~~driver's~~  
545 license or identification card is subject to renewal, and,  
546 without regard to the status of the offender's driver ~~driver's~~  
547 license or identification card, within 48 hours after any change

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548 in the offender's permanent, temporary, or transient residence  
 549 or change in the offender's name by reason of marriage or other  
 550 legal process, the offender shall report in person to a driver  
 551 ~~driver's~~ license office, and shall be subject to the  
 552 requirements specified in subsection (3). The Department of  
 553 Highway Safety and Motor Vehicles shall forward to the  
 554 department all photographs and information provided by sexual  
 555 offenders. Notwithstanding the restrictions set forth in s.  
 556 322.142, the Department of Highway Safety and Motor Vehicles is  
 557 authorized to release a reproduction of a color-photograph or  
 558 digital-image license to the Department of Law Enforcement for  
 559 purposes of public notification of sexual offenders as provided  
 560 in this section and ss. 943.043 and 944.606. A sexual offender  
 561 who is unable to secure or update a driver license or  
 562 identification card with the Department of Highway Safety and  
 563 Motor Vehicles as provided in subsection (3) and this subsection  
 564 must also report any change in the sexual offender's permanent,  
 565 temporary, or transient residence or change in the offender's  
 566 name by reason of marriage or other legal process within 48  
 567 hours after the change to the sheriff's office in the county  
 568 where the offender resides or is located and provide  
 569 confirmation that he or she reported such information to the  
 570 Department of Highway Safety and Motor Vehicles.

571 (d) A sexual offender must register all ~~any~~ electronic  
 572 mail addresses and Internet identifiers ~~address or instant~~  
 573 ~~message name~~ with the department prior to using such electronic  
 574 mail addresses and Internet identifiers ~~address or instant~~  
 575 ~~message name on or after October 1, 2007.~~ The department shall

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576 establish an online system through which sexual offenders may  
577 securely access and update all electronic mail address and  
578 Internet identifier ~~instant message name~~ information.

579 (7) A sexual offender who intends to establish a  
580 permanent, temporary, or transient residence in another state or  
581 jurisdiction other than the State of Florida shall report in  
582 person to the sheriff of the county of current residence within  
583 48 hours before the date he or she intends to leave this state  
584 to establish residence in another state or jurisdiction or  
585 within 21 days before his or her planned departure date if the  
586 intended residence of 5 days or more is outside of the United  
587 States. The notification must include the address, municipality,  
588 county, ~~and state,~~ and country of intended residence. The  
589 sheriff shall promptly provide to the department the information  
590 received from the sexual offender. The department shall notify  
591 the statewide law enforcement agency, or a comparable agency, in  
592 the intended state, ~~or jurisdiction,~~ or country of residence of  
593 the sexual offender's intended residence. The failure of a  
594 sexual offender to provide his or her intended place of  
595 residence is punishable as provided in subsection (9).

596 (8) A sexual offender who indicates his or her intent to  
597 establish a permanent, temporary, or transient residence in  
598 another state, a ~~or~~ jurisdiction other than the State of  
599 Florida, or another country and later decides to remain in this  
600 state shall, within 48 hours after the date upon which the  
601 sexual offender indicated he or she would leave this state,  
602 report in person to the sheriff to which the sexual offender  
603 reported the intended change of permanent, temporary, or

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604 transient residence, and report his or her intent to remain in  
605 this state. The sheriff shall promptly report this information  
606 to the department. A sexual offender who reports his or her  
607 intent to establish a permanent, temporary, or transient  
608 residence in another state, a ~~of~~ jurisdiction other than the  
609 State of Florida, or another country but who remains in this  
610 state without reporting to the sheriff in the manner required by  
611 this subsection commits a felony of the second degree,  
612 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

613 (11) Except as provided in this subsection and s.  
614 943.04354, a sexual offender must maintain registration with the  
615 department for the duration of his or her life, unless the  
616 sexual offender has received a full pardon or has had a  
617 conviction set aside in a postconviction proceeding for any  
618 offense that meets the criteria for classifying the person as a  
619 sexual offender for purposes of registration. ~~However, a sexual~~  
620 ~~offender:~~

