

JOURNAL OF THE FLORIDA SENATE

Friday, May 24, 1974

The Senate was called to order by the President at 9:00 a.m.
A quorum present—38:

Mr. President	Gruber	Pettigrew	Trask
Barron	Henderson	Plante	Vogt
Brantley	Johnson	Poston	Ware
Childers	Johnston	Saunders	Weber
de la Parte	Lane (31st)	Sayler	Williams
Gallen	Lane (23rd)	Scarborough	Wilson
Gillespie	Lewis	Sims	Winn
Glisson	McClain	Smathers	Zinkil
Gordon	Myers	Stolzenburg	
Graham	Peterson	Sykes	

HB 2799
HB 3923

HB 3440 with 2 amendments

The bills contained in the foregoing reports were placed on the calendar.

The Committee on Ways and Means recommends a Committee Substitute as recommended by Consumer Affairs Committee for SB 711 with 9 amendments.

The Committee on Ways and Means recommends a Committee Substitute as recommended by Consumer Affairs Committee for SB 733.

The bills with Committee Substitutes attached contained in the foregoing reports were placed on the calendar.

The Committee on Criminal Justice recommends the following not pass: SB 831

The Committee on Ways and Means recommends the following not pass: SB 718

The bills contained in the foregoing reports were laid on the table.

ENGROSSING REPORTS

Your Engrossing Clerk to whom was referred—

CS for SB	84	with 1 amendment
CS for SB	579	with 1 amendment
	SB 642	with 3 amendments
	SB 694	with 1 amendment
CS for SB	959	with 7 amendments
CS for SB	973	with 3 amendments
	SB 1068	with 2 amendments
	SB 1081	with 3 amendments
	SB 1083	with 4 amendments
	SB 1094	with 1 amendment
	SB 1099	with 2 amendments

—reports that the Senate amendments have been incorporated and the bills are returned herewith.

JOE BROWN, Secretary

The bills were certified to the House.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator de la Parte, SB 660 was withdrawn from the Committee on Ways and Means by two-thirds vote and placed on the calendar.

Senator Sykes moved that SB 29 be withdrawn from the Committee on Ways and Means and placed on the calendar and the motion failed to receive the necessary two-thirds vote. The vote was:

Yeas—17

Childers	Johnston	Sayler	Weber
Glisson	Lane (31st)	Sims	Wilson
Gruber	Lewis	Stolzenburg	
Henderson	McClain	Sykes	
Johnson	Plante	Ware	

Nays—16

Mr. President	Gordon	Peterson	Trask
Barron	Graham	Poston	Vogt
de la Parte	Lane (23rd)	Saunders	Williams
Gillespie	Myers	Smathers	Winn

By unanimous consent Senator Gallen was recorded as voting yea.

Excused: Senators Firestone and Deeb; Senator Trask at 11:45 a.m.

Prayer by the Senate Chaplain:

Our Father, by this late time in the session and on this last day of a busy week, we confess our impatience with ourselves and with others.

The clamor of voices asking and demanding to be heard preys upon us until at last we almost understand how we can weary you with our own words.

The embattlement of our consciences by innumerable challenges and choices has left us spiritually weak.

We would not whimper in self-pity but at least we would ask of you to give us understanding for each other seeing we are all in the same condition. May we make sympathetic allowances for each other: for harsh words or impatient actions born of tired minds.

We would pray today for our loved ones as many of us renew fellowship with them over the weekend. They pay dearly and doubly for our service in the Senate for we are absent from them and return weary. May the healing balm of their love and devotion joined with your spirit help refresh us to continue in our calling. Amen.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar recommends that the following bills be placed on Special Order for Friday, May 24, 1974, at 9:00 a.m.:

HB 99	SM 1111	HB 1911	SB 877
CS for HB 2700	HB 2922	SB 403	HB 2580
HB 3287	SB 353	SB 519	HB 3777
SB 904	SB 529	CS for CS for	HB 1837
SB 182	HB 3573	HB 3096	HB 1554
HB 2812	CS for HB 312	SB 889	
CS for HB 2809	HB 580	SB 880	
SB 1012	HB 2099	SB 633	

Respectfully submitted,
Dempsey J. Barron, Chairman

The Committee on Criminal Justice recommends the following pass:

HB 768 with 2 amendments	HB 3146 with 1 amendment
HB 3385 with 2 amendments	CS for HB 2751

The Committee on Ways and Means recommends the following pass: HB 4005 with 2 amendments

The Committee on Ways and Means recommends the following pass:

SB 603	SB 815 with 2 amendments
SB 658 with 4 amendments	SB 824 with 3 amendments
SB 659	SB 869 with 1 amendment
SB 700 with 3 amendments	SB 720 with 7 amendments

On motion by Senator Glisson, HB 3410 was withdrawn from the Committee on Commerce by two-thirds vote and placed on the calendar.

On motion by Senator Brantley, SB 790 was withdrawn from the Committee on Commerce by two-thirds vote and placed on the calendar.

On motion by Senator Trask, the House was requested to return SB 499.

On motion by Senator McClain, the House was requested to return CS for SB 84.

On motion by Senator Ware, the rules were waived and HB 4050 as amended which passed May 23 was ordered immediately certified to the House.

REQUESTS FOR EXTENSION OF TIME

The Committee on Commerce requests an extension of 10 days for the consideration of the following:

SB 72 by Senator Zinkil	SB 757 by Senator Brantley
SB 151 by Senator Lane (31st)	SB 762 by Senator Deeb
SB 152 by Senator Lane (31st)	SB 773 by Senator Lane (31st)
SB 164 by Senator Henderson	SB 776 by Senator Deeb
SB 169 by Senator Lane (31st)	SB 781 by Senator Trask
SJR 179 by Senator Gillespie	SB 790 by Senator Winn
SB 191 by Senator Johnson	SB 806 by Senator Plante
SB 198 by Senator Lewis	SB 859 by Senator Gordon
SB 214 by Senator Gordon	SB 864 by Senators Brantley and Horne
SB 272 by Senator Vogt	SB 1047 by Senator Graham
SB 344 by Senator Gordon	HB 866 by Representative Crabtree
SB 355 by Senator Gordon	HB 869 by Representative Crabtree
SB 356 by Senator Graham	HB 872 by Representative Crabtree
SB 359 by Senator Deeb	HB 874 by Representative Crabtree
SB 373 by Senator Graham	HB 881 by Representative Crabtree
SB 378 by Senator Johnson	HB 1024 by Representative Forbes
SB 388 by Senator Deeb	HB 2595 by Finance and Taxation Committee
SB 402 by Senator Deeb	CSHB 2830 by Judiciary Committee
SB 407 by Senator Plante	HB 2856 by Representative Fortune
SB 424 by Senator Gruber	CS for HB 3264 by Insurance Committee
SB 434 by Senator Johnson	HB 3410 by Representative Cunningham
SB 448 by Senator McClain	SB 845 by Senator Johnson
SB 456 by Senator Weber	
SB 521 by Senator Gordon	
SB 528 by Senator Glisson	
SB 597 by Senator Deeb	
SB 613 by Senator Scarborough	
SB 623 by Senator Johnson	
SB 680 by Senator Trask	
SB 740 by Senator Johnson	
SB 751 by Senator Trask	

The Committee on Governmental Operations requests an extension of 10 days for the consideration of the following:

SB 116 by Senator Pettigrew	SB 919 by Senator McClain
SB 584 by Senator Johnson	SB 927 by Senator Deeb
SB 591 by Senators Johnson and Zinkil	SB 938 by Senator Williams
SB 592 by Senator Glisson	SB 942 by Senator Sims
SB 620 by Senator Saunders	SB 960 by Senator Poston
SB 626 by Senator Deeb	SB 1000 by Senator Graham
SB 634 by Senator Vogt	SB 1008 by Senator Lane (31st)
SB 752 by Senators Weber and Winn	SB 1010 by Senator Scarborough
SB 778 by Senator Gordon	SB 1024 by Senator Graham
SB 804 by Senator de la Parte	SB 1025 by Senator Graham
SB 811 by Senator Williams	SB 1041 by Senator Williams, et al
SB 816 by Senator McClain	SB 1042 by Senator Graham
SB 826 by Senator Saunders	SB 1045 by Senator Wilson
SB 875 by Senator Sims	SB 1046 by Senator McClain
SB 876 by Senator Weber and Winn et al	SB 1053 by Senator Graham
SB 878 by Senator Peterson	SB 1078 by Senator Graham
SB 884 by Senator McClain	SB 1006 by Senator Graham
SB 891 by Senator Graham	SB 137 by Senator Pettigrew
SB 899 by Senator Smathers	CS for HB 622 by Environmental Protection Committee

HB 1343 by Representative Brown
HB 1403 by Representative Steinberg

HB 3120 by Representative James
HJR 3472 by Standards and Conduct Select Com.

