



Criminal Justice Subcommittee

Thursday 7th, 2013

2:00 PM

404 HOB

Action Packet

Will W. Weatherford
Speaker

Matt Gaetz
Chair

COMMITTEE MEETING REPORT

Criminal Justice Subcommittee

2/7/2013 2:00:00PM

Location: 404 HOB

Summary:

Criminal Justice Subcommittee

Thursday February 07, 2013 02:00 pm

HB 119	Favorable With Committee Substitute	Yeas: 13	Nays: 0
	Amendment 048597 Adopted Without Objection		
	Amendment 221021 Adopted Without Objection		
HB 191	Favorable	Yeas: 12	Nays: 1
HB 4005	Unfavorable	Yeas: 4	Nays: 9

Committee meeting was reported out: Thursday, February 07, 2013 6:28:01PM

COMMITTEE MEETING REPORT

Criminal Justice Subcommittee

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Location: 404 HOB

Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Matt Gaetz (Chair)	X		
Randolph Bracy	X		
Michael Clelland	X		
Dane Eagle	X		
James Grant	X		
Gayle Harrell	X		
Charles Hood, Jr.	X		
Travis Hutson	X		
Dave Kerner	X		
Kionne McGhee	X		
Ray Pilon	X		
Irving Slosberg	X		
Charles Van Zant	X		
Totals:	13	0	0

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COMMITTEE MEETING REPORT

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2/7/2013 2:00:00PM

Location: 404 HOB

HB 119 : Searches and Seizures

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Randolph Bracy	X				
Michael Clelland	X				
Dane Eagle	X				
James Grant	X				
Gayle Harrell	X				
Charles Hood, Jr.	X				
Travis Hutson	X				
Dave Kerner	X				
Kionne McGhee	X				
Ray Pilon	X				
Irving Slosberg	X				
Charles Van Zant	X				
Matt Gaetz (Chair)	X				
Total Yeas: 13		Total Nays: 0			

HB 119 Amendments

Amendment 048597

Adopted Without Objection

Amendment 221021

Adopted Without Objection

Appearances:

Stanfield, Timothy (Lobbyist) - Information Only
Florida Police Chiefs Association
215 S. Monroe St. Suite 701
Tallahassee FL 32301
Phone: (850) 577-0358

Daniels, Nancy (State Employee) - Proponent
Public Defender, 2nd circuit Florida Public Defender Association
301 S. Monroe St.
Tallahassee FL 32301
Phone: (850) 606-1010

Bustle, Electra (Lobbyist) - Opponent
Florida Sheriffs Association
102 S. Adams
Tallahassee FL 32301
Phone: (850) 671-4401

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COMMITTEE MEETING REPORT

Criminal Justice Subcommittee

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Location: 404 HOB

HB 119 : Searches and Seizures (continued)

Appearances: (continued)

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

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 119 (2013)

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
2/7/13*

1 Committee/Subcommittee hearing bill: Criminal Justice
2 Subcommittee
3 Representative Workman offered the following:

4
5 **Amendment**

6 Remove line 28 and insert:
7 prevention and detection of crime, local government code
8 enforcement, and the enforcement of penal,

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
2/7/13*

1 Committee/Subcommittee hearing bill: Criminal Justice
2 Subcommittee

3 Representative Workman offered the following:

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

6 Remove lines 32-36 and insert:

7 (4) EXCEPTIONS.—This act does not prohibit the use of a
8 drone:

9 (a) To counter a high risk of a terrorist attack by a
10 specific individual or organization if the United States
11 Secretary of Homeland Security determines that credible
12 intelligence indicates that there is such a risk.

13 (b) If the law enforcement agency first obtains a search
14 warrant signed by a judge authorizing the use of a drone.

15 (c) If the law enforcement agency possesses reasonable
16 suspicion that under particular circumstances, swift action is
17 needed to prevent imminent danger to life or serious damage to
18 property or to forestall the imminent escape of a suspect or the
19 destruction of evidence.