621 (a)1. A sexual offender may petition the criminal division  
622 of the circuit court of the circuit in which the sexual offender  
623 resides for the purpose of removing the requirement for  
624 registration as a sexual offender if ~~who has been lawfully~~  
625 ~~released from confinement, supervision, or sanction, whichever~~  
626 ~~is later, for at least 25 years and has not been arrested for~~  
627 ~~any felony or misdemeanor offense since release, provided that~~  
628 ~~the sexual offender's requirement to register was not based upon~~  
629 ~~an adult conviction:~~



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630 a. Twenty-five years have elapsed since the sexual  
631 offender's registration period for the most recent conviction  
632 that required the offender to register began;

633 b. The sexual offender has not been convicted or  
634 adjudicated delinquent of any felony offense or of an offense  
635 punishable by more than 1 year of imprisonment during the 25  
636 years preceding the petition to the court;

637 c. The sexual offender has successfully completed all  
638 sanctions imposed for all offenses that required the offender to  
639 register;

640 d. The sexual offender's requirement to register was not  
641 based upon an adult conviction for a violation of s. 787.01, s.  
642 794.011, excluding s. 794.011(10), s. 800.04(4)(b) where the  
643 court finds the offense involved a victim under 12 years of age  
644 or sexual activity by the use of force or coercion, s.  
645 800.04(5)(b), or s. 800.04(5)(c)2. where the court finds the  
646 offense involved unclothed genitals or genital area; for any  
647 attempt or conspiracy to commit any offense listed in this sub-  
648 subparagraph; or for a violation of similar law of another  
649 jurisdiction; and

650 e. For sexual offenders whose requirement to register is  
651 based upon a conviction in another state, the sexual offender is  
652 not required to register as a sexual offender pursuant to the  
653 laws of the state where the conviction occurred. Such offenders  
654 must provide the court written confirmation that he or she is  
655 not required to register in the state where the conviction  
656 occurred.

657 ~~a. For a violation of s. 787.01 or s. 787.02,~~

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658 ~~b. For a violation of s. 794.011, excluding s.~~  
659 ~~794.011(10);~~

660 ~~c. For a violation of s. 800.04(4)(b) where the court~~  
661 ~~finds the offense involved a victim under 12 years of age or~~  
662 ~~sexual activity by the use of force or coercion;~~

663 ~~d. For a violation of s. 800.04(5)(b);~~

664 ~~e. For a violation of s. 800.04(5)c.2. where the court~~  
665 ~~finds the offense involved unclothed genitals or genital area;~~

666 ~~f. For any attempt or conspiracy to commit any such~~  
667 ~~offense; or~~

668 ~~g. For a violation of similar law of another jurisdiction,~~

669

670 ~~may petition the criminal division of the circuit court of the~~  
671 ~~circuit in which the sexual offender resides for the purpose of~~  
672 ~~removing the requirement for registration as a sexual offender.~~

673 2. A sexual offender whose requirement to register was  
674 based upon an adult conviction for a violation of s. 787.02 or  
675 s. 827.071(5), for any attempt or conspiracy to commit any  
676 offense listed in this subparagraph, or for a violation of  
677 similar law of another jurisdiction may petition the criminal  
678 division of the circuit court of the circuit in which the sexual  
679 offender resides for the purpose of removing the requirement for  
680 registration as a sexual offender if:

681 a. Fifteen years have elapsed since the sexual offender's  
682 registration period for the most recent conviction that required  
683 the offender to register began;

684 b. The sexual offender has not been convicted or  
685 adjudicated delinquent of any felony offense or of an offense

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686 punishable by more than 1 year of imprisonment during the 10  
687 years preceding the petition to the court;

688 c. The sexual offender has successfully completed all  
689 sanctions imposed for all offenses that required the offender to  
690 register; and

691 d. For sexual offenders whose requirement to register is  
692 based upon a conviction in another state, the sexual offender is  
693 not required to register as a sexual offender pursuant to the  
694 laws of the state where the conviction occurred. Such offenders  
695 must provide the court written confirmation that he or she is  
696 not required to register in the state where the conviction  
697 occurred.