The Committee on Criminal Justice requests an extension of 10 days for the consideration of the following:

SB 167 by Criminal Justice Committee	SB 645 by Agriculture Committee
	SB 646 by Senator Johnson

The Committee on Judiciary requests an extension of 10 days for the consideration of the following:

SB 777 by Senator Gordon	SB 802 by Senator Pettigrew
SB 789 by Senator Gordon	SB 910 by Senator Johnson

The Committee on Health and Rehabilitative Services requests an extension of 10 days for the consideration of the following:

SB 13 by Senator Zinkil	SB 882 by Senator Saylor
SB 35 by Senator Sykes	SB 924 by Senator Wilson
SB 95 by Senator Pettigrew	SB 946 by Senator Deeb
SB 130 by Senator Myers	SB 950 by Senator Scarborough
SB 163 by Senators Vogt and Lewis	SB 998 by Senator de la Parte
SB 188 by Senator Johnson	SB 1005 by Senator Williams
SB 193 by Senator Gordon	SB 1015 by Senator Myers
SB 208 by Senator Zinkil	HB 991 by Rep. Earle
SB 217 by Senators Vogt and Myers	HB 995 by Rep. Earle
SB 220 by Senators Vogt and Myers	HB 1537 by Rep. Mattox
SB 289 by Senator Pettigrew	HB 558 by Rep. Easley
SB 290 by Senator Pettigrew	HB 1106 by Insurance Committee
SB 370 by Senators Ware and Glisson	HB 2654 by Representative Gordon
SB 379 by Senator Johnson	SB 389 by Senator Julian Lane (23rd)
SB 381 by Senator Johnson	HB 2426 by Representative Langley
SB 387 by Senators Glisson and Johnson	CS for HB 446 by Health and Rehabilitative Services Committee
SB 512 by Senator Vogt	HB 3614 by Representative Turlington
SB 545 by Senator Stolzenburg	HB 3821 by Representative Harris
SB 546 by Senator Gordon	HB 3364 by Representative Langley
SB 570 by Senator de la Parte	HB 3416 by Representative Sackett
SB 577 by Senator Glisson	HB 2268 by Representative Earle
SB 583 by Senator Johnson	HB 816 by Health and Rehabilitative Services Committee
SB 594 by Senator de la Parte	SB 612 by Senator de la Parte
SB 616 by Senator Pettigrew	SB 653 by Senator Glisson
SB 644 by Senator Vogt	SB 664 by Senator Vogt
SB 686 by Senator Brantley	HB 2040 by Insurance Committee
SB 719 by Senator Scarborough	
SB 742 by Senator Lane (31st)	
SB 745 by Senator Vogt	
SB 799 by Senator Saylor	
SB 805 by Senator de la Parte	
SB 838 by Senator Trask	
SM 856 by Senator Lane (31st)	
SB 865 by Senator Myers	

MESSAGE FROM THE GOVERNOR

The Governor advised that he had filed in the office of the Secretary of State CS for SB 518, Senate Bills 210 and 937 which he had approved May 23.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Mallory E. Horne, President May 23, 1974

I am directed to inform the Senate that the House of Representatives refused to recede from House Amendments 1 and 2 to

SB 1100 and acceded to the request of the Senate for a Conference Committee. The Speaker has appointed Representatives Harris, Redman, Crane, Fortune, Hodes, Johnson, MacKay and McPherson as the Conferees on the part of the House—with Representatives Baumgartner and Ogden as alternates.

Allen Morris, Clerk

The Honorable Mallory E. Horne, President May 23, 1974

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By Senator Myers and others—

SB 277—A bill to be entitled An act relating to health and rehabilitative services; requiring licenses for child care facilities; providing a short title; establishing legislative intent; providing definitions; establishing licensing standards and providing for legislative review; providing for issuance, renewal and revocation of licenses; providing for provisional licenses; providing for consultation services; providing for hearings upon denial or revocation of licenses; providing for inspection by the department; providing for exemptions; providing an effective date.

(amendments attached)

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment (1)—On page 1, lines 20—29, strike everything after the enacting clause and insert the following:

Section 1. Legislative intent and declaration of purpose and policy.—It is the legislative intent to protect the health, safety, and well-being of the children of the state. Toward that end, it is the purpose of this act to establish statewide minimum standards for the care and protection of children in child care facilities, to insure maintenance of these standards, and to approve county administration and enforcement to regulate conditions in such facilities through a program of licensing. It shall be the policy of the state to insure protection of children under care in child care facilities, and to encourage and assist in the improvement of child care programs.

Section 2. Definitions.—As used in this act:

Nothing in this act shall give any governmental agency jurisdiction or authority to regulate, supervise or in any way be involved in any church school curriculum or Sunday School program.

(1) "Department" means the department of health and rehabilitative services.

(2) "Secretary" means the secretary of the department of health and rehabilitative services.

(3) "Child care" means the care, protection, and supervision of a child for a period of less than twenty-four (24) hours a day on a regular basis which supplements for the child, in accordance with his individual needs, daily care, enrichment opportunities, and health supervision and where a payment, fee or grant is made for care.

(4) "Child care facility" includes any child care center or child care arrangement that provides child care for more than five (5) children unrelated to the operator and which receives a payment, fee or grant for any of the children receiving care, wherever operated, and whether or not operated for profit, except that the following are not included: public schools and nonpublic schools which are in compliance with the compulsory school attendance law, chapter 232, Florida Statutes; summer camps having children in full-time residence; summer day camps; and Bible schools normally conducted during vacation periods.

(5) "Family day care home" means an occupied residence in which day care is regularly provided for no more than five (5) pre-school children and elementary school children from more than one unrelated family including pre-school children living in the home and pre-school children received for day care

who are related to the resident caregiver. Elementary school siblings of the pre-school children received for day care may also be cared for outside of school hours provided the total number of children including the caregiver's own and those related to her does not exceed ten (10).

(6) "Operator" means any person ultimately responsible for the overall operation and administration of a child care facility, whether or not he is the owner.

(7) "Local licensing agency" means any agency or individual designated by the county to license child care facilities.

Section 3. Child care advisory council.—

(1) As of July 1, 1974, there is created within the department a child care advisory council to be appointed by the secretary.

(2) This body shall be composed of fifteen members as follows:

(a) Five (5) parents, three (3) of whom shall have children eligible for care in child care facilities;

(b) Five (5) owners and operators of child care facilities, one (1) representing public facilities; and four (4) representing private facilities;

(c) Five (5) members to be representatives of agencies and groups concerned with child care and related services.

(3) The secretary, in appointing representatives to the advisory council, shall take cognizance of the broad range of expertise, experience, and concern throughout the state and shall make every effort to assure that the council membership shall be representative of the total child care spectrum.

(4) All members of the council shall serve terms of three (3) years except that, at the time of the first appointment, five (5) members shall serve for one (1) year, five (5) members shall serve for two (2) years, and five (5) members shall serve for three (3) years. In the case of vacancy, the secretary shall appoint a representative to serve the remainder of the unexpired term. A council member may serve two (2) terms.

(5) Members of the council shall receive no compensation but shall be reimbursed for per diem and travel expenses by the department in accordance with the provisions of section 112.061, Florida Statutes.

(6) The advisory council shall supersede, replace and assume the duties of any other child care advisory body within the department.

Section 4. Duties of the council.—

(1) The child care advisory council shall assist the department in the preparation of state minimum standards for the establishment and operation of child care facilities by January 1, 1975, and shall advise the department in setting up any rules and regulations to carry out the provisions of this act.

(2) All procedures for the adoption of state minimum standards and rules and regulations shall be in conformance with chapter 120, Florida Statutes. In addition, prior to the adoption of minimum standards the council shall hold at least four (4) hearings geographically located around the state with emphasis given to the participation of child care operators and parents.

(3) After minimum standards have been developed and approved the advisory council shall meet at least semi-annually.

(4) The advisory council shall review all standards, rules and regulations, and procedures at least once every three (3) years and recommend changes as appropriate.

Section 5. Licensing standards.—The state minimum standards shall be designed to protect the health, sanitation, safety, and well-being of all children under care by ensuring competent personnel, adequate physical surroundings, and healthful food. All standards established under this act shall be in accordance with the appropriate minimum standards used by the state fire marshal for child care facilities. The minimum standards for child care facilities shall include the following areas:

(1) PERSONNEL.—Minimum standards for child care personnel, whether employees or volunteers, which shall include

minimum age requirements, periodic health examinations, minimum levels of training in first aid, and ratios of personnel to children.

(2) **PHYSICAL FACILITIES.**—Minimum standards for building conditions, indoor play space, outdoor play space, napping space, bathroom facilities, food preparation facilities, outdoor equipment and indoor equipment.

(3) **SANITATION AND SAFETY.**—Minimum standards for sanitary and safety conditions, first aid treatment, and emergency procedures.

(4) **NUTRITIONAL PRACTICES.**—Minimum standards for the provision of meals and/or snacks of a quality and quantity to assure that the nutritional needs of the child are met.