Amendment No. 2

20

21

22

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

23

Remove line 7 and insert:

24

providing exceptions; authorizing an aggrieved party

COMMITTEE MEETING REPORT

Criminal Justice Subcommittee

2/7/2013 2:00:00PM

Location: 404 HOB

HB 191 : Theft of Utility Services

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Randolph Bracy		X			
Michael Clelland	X				
Dane Eagle	X				
James Grant	X				
Gayle Harrell	X				
Charles Hood, Jr.	X				
Travis Hutson	X				
Dave Kerner	X				
Kionne McGhee	X				
Ray Pilon	X				
Irving Slosberg	X				
Charles Van Zant	X				
Matt Gaetz (Chair)	X				
Total Yeas: 12		Total Nays: 1			

Appearances:

Bjorklund, Mike (Lobbyist) - Waive In Support
Florida Electric Cooperatives Association
2916 Appalachee Pky
Tallahassee FL 32301
Phone: (850) 877-6166

Cooper, Cameron (Lobbyist) - Waive In Support
Director of External Affairs, Progress Energy
106 E. College Ave. Suite 800
Tallahassee FL 32301
Phone: (850) 521-1422

Peebles, Bill (Lobbyist) - Waive In Support
Florida Municipal Electric Association
PO Box 10930
Tallahassee FL 32302
Phone: (850) 566-3029

Punyko, Carl (Lobbyist) - Waive In Support
Gulf Power Company
One Energy Place
Pensacola FL 32520
Phone: (850) 712-0692

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

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Location: 404 HOB

HB 191 : Theft of Utility Services (continued)

Appearances: (continued)

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

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COMMITTEE MEETING REPORT

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Location: 404 HOB

HB 4005 : Death Penalty

Unfavorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Randolph Bracy	X				
Michael Clelland	X				
Dane Eagle		X			
James Grant		X			
Gayle Harrell		X			
Charles Hood, Jr.		X			
Travis Hutson		X			
Dave Kerner		X			
Kionne McGhee	X				
Ray Pilon		X			
Irving Slosberg	X				
Charles Van Zant		X			
Matt Gaetz (Chair)		X			
Total Yeas: 4		Total Nays: 9			

Appearances:

King, Brad (State Employee) - Opponent

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

Lyons, Marsha (State Employee) - Waive In Support

Gainesville Citizens for Alternatives to the Death Penalty
5816 NW 26th St.
Gainesville FL 32653
Phone: (352) 376-3196

Furey, Agnes (General Public) - Proponent

Tallahassee Coalition to Abolish the Death Penalty
3053 Rain Valky Circle
Tallahassee FL 32308
Phone: (850) 942-6354

Rabbi Jack Romberg (General Public) - Proponent

Union for Reform Judaism
2916 Blholfold Ln.
Tallahassee FL 32309
Phone: (850) 877-3517

Bustle, Electra (Lobbyist) - Opponent

Florida Sheriffs Office
120 S. Monroe St.
Tallahassee FL 32301
Phone: (850) 671-4401

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Presentation/Workshop/Other Business Appearances:

Workshop

Perry, Jr., Belvin (State Employee) (General Public) - Information Only
Chief Judge, 9th Circuit
425 N Orange Ave
Orlando FL 32801
Phone: (407) 836-2008

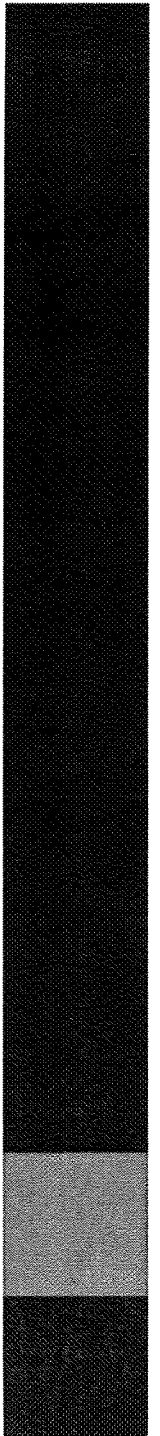
Workshop

Metz, Stephen (Lobbyist) - Information Only
Florida Bar, The
215 S. Monroe
Tallahassee FL 32317
Phone: (850) 205-9000

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Constitutional Reform

- Rulemaking Reform to Codify Statutory Timeframes
- Expiration of Judicial Jurisdiction (8 years)