698 3. A sexual offender required to register under sub-  
699 subparagraph (1)(a)1.d. may petition the criminal division of  
700 the circuit court of the circuit in which the sexual offender  
701 resides for the purpose of removing the requirement for  
702 registration as a sexual offender if:

703 a. Twenty-five years have elapsed since the sexual  
704 offender's registration period for the most recent adjudication  
705 that required the offender to register began;

706 b. The sexual offender has not been convicted or  
707 adjudicated delinquent of any felony offense or of an offense  
708 punishable by more than 1 year of imprisonment during the 25  
709 years preceding the petition to the court; and

710 c. The sexual offender has successfully completed all  
711 sanctions imposed for any offense that required the offender to  
712 register.

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713       ~~4.2.~~ The court may grant or deny relief if the offender  
714 demonstrates to the court that ~~he or she has not been arrested~~  
715 ~~for any crime since release,~~ the requested relief complies with  
716 this paragraph, the provisions of the federal Adam Walsh Child  
717 Protection and Safety Act of 2006, and any other federal  
718 standards applicable to the removal of registration requirements  
719 for a sexual offender or required to be met as a condition for  
720 the receipt of federal funds by the state; and the court is  
721 otherwise satisfied that the offender is not a current or  
722 potential threat to public safety. The state attorney in the  
723 circuit in which the petition is filed and the department must  
724 be given notice of the petition at least 3 weeks before the  
725 hearing on the matter. The state attorney may present evidence  
726 in opposition to the requested relief or may otherwise  
727 demonstrate the reasons why the petition should be denied. If  
728 the court grants the petition, the court shall instruct the  
729 petitioner to provide the department with a certified copy of  
730 the order granting relief. If the court denies the petition, the  
731 court may set a future date at which the sexual offender may  
732 again petition the court for relief, subject to the standards  
733 for relief provided in this subsection.

734       ~~5.3.~~ The department shall remove an offender from  
735 classification as a sexual offender for purposes of registration  
736 if the offender provides to the department a certified copy of  
737 the court's written findings or order that indicates that the  
738 offender is no longer required to comply with the requirements  
739 for registration as a sexual offender.

740       6. For purposes of this paragraph:

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741       a. The registration period of a sexual offender sentenced  
742 to a term of incarceration or committed to a residential program  
743 begins upon the offender's release from incarceration or  
744 commitment for the most recent conviction that required the  
745 offender to register.

746       b. A sexual offender's registration period is tolled  
747 during any period in which the offender is incarcerated, civilly  
748 committed, detained pursuant to chapter 985, or committed to a  
749 residential program.

750       (b) A sexual offender as defined in sub-subparagraph  
751 (1)(a)1.b. must maintain registration with the department for  
752 the duration of his or her life until the person provides the  
753 department with an order issued by the court that designated the  
754 person as a sexual predator, as a sexually violent predator, or  
755 by another sexual offender designation in the state or  
756 jurisdiction in which the order was issued which states that  
757 such designation has been removed or demonstrates to the  
758 department that such designation, if not imposed by a court, has  
759 been removed by operation of law or court order in the state or  
760 jurisdiction in which the designation was made, and provided  
761 such person no longer meets the criteria for registration as a  
762 sexual offender under the laws of this state.

763       (14)

764       (c) The sheriff's office may determine the appropriate  
765 times and days for reporting by the sexual offender, which shall  
766 be consistent with the reporting requirements of this  
767 subsection. Reregistration shall include any changes to the  
768 following information:

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769 1. Name; social security number; age; race; sex; date of  
770 birth; height; weight; hair and eye color; address of any  
771 permanent residence and address of any current temporary  
772 residence, within the state or out of state, including a rural  
773 route address and a post office box; if no permanent or  
774 temporary address, any transient residence within the state;  
775 address, location or description, and dates of any current or  
776 known future temporary residence within the state or out of  
777 state; ~~any~~ electronic mail addresses ~~address~~ and or Internet  
778 identifiers ~~any instant message name~~ required to be provided  
779 pursuant to paragraph (4)(d); home telephone numbers ~~number~~ and  
780 or any cellular telephone numbers ~~number~~; date and place of any  
781 employment; the vehicle make, model, color, registration number,  
782 and license tag number of any vehicles owned; fingerprints; palm  
783 prints; and photograph. A post office box may shall not be  
784 provided in lieu of a physical residential address. The sexual  
785 offender must also produce his or her passport, if he or she has  
786 a passport, and, if he or she is an alien, must produce or  
787 provide information about documents establishing his or her  
788 immigration status. The sexual offender must also provide  
789 information about any professional licenses he or she may have.