(5) **ADMISSIONS AND RECORD KEEPING.**—Requirements for preadmission and periodic health examinations, requirements for immunizations, requirements for maintaining emergency information and health records on all children. Any child shall be exempt from medical or physical examination, or medical or surgical treatment, upon written request of the parent or guardian of such child who objects to the examination and treatment on religious grounds; provided, however, that the laws, rules and regulations relating to contagious or communicable diseases and sanitary matters shall not be violated.

Section 6. Designation of licensing agency.—

(1) Any county whose licensing standards meet or exceed state minimum standards may:

(a) designate a local licensing agency to license child care facilities in the county; or

(b) contract with the department to delegate the administration of state minimum standards in the county to the department.

(2) Child care facilities in any county whose standards do not meet or exceed state minimum standards shall be subject to licensing by the department under state minimum standards.

Section 7. Approval of licensing agency.—

(1) Within thirty (30) days after the promulgation of state minimum standards, each county shall provide the department with a copy of its standards if they differ from the state minimum standards. At the same time, each county shall provide the department with the administrative procedures it intends to use for the licensing of child care facilities.

(2) The department shall have the authority to determine if local standards meet or exceed state minimum standards. Within sixty (60) days after the county has submitted its standards and procedures, the department shall, upon being satisfied that standards required by this act have been met, shall approve the local licensing agency.

(3) Approval to issue licenses for the department shall be renewed annually. For renewal, the local licensing agency shall submit to the department a copy of the licensing standards and procedures applied and an on-site review may be made if deemed necessary by the department.

(4) If, following an on-site review, the department finds the local licensing agency is not applying the approved standards, the department shall report the specific violations to the county commission of the involved county who shall investigate the violations and take whatever action necessary to correct them.

(5) Licensing of child care facilities, either by a local licensing agency or the department under the provisions of this act shall become effective as of July 1, 1975. Those licensing procedures in operation shall continue until that date.

(6) To insure that accurate statistical data are available, each local licensing agency shall report annually to the department the number of child care centers under its jurisdiction, the number of children served, the ages of children served, and the number of revocations or denials of licenses.

Section 8. Issuance of license.—

(1) **ANNUAL LICENSING.**—After July 1, 1975, every child care facility in the state shall have a license which shall be renewed annually.

(2) **STATE ADMINISTRATION OF LICENSING.**—In any county in which the department has the authority to issue licenses the following procedures shall be applied:

(a) Application for a license or for a renewal of a license to operate a child care facility shall be made in the manner and on the forms prescribed by the department.

(b) Prior to the renewal of a license, the department shall re-examine the child care facility, including in that process the examination of the premises and those records of the facility as required under Section 5 of this act to determine that minimum standards for licensing continue to be met.

(c) The department shall coordinate all inspections of child care centers. A child care facility is not required to implement a recommendation of one agency that is in conflict with a recommendation of another agency if such conflict arises due to uncoordinated inspections. Any conflict in recommendations shall be resolved by the secretary of the department within fifteen (15) days after written notice that such conflict exists.

(d) The department shall issue or renew a license upon being satisfied that all standards required by this act have been met.

(3) **LOCAL ADMINISTRATION OF LICENSING.**—In any county in which there is a local licensing agency approved by the department the following procedures shall apply:

(a) Application for a license or for renewal of license to operate a child care facility shall be made in the manner and on the forms prescribed by the local licensing agency.

(b) Prior to the renewal of a license, the agency shall re-examine the child care facility, including in that process the examination of the premises and records of the facility as required in Section 5 of this act to determine that minimum standards for licensing continue to be met.

(c) The local agency shall coordinate all inspections of child care facilities. A child care facility is not required to implement a recommendation of one agency that is in conflict with a recommendation of another agency if such conflict arises due to uncoordinated inspections. Any conflict in recommendations shall be resolved by the county commission or its representative within fifteen (15) days after written notice that such conflict exists.

(d) The local licensing agency shall issue a license or renew a license upon being satisfied that all standards required by this act have been met.

Section 9. Provisional license.—

(1) The local licensing agency or the department, whichever is authorized to license child care facilities in a county, may issue a provisional license to applicants for a license or to licensees who are unable to conform to all the standards as provided for in this act.

(2) No provisional license may be issued unless the operator makes adequate provisions for the health and safety of the child and unless the local licensing agency or the department finds that a need exists for the services offered by the child care facility.

(3) The provisional license shall in no event be issued for a period in excess of one (1) year and shall not be subject to renewal.

(4) The provisional license may be suspended if periodic inspection made by the local licensing agency or the department indicates that insufficient progress has been made toward compliance.

Section 10. Hearings upon denial or revocation of license.—

(1) When the department or local licensing agency, whichever is applicable, has reasonable cause to believe that grounds for the denial or revocation of a license exist, it shall notify the applicant or licensee in writing stating the grounds upon which the license is being denied or revoked. If the applicant or licensee makes no written request for a hearing to the local licensing agency or the department, whichever is applicable, within fifteen (15) days from receipt of such notice, the license shall be deemed denied or revoked.

(2) If a request for a hearing is made to the local licensing agency, a hearing shall be held within thirty (30) days and shall be conducted by an individual designated by the county commission.

(3) An applicant or licensee shall have the right to appeal a decision of the local licensing agency or the department to a representative of the department. A hearing shall be held in the county in which the child care program is being operated or is to be established. The hearing shall be conducted in accordance with the provisions of part I of chapter 120, Florida Statutes.

Section 11. Inspection.—A licensed child care facility shall accord to the department or the local licensing agency, whichever is applicable, the privilege of inspection, including access to facilities, staff and those records required in Section 5 of this act, at reasonable times during regular business hours, to insure compliance with the provisions of this act.

Section 12. License required.—After July 1, 1975, the operation of a child care facility without a license is prohibited. The department or the local licensing agency is empowered to seek an injunction in the circuit court where the facility is located against the continuing operation of a child care facility for the following reasons:

(1) When there is any violation of the standards applied under this act which threatens harm to any child in the child care facility.

(2) When a licensee has repeatedly violated the standards provided for under this act.

(3) If a child care program continues to have children in attendance after the closing date established by the department or the local licensing agency.

Section 13. Family Day Care Homes.—

(1) Family day care homes may be licensed under this act if they are presently being licensed under an existing county licensing ordinance or if the board of county commissioners passes a resolution that family day care homes be licensed. If not subject to license, family day care homes may report annually to the department the following information: the name and address of the home, the name of the operator, the number of children served, and the availability of emergency care.

(2) This information shall be included in a directory to be published annually by the department to inform the public of available child care facilities.

(3) Family day care home operators may avail themselves of supportive services offered by the department.

Section 14. Supportive services.—The department shall provide consultation services, technical assistance and in-service training when requested and as available to operators, licensees, and applicants to help improve programs and facilities for child care, and shall work cooperatively with other organizations and agencies concerned with child care.

Section 15. Funding.—

(1) If the county designates a local agency to be responsible for the licensing of child care centers, the county shall bear the costs involved.

(2) The state will bear the costs of the licensing of child care centers when contracted to do so by a county or when directly responsible for licensing in a county which fails to meet or exceed state minimum standards.

Section 16. Exemptions.—The provisions of this act shall not apply to day care facilities or to day care programs which are an integral part of a church; or church, parochial, private, or public schools conducting regularly scheduled classes, courses of study or educational programs accredited by an organization which publishes and requires compliance with its own standards for health, safety, and sanitation, including but not limited to those schools accredited by or members of the Florida Association of Christian Schools, the Florida Catholic Conference, the Florida Council of Independent Schools, the Southern Association of Schools and Colleges and the State Department of Education. Provided, however, this exemption may only be granted by a local licensing agency now in existence or hereafter created.

Section 17. This act shall take effect July 1, 1974; provided, however, the enforcement of standards pursuant to the promulgation of rules and regulations under this act shall not take effect until July 1, 1975.

Senator Plante moved the following amendment to Amendment 1 which was adopted:

Amendment 1a—On page 5, line 14, strike "on religious grounds"

Senators Childers and Sims offered the following amendment to House Amendment 1 which was moved by Senator Sims:

Amendment 1b—On page 11, strike "Provided, however," in lines 25, 26 and 27.

Senators Peterson, Johnston and Myers offered the following substitute amendment for Amendment 1b which was moved by Senator Myers and adopted:

Amendment 1c—On page 11, strike all of lines 26 and 27 and insert: any local licensing agency may require all day care facilities and day care programs within its jurisdiction to be licensed, the other provisions of this section notwithstanding.

Amendment (2)—On page 1, lines 3—16, strike all of lines 3—16 and insert the following: A bill to be entitled An act relating to health and rehabilitative services; requiring licenses for child care facilities; establishing legislative intent; providing definitions; providing for a child care advisory council and its membership; establishing duties of the council; providing for state minimum licensing standards; providing for designation of local licensing agency; providing for approval of licensing agency; providing for issuance and renewal of licenses; providing for coordination of inspections; providing for provisional licenses; providing for hearing upon denial or revocation of licenses; providing for inspection; providing for injunction; providing for reporting of family day care homes; providing for supportive services; providing for exemptions; providing a funding formula; providing an effective date.