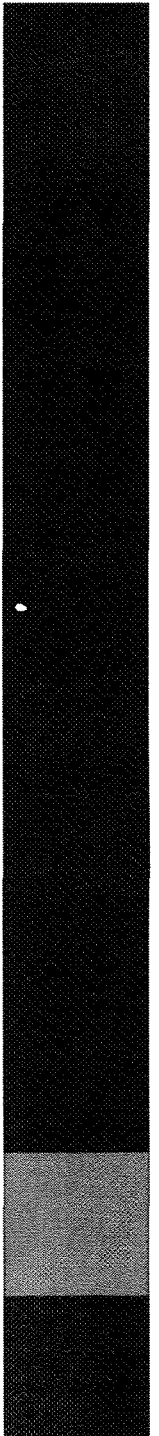


Statutory Reform

- Remove References to Criminal Court Procedure Rules
 - Sections 2, 6 and 8
- Full Pleading Requirement
 - Section 16 (663-668)
- Establishes Northern CCRC
 - Sections 3, 4 and 9
- Conflict of Interest Reform
 - Sections 5, 17
 - Requirement for Specific Evidence of Compromised Rights (696-708)
 - Timely hearing and ruling
- Ineffective Assistance of Counsel Reform
 - Section 18
 - Bar Reporting
 - 5 year ban

Statutory Reform (Cont.)

- Judicial Accountability
 - Section 18
 - 90 days to rule
- Reconsideration of DPRA Elements
 - Mental condition cooperation
 - Limitation on motions for rehearing
- Dual Track
- Time Frames



Stage of Postconviction	Current Rules	Proposed Bill	Rationale
Appointment of postconviction counsel	Happens at same time the mandate affirming a judgment and sentence of death is issued by the Florida Supreme Court. 3.851(b)(1)	Within 15 days after imposition of death sentence. Lines 488-493	Post Conviction counsel working sooner
CCRC Notice of Appearance or Motion to Withdraw	Within 30 days of the issuance of the mandate on direct appeal. Motions to withdraw filed after deadline won't be entertained unless based on conflict. 3.851(b)(2)	Within 30 days after appointment. Motion to withdraw must be based on conflict or for good cause. Lines 493-496	Good cause reform
	Judge must rule on motion to withdraw with 15 days and appoint new counsel if needed. 3.851(b)(3)	If conflict is asserted, court must have hearing within 30 days of allegation and rule within 10 days of the conclusion of the hearing. Lines 696-708.	More days, but higher threshold
Evidentiary Hearing	Scheduled within 90 days of case management conference (if needed). 3.851(f)(5)(A)	<p>Within 30 days of state filing its answer, court must conduct hearing to determine if evidentiary hearing is needed. Court must rule within 30 days of hearing. If hearing is needed, it must be held within 90 days. Lines 721-727</p> <p>*Within 10 days of issuance of order schedule an evidentiary hearing, defense must disclose witness, info, etc. State has 10 days upon receipt of defense info to do the same. Lines 735-741</p>	Filter to jetison need for needless evidentiary hearings
	Court can extend time for hearing for up to 90 days for good cause. 3.851(f)(5)(C)		Should we address???
Appeal to the Florida Supreme Court		<p>Within 15 days from entry of final order. Lines 754-756.</p> <p>Must be expeditiously resolved if no evidentiary hearing was held. Supreme Court may remand for hearing within 30 days if they determine one should have been held. hearing must conclude within 90 days. Lines 760-774</p> <p>Florida Supreme Court must render a decision within 180 days after receipt of record on appeal. Lines 775-778</p> <p>If Supreme Court doesn't comply, reporting requirements. Lines 779-788</p>	Rep. Kerner

Successive Postconviction Motions			
Successive Motions	Can be filed at any time, but there are limitations as to what claims these motions can raise. 3.851(e)(2).	Within 90 days after facts giving rise to the claim were discovered or should have been discovered using due diligence. Lines 587-592 Specific pleading requirements. Lines 592-603	Filter to more quickly dispense with frivolous motions
Answer to successive motion	Within 20 days of filing. 3.851(f)(3)(B)		

DNA (Not Currently in Language)

DNA (Not Currently in Language)			
Motion for postconviction DNA testing	Can be made at any time following date judgment and sentence is final, but must meet specific pleading requirements. 3.853(b)		
If facially sufficient, court must order prosecuting authority to respond	Within 30 days. 3.853(c)(2)		
	After reviewing response, court either rules or sets a hearing. 3.853(c)(3)		
	Court must make certain findings when ruling. 3.853(c)(5)		
Motion for rehearing	Within 15 days after order denying relief. 3.853(e)		
Appeal	Within 30 days from date order is rendered. 3.853(f)		