790 2. If the sexual offender is enrolled, volunteering,  
791 employed, or carrying on a vocation at an institution of higher  
792 education in this state, the sexual offender shall also provide  
793 to the department the name, address, and county of each  
794 institution, including each campus attended, and the sexual  
795 offender's enrollment, volunteer, or employment status.

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796 3. If the sexual offender's place of residence is a motor  
797 vehicle, trailer, mobile home, or manufactured home, as defined  
798 in chapter 320, the sexual offender shall also provide the  
799 vehicle identification number; the license tag number; the  
800 registration number; and a description, including color scheme,  
801 of the motor vehicle, trailer, mobile home, or manufactured  
802 home. If the sexual offender's place of residence is a vessel,  
803 live-aboard vessel, or houseboat, as defined in chapter 327, the  
804 sexual offender shall also provide the hull identification  
805 number; the manufacturer's serial number; the name of the  
806 vessel, live-aboard vessel, or houseboat; the registration  
807 number; and a description, including color scheme, of the  
808 vessel, live-aboard vessel or houseboat.

809 4. Any sexual offender who fails to report in person as  
810 required at the sheriff's office, ~~or~~ who fails to respond to any  
811 address verification correspondence from the department within 3  
812 weeks of the date of the correspondence, ~~or~~ who fails to report  
813 all electronic mail addresses and all Internet identifiers prior  
814 to use ~~or instant message names~~, or who knowingly provides false  
815 registration information by act or omission commits a felony of  
816 the third degree, punishable as provided in s. 775.082, s.  
817 775.083, or s. 775.084.

818 Section 5. Section 943.04351, Florida Statutes, is amended  
819 to read:

820 943.04351 Search of registration information regarding  
821 sexual predators and sexual offenders required prior to  
822 appointment or employment.—A state agency or governmental  
823 subdivision, prior to making any decision to appoint or employ a

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824 person to work, whether for compensation or as a volunteer, at  
825 any park, playground, day care center, or other place where  
826 children regularly congregate, must conduct a search of that  
827 person's name or other identifying information against the  
828 registration information regarding sexual predators and sexual  
829 offenders maintained by the Department of Law Enforcement under  
830 s. 943.043. The agency or governmental subdivision may conduct  
831 the search using the Internet site maintained by the Department  
832 of Law Enforcement. Also, a national search must be conducted  
833 through the Dru Sjodin National Sex Offender Public Website  
834 maintained by the United States Department of Justice. This  
835 section does not apply to those positions or appointments within  
836 a state agency or governmental subdivision for which a state and  
837 national criminal history background check is conducted.

838 Section 6. Section 943.04354, Florida Statutes, is amended  
839 to read:

840 943.04354 Removal of the requirement to register as a  
841 sexual offender or sexual predator in special circumstances.-

842 (1) For purposes of this section, a person shall be  
843 considered for removal of the requirement to register as a  
844 sexual offender or sexual predator only if the person:

845 (a) Was ~~or will be~~ convicted, regardless of adjudication,  
846 or adjudicated delinquent of a violation of s. 794.011, s.  
847 800.04, s. 827.071, or s. 847.0135(5), or a similar offense in  
848 another jurisdiction, ~~or the person committed a violation of s.~~  
849 ~~794.011, s. 800.04, s. 827.071, or s. 847.0135(5) for which~~  
850 ~~adjudication of guilt was or will be withheld,~~ and the person  
851 does not have any other conviction, regardless of adjudication,

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852 or adjudication of delinquency, or withheld of adjudication of  
853 guilt for a violation of s. 794.011, s. 800.04, s. 827.071, or  
854 s. 847.0135(5), or a similar offense in another jurisdiction;