On motions by Senator Myers, the Senate concurred in House Amendment 1 as amended and House Amendment 2 to SB 277.

The action, with the bill and amendments, was certified to the House.

On motion by Senator Barron, the rules were waived and further consideration of Messages from the House of Representatives was deferred until 11:30 a.m.

RECONSIDERATION

The motion by Senator Henderson on May 23 that the Senate reconsider the vote by which—

CS for CS for HB 1739 (cs)—A bill to be entitled An act relating to municipal and charter county government recall; authorizing and providing procedures for the recall of any member of the governing body of a municipality or charter county by the municipal or charter county electors; providing penalties; providing an effective date.

—failed to pass as amended on May 22, was taken up and adopted; and the Senate reconsidered the vote.

Senator Childers moved the following amendment:

Amendment 4—On page 1, line 10, strike everything after the enacting clause and insert: Section 1. LENGTH OF TERM OF OFFICE.—Notwithstanding any special or general law to the contrary, term of office for any elected official shall consist only of those terms of office in which the elected official has served seventy-five percent (75%), or more, of the full term for said office and shall not include any time included in an appointed status or while acting or serving an interim position in said office.

Section 2. This act shall take effect upon becoming a law.

Senator Ware moved the following amendment to Amendment 4 which was adopted by two-thirds vote:

Amendment 4a—On page 1, line 8, after "any" insert: municipal or consolidated government

Amendment 4 as amended was adopted by two-thirds vote.

Senator Childers moved the following amendment which was adopted:

Amendment 5—In title, lines 4—8, strike

“An act relating to municipal government recall; authorizing and providing procedures for the recall of any member of the governing body of a municipality by the municipal electors; providing penalties; providing an effective date.” and insert:

An act relating to municipal government length of term of office; providing an effective date.

On motion by Senator Scarborough, CS for CS for HB 1739 (cs) as further amended was read by title, passed and certified to the House. The vote was:

Yeas—28

Mr. President	Gordon	McClain	Stolzenburg
Barron	Graham	Peterson	Sykes
Brantley	Gruber	Plante	Trask
Childers	Johnson	Poston	Vogt
Gallen	Johnston	Sayler	Ware
Gillespie	Lane (23rd)	Scarborough	Wilson
Glisson	Lewis	Smathers	Winn

Nays—4

Henderson	Saunders	Sims	Williams
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By unanimous consent Senator Gillespie changed his vote from yea to nay.

The motion to reconsider the vote by which CS for SB 818 passed was not taken up, and the motion was abandoned.

On motion by Senator Sykes, SB 48 was withdrawn from the Committee on Ways and Means by two-thirds vote and placed on the calendar. The vote was:

Yeas—23

Brantley	Gruber	Plante	Sykes
Childers	Henderson	Poston	Ware
Gallen	Johnson	Sayler	Weber
Gillespie	Johnston	Scarborough	Wilson
Glisson	Lewis	Sims	Winn
Gordon	McClain	Stolzenburg	

Nays—11

Mr. President	Lane (23rd)	Saunders	Vogt
Barron	Peterson	Smathers	Williams
Graham	Pettigrew	Trask	

By unanimous consent Senator Lane (31st) was recorded as voting yea.

SPECIAL ORDER

HB 99 (cs)—A bill to be entitled An act relating to the department of transportation; amending chapter 334, Florida Statutes, by adding section 334.27; permitting the department of transportation, with the approval of the board of trustees of the internal improvement trust fund, to lease for certain periods, air rights over or under state highways for such non-highway purposes as will not impair the construction or safety of state highways; subjecting any building erected under this section to the various codes and ordinances of the governmental body where located; providing for payment of taxes on said buildings; requiring disclosure of officers and directors of leasing corporations; prohibiting erection of billboards under this section; providing an effective date.

—was taken up with the following pending amendment by Senator Wilson:

Amendment 6—On page 4, line 21, after “motel” insert: condominiums, apartment houses, restaurants

Amendment 6 was adopted by the following vote:

Yeas—20

Mr. President	Glisson	Pettigrew	Vogt
Barron	Gordon	Plante	Ware
Brantley	Johnston	Sayler	Williams
Childers	Lane (23rd)	Scarborough	Wilson
Gallen	Peterson	Smathers	Winn

Nays—12

Gillespie	Lane (31st)	Poston	Sykes
Henderson	Lewis	Sims	Trask
Johnson	McClain	Stolzenburg	Weber

By unanimous consent Senator Gruber was recorded as voting yea.

Senator Stolzenburg moved the following amendment which was adopted:

Amendment 7—On page 2, line 24, strike the period and insert: , further that no air rights either above or under state highways be submitted for bid without approval of the governing body of the county or municipality, subsequent to a public hearing held by the governing body, in which the designated area is located.

Senator Wilson moved the following amendment which failed:

Amendment 8—Following Amendment 7 after “located.” insert: Provided further that such leases are to be applicable only to air rights over tunnels.

Senator Poston moved that HB 99 (cs) as amended be read the third time by title. The motion failed.

CS for HB 2700—A bill to be entitled An act relating to state bank loans; amending §659.17(2)(a), Florida Statutes, 1973, providing for aggregating secured and unsecured loans for purpose of maximum state bank loans; amending §659.17(3)-(d), Florida Statutes, 1973, permitting an increase from five thousand dollars (\$5,000) to ten thousand dollars (\$10,000) in the amount of a home improvement loan which may be secured as a secondary lien on a real estate mortgage; amending §659.17(4)(a), Florida Statutes, 1973, exempting from limitations on the amount of a loan, those loans fully secured by a first mortgage on homes occupied by the mortgagor; providing an effective date.

—was read the second time by title.

Senator Gordon moved the following amendments which were adopted:

Amendment 1—On page 2, line 10, strike “capital and”

Amendment 2—On page 2, line 11, after the word “bank” insert: , provided, however, that a first mortgage on the home of the borrower shall not be included in the twenty-five percent (25%) limitation

Amendment 3—On page 2, lines 2 and 3, strike “all components of which are amply and entirely secured” and insert: all components of which are amply and entirely secured

Amendment 4—On page 2, strike all of lines 25 through 29

Amendment 5—On page 1, line 23, strike “and paragraph (a) of subsection (4)”

Amendment 6—In title, lines 13—17, strike “amending §659.17(4)(a), Florida Statutes, 1973, exempting from limitations on the amount of a loan, those fully secured by a first mortgage on homes occupied by the mortgagor;”

On motion by Senator Gordon, by two-thirds vote CS for HB 2700 as amended was read the third time by title, passed and certified to the House. The vote was:

Yeas—33

Mr. President	Childers	Glisson	Gruber
Barron	Gallen	Gordon	Henderson
Brantley	Gillespie	Graham	Johnson

Johnston	Peterson	Smathers	Weber
Lane (31st)	Plante	Stolzenburg	Wilson
Lane (23rd)	Poston	Sykes	Winn
Lewis	Saunders	Trask	
McClain	Sayler	Vogt	
Myers	Sims	Ware	

Nays—None

By unanimous consent Senator Pettigrew was recorded as voting yea.

HB 3287—A bill to be entitled An act regulating shrimp fishing; amending §370.153(1)(f) and (g), (2), (3)(b), (4)(a), (b), (d) and (g) and (8), Florida Statutes, 1973; including Nassau County in the regulations now imposed on live and dead shrimp production in Duval, St. Johns, Putnam and Clay counties; creating §370.154, Florida Statutes; designating the Florida east coast shrimp beds; providing regulations for the Florida east coast shrimp beds; imposing criminal penalties for violation of the regulations; providing an effective date.

—was taken up with a pending amendment which was withdrawn.

On motion by Senator Childers, HB 3287 as amended was read the third time by title, passed and certified to the House. The vote was:

Yeas—34

Mr. President	Gruber	Peterson	Sykes
Barron	Henderson	Pettigrew	Trask
Brantley	Johnson	Plante	Vogt
Childers	Johnston	Poston	Ware
Gallen	Lane (31st)	Saunders	Weber
Gillespie	Lane (23rd)	Sayler	Wilson
Glisson	Lewis	Sims	Winn
Gordon	McClain	Smathers	
Graham	Myers	Stolzenburg	

Nays—None

On motion by Senator Barron, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Mallory E. Horne, President May 24, 1974

I am directed to inform the Senate that the House of Representatives has adopted HCR 4219 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representatives Tucker and Webb—

HCR 4219—A Concurrent Resolution commending Arvah Branch Hopkins a native of Tallahassee, Florida whose service to the City of Tallahassee as City Manager for twenty-two years has helped bring honor and good government to his city and state.