855 (b)1. Was convicted, regardless of adjudication, or  
856 adjudicated delinquent of an offense listed in paragraph (a) and  
857 is required to register as a sexual offender or sexual predator  
858 solely on the basis of this conviction or adjudication  
859 violation; or and

860 2. Was convicted, regardless of adjudication, or  
861 adjudicated delinquent of an offense in another jurisdiction  
862 that is similar to an offense listed in paragraph (a) and no  
863 longer meets the criteria for registration as a sexual offender  
864 or sexual predator under the laws of the jurisdiction where the  
865 similar offense occurred; and

866 (c) Is not more than 4 years older than the victim of this  
867 violation who was 13 ~~14~~ years of age or older but less ~~not more~~  
868 than 18 ~~17~~ years of age at the time the person committed this  
869 violation.

870 (2) If a person meets the criteria in subsection (1) ~~and~~  
871 ~~the violation of s. 794.011, s. 800.04, s. 827.071, or s.~~  
872 ~~847.0135(5) was committed on or after July 1, 2007, the person~~  
873 may move the criminal court of the circuit in which the offense  
874 occurred or the sentencing court or, for persons convicted or  
875 adjudicated delinquent of a qualifying offense in another  
876 jurisdiction, the criminal circuit court of the circuit in which  
877 the person resides that will sentence or dispose of this  
878 violation to remove the requirement that the person register as  
879 a sexual offender or sexual predator. The person must allege in

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880 the motion that he or she meets the criteria in subsection (1)  
881 and that removal of the registration requirement will not  
882 conflict with federal law. Persons convicted or adjudicated  
883 delinquent of an offense in another jurisdiction that is similar  
884 to an offense listed in paragraph (1)(a) must provide the court  
885 written confirmation that he or she is not required to register  
886 in the state where the conviction or adjudication occurred. The  
887 state attorney and the department must be given notice of the  
888 motion at least 21 days before the date of sentencing, ~~or~~  
889 disposition of the this violation, or hearing on the motion and  
890 may present evidence in opposition to the requested relief or  
891 may otherwise demonstrate why the motion should be denied. At  
892 sentencing, ~~or~~ disposition of the this violation, or hearing on  
893 the motion, the court shall rule on this motion and, if the  
894 court determines the person meets the criteria in subsection (1)  
895 and the removal of the registration requirement will not  
896 conflict with federal law, it may grant the motion and order the  
897 removal of the registration requirement. The court shall  
898 instruct the person to provide the department a certified copy  
899 of the order granting relief. If the court denies the motion,  
900 the person is not authorized under this section to file another  
901 motion ~~petition~~ for removal of the registration requirement.

902 ~~(3)(a) This subsection applies to a person who:~~

903 ~~1. Is not a person described in subsection (2) because the~~  
904 ~~violation of s. 794.011, s. 800.04, or s. 827.071 was not~~  
905 ~~committed on or after July 1, 2007;~~

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906 ~~2. Is subject to registration as a sexual offender or~~  
907 ~~sexual predator for a violation of s. 794.011, s. 800.04, or s.~~  
908 ~~827.071; and~~

909 ~~3. Meets the criteria in subsection (1).~~

910 ~~(b) A person may petition the court in which the sentence~~  
911 ~~or disposition for the violation of s. 794.011, s. 800.04, or s.~~  
912 ~~827.071 occurred for removal of the requirement to register as a~~  
913 ~~sexual offender or sexual predator. The person must allege in~~  
914 ~~the petition that he or she meets the criteria in subsection (1)~~  
915 ~~and removal of the registration requirement will not conflict~~  
916 ~~with federal law. The state attorney must be given notice of the~~  
917 ~~petition at least 21 days before the hearing on the petition and~~  
918 ~~may present evidence in opposition to the requested relief or~~  
919 ~~may otherwise demonstrate why the petition should be denied. The~~  
920 ~~court shall rule on the petition and, if the court determines~~  
921 ~~the person meets the criteria in subsection (1) and removal of~~  
922 ~~the registration requirement will not conflict with federal law,~~  
923 ~~it may grant the petition and order the removal of the~~  
924 ~~registration requirement. If the court denies the petition, the~~  
925 ~~person is not authorized under this section to file any further~~  
926 ~~petition for removal of the registration requirement.~~