HCR 4219, contained in the above message, by two-thirds vote was read the first time in full. On motion by Senator Barron, by two-thirds vote HCR 4219 was read the second time by title, adopted and certified to the House. The vote was:

Yeas—34

Mr. President	Graham	Peterson	Trask
Barron	Gruber	Pettigrew	Vogt
Brantley	Henderson	Poston	Ware
Childers	Johnson	Saunders	Weber
Deeb	Lane (31st)	Sayler	Wilson
de la Parte	Lane (23rd)	Scarborough	Winn
Gallen	Lewis	Sims	Zinkil
Glisson	McClain	Smathers	
Gordon	Myers	Sykes	

Nays—None

The President introduced to the Senate and paid tribute to Arvah B. Hopkins, who was seated on the rostrum.

The Honorable Mallory E. Horne, President May 22, 1974

I am directed to inform the Senate that the House of Representatives has passed as amended CS for HB 2179 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Criminal Justice and Representative Shreve and others—

CS for HB 2179—A bill to be entitled An act relating to criminal law; creating §775.011, Florida Statutes, providing for title and applicability; creating §775.012, Florida Statutes, providing for general purposes; creating §775.021, Florida Statutes, providing for rules of construction; amending §775.08, Florida Statutes, 1973, providing for classes and definitions of offenses; amending §775.082, Florida Statutes, 1973, providing for penalties; amending §775.083, Florida Statutes, 1973, relating to fines; amending §775.084, Florida Statutes, 1973, relating to subsequent felony offenses; creating §775.085, Florida Statutes, relating to extended terms for subsequent misdemeanors; creating §775.086, Florida Statutes, relating to felony reclassification for possession of weapons or for battery; amending §790.23, Florida Statutes; providing that it shall be a felony of the second degree for persons convicted of certain crimes to have a firearm or other weapon; providing that it shall be a felony of the third degree for persons convicted of other felonies to have a firearm or other weapon; renumbering and amending §932.465, Florida Statutes, 1973, relating to time limitations; renumbering and amending §776.011, Florida Statutes, 1973, relating to principal in first degree; renumbering and amending §776.04, Florida Statutes, 1973, relating to attempts, solicitation and conspiracy; creating §§776.012, 776.021, 776.031, 776.041, 776.05, 776.06, 776.07, and 776.08, Florida Statutes, relating to justifiable use of force; amending §782.04, Florida Statutes, 1973, defining the crimes of and providing the penalties for murder; amending §782.07, Florida Statutes, 1973, defining the crime of and providing the penalty for manslaughter; creating §782.071, Florida Statutes, defining the crime of and penalty for vehicular homicide; renumbering and amending §784.02, Florida Statutes, 1973, defining the crime of and providing the penalty for assault; renumbering and amending §784.04, Florida Statutes, 1973, defining the crime of and providing the penalty for aggravated assault; amending §784.03, Florida Statutes, 1973, defining the crime of and providing the penalty for battery; amending §784.045, Florida Statutes, 1973, defining the crime of and providing the penalty for aggravated battery; amending §784.05, Florida Statutes, 1973, defining the crime of and providing the penalty for culpable negligence; renumbering and amending §805.02, Florida Statutes, 1973, defining the crime of and providing the penalty for kidnapping; renumbering and amending §805.01, Florida Statutes, 1973, defining the crime of and providing the penalty for false imprisonment; creating §787.03, Florida Statutes, defining the crime of and providing the penalty for interference with custody; renumbering and amending §805.03, Florida Statutes, 1973, defining the crime of and providing the penalty for removing children from state; amending §806.01, Florida Statutes, 1973, defining the crimes of and providing the penalties for arson; amending §806.02, Florida Statutes, 1973, defining the crime of and providing the penalties for criminal mischief; amending §806.10, Florida Statutes, 1973, defining the crime of and providing the penalty for obstructing extinguishment of fire; amending §806.111(1), Florida Statutes, 1973, defining the crime of and providing the penalty for possession of fire bombs; creating §810.011, Florida Statutes, providing for definitions; amending §810.02, Florida Statutes, 1973, defining the crime of and providing the penalties for burglary; amending §810.06, Florida Statutes, 1973, defining the crime of and providing the penalty for possession of burglary tools; amending §810.07, Florida Statutes, 1973, relating to evidence of intent; creating §810.08, Florida Statutes, defining the crime of and providing the penalty for trespass in structure or conveyance; creating §810.09, Florida Statutes, defining the crime of and providing the penalty for trespass on property other than structure or conveyance; renumbering and amending §821.071, Florida Statutes, 1973, defining the crime of and providing the penalty for unlawfully removing notices; renumbering and amending §821.02, Florida Statutes, 1973, defining the crime of and providing the penalty for

placing signs adjacent to highway; renumbering and amending §813.011, Florida Statutes, 1973, defining the crimes of and providing the penalties for robbery; creating §812.011, Florida Statutes, providing for definitions; renumbering and amending §811.021, Florida Statutes, 1973, defining the crime of and providing the penalty for larceny; renumbering and amending §811.16, Florida Statutes, 1973, defining the crime of and providing the penalty for receiving stolen property; renumbering and amending §814.04, Florida Statutes, 1973, defining the crime of and providing the penalty for unauthorized use of motor vehicle, etc.; renumbering and amending §811.165(2), Florida Statutes, 1973, relating to records of purchases and sales; renumbering and amending §§799.01 and 799.02, Florida Statutes, 1973, defining the crime of and providing the penalty for bigamy; renumbering and amending §799.03, Florida Statutes, 1973, defining the crime of and providing the penalty for knowingly marrying the spouse of another; creating §826.04, Florida Statutes, defining the crime of and providing the penalty for incest; creating §827.01, Florida Statutes, providing for definitions; renumbering and amending §828.04, Florida Statutes, 1973, defining the crime of and providing the penalty for aggravated child abuse; creating §827.04, Florida Statutes, defining the crime of and providing the penalty for child abuse; renumbering and amending §828.042, Florida Statutes, 1973, defining the crime of and providing the penalty for negligent treatment of children; creating §827.06, Florida Statutes, defining the crime of and providing the penalty for persistent nonsupport; creating §837.011, Florida Statutes, providing for definitions; renumbering and amending §837.01, Florida Statutes, 1973, defining the crime of and providing the penalty for perjury not in an official proceeding; amending §837.02, Florida Statutes, 1973, defining the crime of and providing the penalty for perjury in official proceedings; amending §837.021(1), Florida Statutes, 1973, defining the crime of and providing the penalty for perjury by contradictory statements; creating §837.05, Florida Statutes, defining the crime of and providing the penalty for making false reports to law enforcement authorities; creating §837.06, Florida Statutes, defining the crime of and providing the penalty for false official statements; creating §838.014, Florida Statutes, providing for definitions; creating §838.015, Florida Statutes, defining the crime of and providing the penalty for bribery; creating §838.016, Florida Statutes, making unlawful certain compensation or rewards for past official behavior and providing penalty; creating §838.021, Florida Statutes, defining the crime of and providing the penalty for corruption by threat against public servant; creating §838.031, Florida Statutes, defining the crime of and providing the penalty for official misconduct; creating §838.041, Florida Statutes, defining the crime of and providing the penalty for misuse of confidential information; providing that reference to punishable as provided in specific sections of chapter 775 shall be changed to punishable as provided in chapter 775; renumbering §776.03, Florida Statutes, 1973; renumbering §§779.01, 779.02, 779.03, 779.04, 779.05, 779.06, 779.07, 779.08, 779.09, 779.10, 779.11, 779.12, 779.13, 779.14, 779.15, 779.16, 779.17, 779.18, 779.19, 779.20 and 779.21, Florida Statutes, 1973; renumbering §806.06, Florida Statutes, 1973; renumbering §811.022, Florida Statutes, 1973; renumbering §§811.165 and 811.201, Florida Statutes, 1973; renumbering §814.05, Florida Statutes, 1973; renumbering §814.07, Florida Statutes, 1973; renumbering §823.03, Florida Statutes, 1973; renumbering §828.041, Florida Statutes, 1973; and renumbering §828.201, Florida Statutes, 1973; repealing §741.22, Florida Statutes, 1973, relating to incest; repealing §775.11, Florida Statutes, 1973, relating to prosecution for second offenses; repealing §775.12, Florida Statutes, 1973, relating to limitation of repeal; repealing §§782.01, 782.02, and 782.05, Florida Statutes, 1973, relating to homicide; repealing §784.06, Florida Statutes, 1973, relating to assault; repealing §§794.02, 794.03, 794.04, 794.05, and 794.06, Florida Statutes, 1973, relating to rape; repealing §800.04, Florida Statutes, 1973, relating to crimes against nature; repealing §§806.03, 806.04, 806.05, 806.061, 806.07, 806.08, 806.09, 806.11, and 806.12, Florida Statutes, 1973, relating to arson; repealing §§810.01, 810.03, 810.04, 810.05, and 810.051, Florida Statutes, 1973, relating to burglary; repealing §§811.03, 811.04, 811.163, 811.17, 811.28, 811.29, and 811.30, Florida Statutes, 1973, relating to larceny; repealing §§812.10 and 812.12, Florida Statutes, 1973, relating to embezzlement; repealing §§814.01, 814.02, 814.03, and 814.06, Florida Statutes, 1973, relating to auto theft; repealing §§821.01, 821.011, 821.03, 821.04, 821.041, 821.05, 821.07, 821.08, 821.09, 821.10, 821.11, 821.12, 821.121, 821.13, 821.14, 821.15, 821.16, 821.17, 821.18, 821.19, 821.20, 821.21, 821.22, 821.221, 821.23, 821.24, 821.25, 821.26, 821.27, 821.28,