927 ~~(3)(4)~~ If a person provides to the Department of Law  
928 Enforcement a certified copy of the court's order removing the  
929 requirement that the person register as a sexual offender or  
930 sexual predator for the violation of s. 794.011, s. 800.04, s.  
931 827.071, or s. 847.0135(5), or a similar offense in another  
932 jurisdiction, the registration requirement will not apply to the  
933 person and the department shall remove all information about the

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934 person from the public registry of sexual offenders and sexual  
935 predators maintained by the department. However, the removal of  
936 this information from the public registry does not mean that the  
937 public is denied access to information about the person's  
938 criminal history or record that is otherwise available as a  
939 public record.

940 Section 7. Subsection (2) and paragraph (a) of subsection  
941 (3) of section 943.0437, Florida Statutes, are amended to read:

942 943.0437 Commercial social networking websites.—

943 (2) The department may provide information relating to  
944 electronic mail addresses and Internet identifiers ~~instant~~  
945 ~~message names~~ maintained as part of the sexual offender registry  
946 to commercial social networking websites or third parties  
947 designated by commercial social networking websites. The  
948 commercial social networking website may use this information  
949 for the purpose of comparing registered users and screening  
950 potential users of the commercial social networking website  
951 against the list of electronic mail addresses and Internet  
952 identifiers ~~instant message names~~ provided by the department.

953 (3) This section shall not be construed to impose any  
954 civil liability on a commercial social networking website for:

955 (a) Any action voluntarily taken in good faith to remove  
956 or disable any profile of a registered user associated with an  
957 electronic mail address or Internet identifier ~~instant message~~  
958 ~~name~~ contained in the sexual offender registry.

959 Section 8. Paragraphs (b) and (d) of subsection (1) and  
960 paragraph (a) of subsection (3) of section 944.606, Florida  
961 Statutes, are amended to read:

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962 944.606 Sexual offenders; notification upon release.—

963 (1) As used in this section:

964 (b) "Sexual offender" means a person who has been  
965 convicted of committing, or attempting, soliciting, or  
966 conspiring to commit, any of the criminal offenses proscribed in  
967 the following statutes in this state or similar offenses in  
968 another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01,  
969 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and  
970 the defendant is not the victim's parent or guardian; s.  
971 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s.  
972 796.045; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s.  
973 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s.  
974 847.0138; s. 847.0145; s. 916.1075(2); or s. 985.701(1); or any  
975 similar offense committed in this state which has been  
976 redesignated from a former statute number to one of those listed  
977 in this subsection, when the department has received verified  
978 information regarding such conviction; an offender's  
979 computerized criminal history record is not, in and of itself,  
980 verified information.

981 (d) "Internet identifier ~~Instant message name~~" has the  
982 same meaning as provided in s. 775.21 ~~means an identifier that~~  
983 ~~allows a person to communicate in real time with another person~~  
984 ~~using the Internet.~~

985 (3)(a) The department must provide information regarding  
986 any sexual offender who is being released after serving a period  
987 of incarceration for any offense, as follows:

988 1. The department must provide: the sexual offender's  
989 name, any change in the offender's name by reason of marriage or

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990 other legal process, and any alias, if known; the correctional  
991 facility from which the sexual offender is released; the sexual  
992 offender's social security number, race, sex, date of birth,  
993 height, weight, and hair and eye color; address of any planned  
994 permanent residence or temporary residence, within the state or  
995 out of state, including a rural route address and a post office  
996 box; if no permanent or temporary address, any transient  
997 residence within the state; address, location or description,  
998 and dates of any known future temporary residence within the  
999 state or out of state; date and county of sentence and each  
1000 crime for which the offender was sentenced; a copy of the  
1001 offender's fingerprints, palm prints, and a digitized photograph  
1002 taken within 60 days before release; the date of release of the  
1003 sexual offender; all any electronic mail addresses address and  
1004 all Internet identifiers any instant message name required to be  
1005 provided pursuant to s. 943.0435(4)(d); all and home telephone  
1006 numbers number and any cellular telephone numbers; information  
1007 about any professional licenses the offender may have, if known;  
1008 and passport information, if he or she has a passport, and, if  
1009 he or she is an alien, information about documents establishing  
1010 his or her immigration status number. The department shall  
1011 notify the Department of Law Enforcement if the sexual offender  
1012 escapes, absconds, or dies. If the sexual offender is in the  
1013 custody of a private correctional facility, the facility shall  
1014 take the digitized photograph of the sexual offender within 60  
1015 days before the sexual offender's release and provide this  
1016 photograph to the Department of Corrections and also place it in  
1017 the sexual offender's file. If the sexual offender is in the

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1018 custody of a local jail, the custodian of the local jail shall  
1019 register the offender within 3 business days after intake of the  
1020 offender for any reason and upon release, and shall notify the  
1021 Department of Law Enforcement of the sexual offender's release  
1022 and provide to the Department of Law Enforcement the information  
1023 specified in this paragraph and any information specified in  
1024 subparagraph 2. that the Department of Law Enforcement requests.

1025 2. The department may provide any other information deemed  
1026 necessary, including criminal and corrections records,  
1027 nonprivileged personnel and treatment records, when available.

1028 Section 9. Paragraphs (a) and (f) of subsection (1),  
1029 subsection (4), and paragraph (c) of subsection (13) of section  
1030 944.607, Florida Statutes, are amended to read:

1031 944.607 Notification to Department of Law Enforcement of  
1032 information on sexual offenders.-

1033 (1) As used in this section, the term:

1034 (a) "Sexual offender" means a person who is in the custody  
1035 or control of, or under the supervision of, the department or is  
1036 in the custody of a private correctional facility:

1037 1. On or after October 1, 1997, as a result of a  
1038 conviction for committing, or attempting, soliciting, or  
1039 conspiring to commit, any of the criminal offenses proscribed in  
1040 the following statutes in this state or similar offenses in  
1041 another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01,  
1042 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and  
1043 the defendant is not the victim's parent or guardian; s.  
1044 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s.  
1045 796.035; s. 796.045; s. 800.04; s. 825.1025; s. 827.071; s.

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1046 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s.  
1047 847.0138; s. 847.0145; s. 916.1075(2); or s. 985.701(1); or any  
1048 similar offense committed in this state which has been  
1049 redesignated from a former statute number to one of those listed  
1050 in this paragraph; or

1051 2. Who establishes or maintains a residence in this state  
1052 and who has not been designated as a sexual predator by a court  
1053 of this state but who has been designated as a sexual predator,  
1054 as a sexually violent predator, or by another sexual offender  
1055 designation in another state or jurisdiction and was, as a  
1056 result of such designation, subjected to registration or  
1057 community or public notification, or both, or would be if the  
1058 person were a resident of that state or jurisdiction, without  
1059 regard as to whether the person otherwise meets the criteria for  
1060 registration as a sexual offender.

1061 (f) "Internet identifier ~~Instant message name~~" has the  
1062 same meaning as provided in s. 775.21 ~~means an identifier that~~  
1063 ~~allows a person to communicate in real time with another person~~  
1064 ~~using the Internet.~~

1065 (4) A sexual offender, as described in this section, who  
1066 is under the supervision of the Department of Corrections but is  
1067 not incarcerated must register with the Department of  
1068 Corrections within 3 business days after sentencing for a  
1069 registrable offense and otherwise provide information as  
1070 required by this subsection.

1071 (a) The sexual offender shall provide his or her name;  
1072 date of birth; social security number; race; sex; height;  
1073 weight; hair and eye color; tattoos or other identifying marks;

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1074 all any electronic mail addresses address and all Internet  
1075 identifiers any instant message name required to be provided  
1076 pursuant to s. 943.0435(4)(d); all home telephone numbers and  
1077 cellular telephone numbers; the make, model, color, registration  
1078 number, and license tag number of all vehicles owned; permanent  
1079 or legal residence and address of temporary residence within the  
1080 state or out of state while the sexual offender is under  
1081 supervision in this state, including any rural route address or  
1082 post office box; if no permanent or temporary address, any  
1083 transient residence within the state; and address, location or  
1084 description, and dates of any current or known future temporary  
1085 residence within the state or out of state. The sexual offender  
1086 must also produce his or her passport, if he or she has a  
1087 passport, and, if he or she is an alien, must produce or provide  
1088 information about documents establishing his or her immigration  
1089 status. The sexual offender must also provide information about  
1090 any professional licenses he or she may have. The Department of  
1091 Corrections shall verify the address of each sexual offender in  
1092 the manner described in ss. 775.21 and 943.0435. The department  
1093 shall report to the Department of Law Enforcement any failure by  
1094 a sexual predator or sexual offender to comply with registration  
1095 requirements.