821.29, 821.30, 821.32, 821.33, 821.34, 821.35, 821.37, and 821.38, Florida Statutes, 1973, relating to trespass and injury to real property; repealing §§822.01, 822.02, 822.03, 822.04, 822.05, 822.06, 822.07, 822.08, 822.09, 822.10, 822.11, 822.12, 822.13, 822.14, 822.15, 822.16, 822.17, 822.18, 822.19, 822.20, 822.21, 822.22, and 822.23, Florida Statutes, 1973, relating to malicious injury to buildings; repealing §§823.01, 823.02, 823.04, 823.041, 823.05, 823.06, 823.07, 823.08, 823.09, and 823.10, Florida Statutes, 1973, relating to nuisances and doors of certain buildings; repealing §§828.01, 828.06, 828.07, 828.09, 828.10, 828.11, 828.18, 828.19, 828.20, and 828.21, Florida Statutes, 1973, relating to cruelty to animals and children; repealing §§833.03, 833.04, and 833.05, Florida Statutes, 1973, relating to conspiracy; repealing §§837.01, 837.03, and 837.04, Florida Statutes, 1973, relating to perjury; repealing §§838.01, 838.011, 838.012, 838.013, 838.02, 838.03, 838.04, 838.05, 838.06, 838.07, 838.071, 838.08, 838.09, and 838.10, Florida Statutes, 1973, relating to bribery; repealing §§851.01, 851.02, 851.03, and 851.04, Florida Statutes, 1973, relating to bucket shops; providing an effective date.

—was read the first time by title and placed on the calendar.

The Senate resumed Special Order.

SB 904 was taken up, together with, by the Committee on Criminal Justice, CS for SB 904 which was read the first time by title and SB 904 was laid on the table.

On motion by Senator Pettigrew, CS for HB 2179, a similar measure, was substituted for CS for SB 904. On motion by Senator Pettigrew, by two-thirds vote CS for HB 2179 was read the second time by title.

Senator Pettigrew moved the following amendment:

Amendment 1—On page 9, line 3, strike everything after the enacting clause and insert:

Section 1. Section 775.011, Florida Statutes, is created to read:

775.011 Short title; applicability to antecedent offenses.—

(1) This act shall be known and may be cited as the "Florida Criminal Code."

(2) Except as provided in subsection (3) of this section, the code does not apply to offenses committed prior to its effective date and prosecutions for such offenses shall be governed by the prior law. For the purposes of this section, an offense was committed prior to the effective date of the code if any of the material elements of the offense occurred prior thereto.

(3) In any case pending on or after the effective date of the code; involving an offense committed prior to such date, the provisions of the code involving any quasi-procedural matter shall govern, insofar as they are justly applicable. The provisions of the code according a defense or mitigation or establishing a penalty shall apply only with the consent of the defendant.

Section 2. Section 775.012, Florida Statutes, is created to read:

775.012 General purposes.—The general purposes of the provisions of the code are:

(1) To proscribe conduct that improperly causes or threatens substantial harm to individual or public interests.

(2) To give fair warning to the people of the State of Florida in understandable language of the nature of the conduct proscribed and of the sentences authorized upon conviction.

(3) To define clearly the material elements constituting an offense, and the accompanying state of mind or criminal intent required of that offense.

(4) To differentiate on reasonable grounds between serious and minor offenses and to establish appropriate disposition for each.

(5) To safeguard conduct that is without fault or legitimate state interest from being condemned as criminal.

(6) To insure the public safety by deterring the commission of offenses, providing for the opportunity for rehabilitation of those convicted, and for their confinement when required in the interests of public protection.

Section 3. Section 775.021, Florida Statutes, is created to read:

775.021 Rules of construction.—

(1) The provisions of this code and offenses defined by other statutes shall be strictly construed; when the language is susceptible of differing constructions, it shall be construed most favorably to the accused.

(2) The provisions of this chapter are applicable to offenses defined by other statutes, unless the code otherwise provides.

(3) This section does not affect the power of a court to punish for contempt or to employ any sanction authorized by law for the enforcement of an order or a civil judgment or decree.

Section 4. Section 775.08, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 775.08, F.S., for present text.)

775.08 Classes and definitions of offenses.—When used as the laws of this state:

(1) The term "felony" shall mean any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by death or imprisonment in a state correctional facility. "State penitentiary" wherever used in the Laws of Florida shall mean "state correctional facility". A person shall be imprisoned in a state correctional facility for each sentence which, except an extended term, exceeds one year.

(2) The term "misdemeanor" shall mean any criminal offense that is punishable under the laws of this state or that would be punishable if committed in this state, by a term of imprisonment in a county correctional facility, except an extended term, not in excess of one year. The term "misdemeanor" as used in the laws of this state shall not mean any conviction for any violation of any provision of chapter 316, Florida Statutes, or of any municipal or county ordinance.

(3) The term "violation" shall mean any offense that is punishable under the laws of this state or that would be punishable if committed in this state, by no other penalty than a fine, forfeiture or other civil penalty. A violation does not constitute a crime, and conviction for a violation shall not give rise to any legal disability based on a criminal offense. The term "violation" as used in the laws of this state shall not mean any conviction for any violation of any provision of chapter 316, Florida Statutes, or of any municipal or county ordinance. Nothing contained in this code shall repeal or change the penalty for a violation of any provision of chapter 316, Florida Statutes, or of any municipal or county ordinance.

(4) The term "crime" shall mean a felony or misdemeanor.

Section 5. Section 775.082, Florida Statutes, is amended to read:

775.082 Penalties.—

(1) A person who has been convicted of a capital felony shall be punished by life imprisonment and shall be required to serve no less than twenty-five (25) calendar years before becoming eligible for parole unless the proceeding held to determine sentence according to the procedure set forth in section 921.141 results in findings by the court that such person shall be punished by death, and in the latter event such person shall be punished by death.

~~(2) In the event the death penalty in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, a person convicted of a capital felony shall be punished by life imprisonment as provided in subsection (1).~~

~~(3) (2) In the event the death penalty in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, the court having jurisdiction over a person previously sentenced to death for a capital~~

felony shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment as provided in subsection (1).

~~(4) (3)~~ A person who has been convicted of any other designated felony may be punished as follows:

(a) For a life felony, by a term of imprisonment ~~in the state prison~~ for life, or for a term of years not less than thirty;

(b) For a felony of the first degree, by a term of imprisonment ~~in the state prison~~ not exceeding thirty (30) years or, when specifically provided by statute, by imprisonment ~~in the state prison~~ for a term of years not exceeding life imprisonment;

(c) For a felony of the second degree, by a term of imprisonment ~~in the state prison~~ not exceeding fifteen (15) years;

(d) For a felony of the third degree, by a term of imprisonment ~~in the state prison~~ not exceeding five (5) years.

~~(5) (4)~~ A person who has been convicted of a designated misdemeanor may be sentenced as follows:

(a) For a misdemeanor of the first degree, by a definite term of imprisonment ~~in the county jail~~ not exceeding one (1) year;

(b) For a misdemeanor of the second degree, by a definite term of imprisonment ~~in the county jail~~ not exceeding sixty (60) days.

~~(5) Any person who has been convicted of a violation may not be sentenced to a term of imprisonment nor to any other punishment more severe than a fine, forfeiture, or other civil penalty, except as provided in chapter 316, Florida Statutes, or by ordinance of any city or county.~~

(6) Nothing in this section shall be construed to alter the operation of any statute of this state authorizing a trial court, in its discretion, to impose a sentence of imprisonment for an indeterminate period within minimum and maximum limits as provided by law, except as provided in subsection (1).

~~(7) This section does not deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty. Such a judgment or order may be included in the sentence.~~

Section 6. Section 775.083, Florida Statutes, is amended to read:

775.083 Fines ~~in lieu of, or in addition to, other criminal penalty.~~—A person who has been convicted of a ~~crime an offense,~~ other than a capital felony, may be sentenced, ~~when specifically designated by statute,~~ to pay a fine ~~in lieu of or~~ in addition to any punishment described in section 775.082, ~~or when specifically authorized by statute, he may be sentenced to pay a fine in lieu of any punishment described in section 775.082.~~ A person who has been convicted of a violation may be sentenced to pay a fine. Fines for designated crimes and for violations shall not exceed:

(1) \$15,000, when conviction is of a life felony;

~~(1) (2)~~ \$10,000 when the conviction is of a felony of the first or second degree;

~~(2) (3)~~ \$5,000, when the conviction is of a felony of the third degree;

~~(3) (4)~~ \$1,000, when the conviction is of a misdemeanor of the first degree;

~~(4) (5)~~ \$500, when the conviction is of a misdemeanor of the second degree or a violation;

~~(5) (6)~~ Any higher amount equal to double the pecuniary gain derived from the offense by the offender or double the pecuniary loss suffered by the victim.