1096 (b) If the sexual offender is enrolled, employed,  
1097 volunteering, or carrying on a vocation at an institution of  
1098 higher education in this state, the sexual offender shall  
1099 provide the name, address, and county of each institution,  
1100 including each campus attended, and the sexual offender's  
1101 enrollment, volunteer, or employment status. Each change in

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1102 enrollment, volunteer, or employment status shall be reported to  
1103 the department within 48 hours after the change in status. The  
1104 Department of Corrections shall promptly notify each institution  
1105 of the sexual offender's presence and any change in the sexual  
1106 offender's enrollment, volunteer, or employment status.

1107 (13)

1108 (c) The sheriff's office may determine the appropriate  
1109 times and days for reporting by the sexual offender, which shall  
1110 be consistent with the reporting requirements of this  
1111 subsection. Reregistration shall include any changes to the  
1112 following information:

1113 1. Name; social security number; age; race; sex; date of  
1114 birth; height; weight; hair and eye color; address of any  
1115 permanent residence and address of any current temporary  
1116 residence, within the state or out of state, including a rural  
1117 route address and a post office box; if no permanent or  
1118 temporary address, any transient residence; address, location or  
1119 description, and dates of any current or known future temporary  
1120 residence within the state or out of state; ~~any~~ electronic mail  
1121 addresses ~~address~~ ~~and~~ or Internet identifiers ~~any instant~~  
1122 ~~message name~~ required to be provided pursuant to s.  
1123 943.0435(4)(d); home telephone numbers or cellular telephone  
1124 numbers; date and place of any employment; the ~~vehicle~~ make,  
1125 model, color, registration number, and license tag number of any  
1126 vehicles owned; fingerprints; palm prints; and photograph. A  
1127 post office box shall not be provided in lieu of a physical  
1128 residential address. The sexual offender must also produce his  
1129 or her passport, if he or she has a passport, and, if he or she

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1130 is an alien, must produce or provide information about documents  
1131 establishing his or her immigration status. The sexual offender  
1132 must also provide information about any professional licenses he  
1133 or she may have.

1134 2. If the sexual offender is enrolled, employed,  
1135 volunteering, or carrying on a vocation at an institution of  
1136 higher education in this state, the sexual offender shall also  
1137 provide to the department the name, address, and county of each  
1138 institution, including each campus attended, and the sexual  
1139 offender's enrollment, volunteer, or employment status.

1140 3. If the sexual offender's place of residence is a motor  
1141 vehicle, trailer, mobile home, or manufactured home, as defined  
1142 in chapter 320, the sexual offender shall also provide the  
1143 vehicle identification number; the license tag number; the  
1144 registration number; and a description, including color scheme,  
1145 of the motor vehicle, trailer, mobile home, or manufactured  
1146 home. If the sexual offender's place of residence is a vessel,  
1147 live-aboard vessel, or houseboat, as defined in chapter 327, the  
1148 sexual offender shall also provide the hull identification  
1149 number; the manufacturer's serial number; the name of the  
1150 vessel, live-aboard vessel, or houseboat; the registration  
1151 number; and a description, including color scheme, of the  
1152 vessel, live-aboard vessel or houseboat.

1153 4. Any sexual offender who fails to report in person as  
1154 required at the sheriff's office, ~~or~~ who fails to respond to any  
1155 address verification correspondence from the department within 3  
1156 weeks of the date of the correspondence, ~~or~~ who fails to report  
1157 all electronic mail addresses or all Internet identifiers prior

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1158 to use or instant message names, or who knowingly provides false  
1159 registration information by act or omission commits a felony of  
1160 the third degree, punishable as provided in s. 775.082, s.  
1161 775.083, or s. 775.084.