~~(6) (7)~~ Any higher amount specifically authorized by statute.

~~(8) If a defendant is unable to pay a fine, the court shall permit him to pay the fine in installments.~~

Section 7. Section 775.084, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 775.084, F.S., for present text.)

775.084 Subsequent felony offenders; extended terms.—

(1) Unless otherwise specifically provided by statute, the court, after reasonable notice to the parties and opportunity to be heard, may sentence a person who has been convicted of a felony within this state to punishments provided in this section if it finds all the following:

(a) The imposition of sentence under this section is necessary for the protection of the public from further criminal activity by the defendant.

(b) The defendant has previously committed a felony, or the defendant has previously twice been convicted of a misdemeanor of the first degree, in this state or another qualified offense which was committed after the defendant's eighteenth birthday. For the purpose of this subsection, the term "qualified offense" includes any offense in violation of a law of another state or of the United States that was punishable under the laws of such state or the United States at the time of its commission by the defendant by death or imprisonment exceeding one year, or that was equivalent in penalty to a misdemeanor of the first degree.

(c) The felony for which the defendant is to be sentenced was committed within five years of the date of the commission of the last prior felony, or misdemeanor, or other qualified offense of which he was convicted, or within five years of the defendant's release, on parole or otherwise, from a prison sentence or other commitment imposed as a result of a prior conviction for a felony or other qualified offense, whichever is later.

(d) The defendant has not received a pardon on the ground of innocence for any felony or other qualified offense that is necessary for the operation of this section.

(e) A conviction of a felony, a misdemeanor or other qualified offense necessary to the operation of this section has not been set aside in any post-conviction proceeding.

(2) For the purposes of this section, the placing of a person on probation without an adjudication of guilt shall be treated as a prior conviction if the felony for which he is to be sentenced was committed during the probationary period.

(3) The court, in conformity with the criteria specified in subsection (1), may sentence the convicted felon to the state penitentiary as follows:

(a) In the case of a felony of the first degree, for life;

(b) In the case of a felony of the second degree, for a term of years not exceeding 30;

(c) In the case of a felony of the third degree, for a term of years not exceeding 10.

(4) If the court decides that imposition of sentence under this section is not necessary for the protection of the public, sentence shall be imposed without regard to this section.

(5) A sentence imposed under this section shall not be increased after such imposition.

Section 8. Section 775.086, Florida Statutes, is created to read:

775.086 Subsequent misdemeanor offenders; extended terms.—

(1) The court, after reasonable notice to the parties and opportunity to be heard, may sentence a person who has been convicted of a misdemeanor to an extended term of imprisonment as provided in this section if it finds all the following:

(a) The imposition of sentence under this section is necessary for the protection of the public from further criminal activity by the defendant;

(b) The defendant has at least twice previously been convicted of the same crime committed at different times after the defendant's eighteenth birthday;

(c) The misdemeanor for which the defendant is to be sentenced was committed within two years of the date of the commission of the last prior crime, or within two years of the defendant's release, on parole or otherwise, from a prison sentence or other commitment imposed as a result of a prior conviction for a crime, whichever is later;

(d) The defendant has not received a pardon on the ground of innocence for any crime that is necessary for the operation of this section;

(e) A conviction of a crime necessary to the operation of this section has not been set aside in any post-conviction proceeding.

(2) For the purposes of this section, the placing of a person on probation without an adjudication of guilt shall be treated as a prior conviction if the subsequent misdemeanor for which he is to be sentenced was committed during such probationary period.

(3) The court, in conformity with the criteria specified in subsection (1), may sentence the convicted misdemeanant as follows:

(a) In the case of a misdemeanor of the first degree, for a term of imprisonment not in excess of three years;

(b) In the case of a misdemeanor of the second degree, for a term not in excess of one year.

(4) A sentence imposed under this section shall not be increased after such imposition.

Section 9. Section 775.087, Florida Statutes, is created to read:

775.087 Possession or use of weapon or aggravated battery; felony reclassification.—Unless otherwise provided by law, whenever a person is charged with a felony, except a felony in which the use of a weapon or firearm is an essential element, and during the commission of such felony the defendant displayed, used, threatened or attempted to use any weapon or firearm, or during the commission of such felony the defendant committed an aggravated battery, the felony for which the person is charged shall be reclassified as follows:

(1) In the case of a felony of the first degree, to a life felony;

(2) In the case of a felony of the second degree, to a felony of the first degree;

(3) In the case of a felony of the third degree, to a felony of the second degree.

Section 10. Section 932.465, Florida Statutes, is renumbered and amended to read:

(Substantial rewording of section. See section 932.465, F.S., for present text.)

932.465 775.15 Time limitations.—

(1) A prosecution for a capital felony may be commenced at any time.

(2) Except as otherwise provided in this section, prosecutions for other offenses are subject to the following periods of limitation:

(a) A prosecution for a life felony or a felony of the first degree must be commenced within six years after it is committed;

(b) A prosecution for any other felony must be commenced within two years after it is committed;

(c) A prosecution for a misdemeanor of the first degree must be commenced within two years after it is committed;

(d) A prosecution for a misdemeanor of the second degree or a violation must be commenced within one year after it is committed.

(3) If the period prescribed in subsection (2) has expired, a prosecution may nevertheless be commenced for:

(a) Any offense, a material element of which is either fraud or a breach of fiduciary obligation, within one year after

discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself not a party to the offense, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years; and

(b) Any offense based upon misconduct in office by a public officer or employee at any time when the defendant is in public office or employment or within two years from the time he leaves public office or employment or during any time permitted by any other part of this section, whichever time is greater.

(4) An offense is committed either when every element occurs or if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.

(5) A prosecution is commenced either when an indictment or information is filed, provided that the *capias*, summons or other process issued on such indictment or information is executed without unreasonable delay. In determining what is reasonable, inability to locate the defendant after diligent search or the defendant's absence from the state shall be considered. If, however, an indictment or information has been filed within the time period prescribed in this section and the indictment or information is dismissed or set aside because of a defect in its content or form after the time period has elapsed, the period for commencing prosecution shall be extended three months from the time the indictment or information is dismissed or set aside.

(6) The period of limitation does not run during any time when the defendant is continuously absent from the state or has no reasonably ascertainable place of abode or work within the state, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years.

Section 11. Section 776.011, Florida Statutes, is renumbered and amended to read:

7767.011 Principal in first degree.—Whoever commits any criminal offense against the state, whether felony or misdemeanor, or aids, abets, counsels, hires, or otherwise procures such offense to be committed *and such offense is committed or is attempted to be committed*, is a principal in the first degree and may be charged, convicted and punished as such, whether he is or is not actually or constructively present at the commission of such offense.

Section 12. Section 776.04, Florida Statutes, is renumbered and amended to read:

7767.04 Attempts, *solicitation, conspiracy*, generally.

(1) Whoever attempts to commit an offense prohibited by law and in such attempt does any act toward the commission of such an offense, but fails in the perpetration, or is intercepted or prevented in the execution of the same, *commits the offense of criminal attempt* and shall, when no express provision is made by law for the punishment of such attempt, be punished as follows: *provided in subsection (4)*.

(2) *Whoever solicits another to commit an offense prohibited by law and in the course of such solicitation commands, encourages, hires, or requests another person to engage in specific conduct which would constitute such offense or an attempt to commit such offense, commits the offense of criminal solicitation, and shall, when no express provision is made by law for the punishment of such solicitation, be punished as provided in subsection (4)*.

(3) *Whoever shall agree, conspire, combine or confederate with another person or persons to commit any offense, commits the offense of criminal conspiracy, and shall, when no express provision is made by law for the punishment of such conspiracy, be punished as provided in subsection (4)*.

(4) *Whoever commits the offense of criminal attempt, solicitation, or conspiracy as defined by this section shall be punished as follows:*

(1)(a) If the offense attempted, *solicited, or conspired to* is a capital felony ~~or life felony~~, the person convicted shall be guilty of a felony of the ~~second~~ first degree, punishable as provided in ~~section 775.082, section 775.083 or section 775.084~~ *chapter 775*.

(2)(b) If the offense attempted, *solicited, or conspired to* is a life felony or a felony of the first degree ~~or second degree~~, the person convicted shall be guilty of a felony of the ~~third second~~ degree, punishable as provided in ~~section 775.082, section 775.083, or section 775.084~~ *chapter 775*.

(c) *If the offense attempted, solicited or conspired to* is a felony of the second degree or any burglary, the person convicted shall be guilty of a felony of the third degree, punishable as provided in *chapter 775*.

(3)(d) If the offense attempted, *solicited or conspired to* is a felony of the third degree, the person convicted shall be guilty of a misdemeanor of the first degree, punishable as provided in ~~sections 775.082 and 775.083~~ *chapter 775*.

(4)(e) If the offense attempted, *solicited or conspired to* is a misdemeanor of the first or second degree, the person convicted shall be guilty of a misdemeanor of the second degree, punishable as provided in ~~sections 775.082 and 775.083~~ *chapter 775*.

(5) *It is a defense under this section that, under circumstances manifesting a complete and voluntary renunciation of his criminal purpose, the defendant:*

(a) *abandoned his attempt to commit the offense or otherwise prevented its commission; or*

(b) *after soliciting another person to commit an offense, he persuaded such other person not to do so or otherwise prevented commission of the offense; or*

(c) *after conspiring with one or more persons to commit an offense, he persuaded such persons not to do so or otherwise prevented commission of the offense.*

Section 13. Sections 776.012, 776.021, 776.031, 776.041, 776.05, 776.06, 776.07, and 776.08, Florida Statutes, are created to read:

CHAPTER 776

JUSTIFIABLE USE OF FORCE

776.012 Use of force in defense of person.—A person is justified in the use of force, except deadly force, against another when and to the extent that he reasonably believes that such conduct is necessary to defend himself or another against such others' imminent use of unlawful force. However, he is justified in the use of deadly force only if he reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or another, or to prevent the imminent commission of a forcible felony.

776.021 Use of force in a defense of dwelling.—A person is justified in the use of force, except deadly force, against another when and to the extent that he reasonably believes that such conduct is necessary to prevent or terminate such other's unlawful entry into or attack upon a dwelling. However, he is justified in the use of deadly force only if:

(1) The entry is made or attempted without permission, and he reasonably believes that such force is necessary to prevent an assault upon, or offer of personal violence to, him or another then in the dwelling, or

(2) He reasonably believes that such force is necessary to prevent the commission of a felony in the dwelling.

776.031 Use of force in defense of other.—A person is justified in the use of force, except deadly force, against another when and to the extent that he reasonably believes that such conduct is necessary to prevent or terminate such other's trespass on or other tortuous or criminal interference with either real property (other than a dwelling) or personal property, lawfully in his possession or in the possession of another who is a member of his immediate family or household or of a person whose property he has a legal duty to protect. However, he is justified in the use of deadly force only if he reasonably believes that such force is necessary to prevent the imminent commission of a forcible felony.

776.041 Use of force by aggressor.—The justification described in the preceding sections of this chapter is not available to a person who:

(1) Is attempting to commit, committing, or escaping after the commission of, a forcible felony; or

(2) Initially provokes the use of force against himself, unless:

(a) Such force is so great that he reasonably believes that he is in imminent danger of death or great bodily harm, and that he has exhausted every reasonable means to escape such danger other than the use of force which is likely to cause death or great bodily harm to the assailant; or

(b) In good faith, he withdraws from physical contact with the assailant and indicates clearly to the assailant that he desires to withdraw and terminate the use of force, but the assailant continues or resumes the use of force.

776.05 Law enforcement officers; use of force in making an arrest.—A law enforcement officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force, except deadly force, which he reasonably believes to be necessary to effect the arrest and of any force, except deadly force, which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using deadly force only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person, or when he reasonably believes both that:

(1) Such force is necessary to prevent the arrest from being defeated by resistance or escape; and

(2) The person to be arrested has committed or attempted a forcible felony, or is attempting to escape by use of a deadly weapon, or otherwise indicates that he will endanger human life, or inflict great bodily harm unless arrested without delay.

776.051 Use of force in resisting or making an arrest; prohibition.—

(1) A person is not justified in the use of force to resist an arrest by a law enforcement officer who is known, or reasonably appears to be a law enforcement officer.

(2) A law enforcement officer, or any person whom he has summoned or directed to assist him, is not justified in the use of force if the arrest is unlawful and known by him to be unlawful.

776.06 Deadly force.—Deadly force means force which is likely to cause death or great bodily harm and includes, but is not limited to:

(1) The firing of a firearm in the direction of the person to be arrested, even though no intent exists to kill or inflict great bodily harm; and

(2) The firing of a firearm at a vehicle in which the person to be arrested is riding.

776.07 Use of force to prevent escape.—

(1) A law enforcement officer or other person who has an arrested person in his custody is justified in the use of any force which he reasonably believes to be necessary to prevent the escape of the arrested person from custody.

(2) A guard or other law enforcement officer is justified in the use of force, including deadly force, which he reasonably believes to be necessary, to prevent the escape from a penal institution of a person whom the officer reasonably believes to be lawfully detained in such institution under sentence for an offense or awaiting trial or commitment for an offense.

776.08 Forcible felony.—Forcible felony means treason, murder, manslaughter, forcible rape, forcible sodomy, robbery, burglary, arson, kidnapping, aggravated assault, aggravated battery, aircraft piracy, unlawful throwing, placing or discharging of a destructive device or bomb and other felony which involves the use or threat of physical force or violence against any individual.

Section 14. Section 782.04, Florida Statutes, is amended to read:

782.04 Murder.—

(1)(a) The unlawful killing of a human being, when perpetrated from a premeditated design to effect the death of the person killed or any human being, or when committed by a person engaged in the perpetration of or in the attempt to perpetrate any arson, rape, sodomy, robbery, burglary, kidnapping, aircraft piracy, or unlawful throwing, placing or discharging of

a destructive device or bomb, or which resulted from the unlawful distribution of heroin by a person ~~seventeen~~ ⁽¹⁷⁾ ~~eighteen~~ ^{eighteen} years or older when such drug is proven to be the proximate cause of the death of the user shall be murder in the first degree and shall constitute a capital felony, punishable as provided in ~~section 776.082~~ ^{chapter 775}.

(b) In all cases under this section the procedure set forth in section 921.141 shall be followed in order to determine sentence of death or life imprisonment.

(2) ~~The unlawful killing of a human being~~ when perpetrated by any act imminently dangerous to another, and evincing a depraved mind regardless of human life, although without any premeditated design to effect the death of any particular individual ~~or when committed in the perpetration of or in the attempt to perpetrate any arson, rape, robbery, burglary, kidnapping, aircraft piracy, or unlawful throwing, placing or discharging of a destructive device or bomb, except as provided in subsection (1),~~ it shall be murder in the second degree and shall constitute a felony of the first degree, punishable by imprisonment in the state prison for life ~~or for such term of years as may be determined by the court for a term of years not exceeding life or as provided in chapter 775~~.

(3) ~~When a person is killed in the perpetration of or in the attempt to perpetrate any arson, rape, sodomy, robbery, burglary, kidnapping, aircraft piracy or unlawful throwing, placing, or discharging of a destructive device or bomb by a person other than the person engaged in the perpetration of or in the attempt to perpetrate such felony, the person perpetrating or attempting to perpetrate such felony shall be guilty of murder in the second degree which constitutes a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in chapter 775.~~

~~(3)(4) The unlawful killing of a human being~~ when perpetrated without any design to effect death, by a person engaged in the perpetration of or in the attempt to perpetrate any felony, other than any arson, rape, sodomy, robbery, burglary, kidnapping, aircraft piracy or unlawful throwing, placing or discharging of a destructive device or bomb, it shall be murder in the third degree and shall constitute a felony of the second degree, punishable as provided in ~~section 776.082, section 775-083, or section 775-084~~ ^{chapter 775}.

Section 15. Section 782.07, Florida Statutes, is amended to read:

782.07 Manslaughter.—The killing of a human being by the act, procurement or culpable negligence of another, *without lawful justification according to the provisions of chapter 776 and in cases where such killing shall not be justifiable or excusable homicide nor murder, according to the provisions of this chapter shall be deemed manslaughter and shall constitute a felony of the second degree, punishable as provided in section 775-082, section 775-083, or section 775-084* ^{chapter 775}.

Section 16. Section 782.071, Florida Statutes, is created to read:

782.071 Vehicular homicide.—“Vehicular homicide” is the killing of a human being by the operation of a motor vehicle by another in a reckless manner likely to cause the death or great bodily harm to another. “Vehicular homicide” is a felony of the third degree punishable as provided in chapter 775.

Section 17. Section 784.02, Florida Statutes, is renumbered and amended to read:

(Substantial rewording of section. See section 784.02, F.S., for present text.)

~~784.02~~ 784.011 Assault.—

(1) “Assault” is an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent.

(2) Whoever commits an assault shall be guilty of a misdemeanor of the second degree, punishable as provided in chapter 775.

Section 18. Section 784.04, Florida Statutes, is renumbered and amended to read:

(Substantial rewording of section. See section 784.04, F.S., for present text.)

784.04 784.021 Aggravated assault.—

- (1) "Aggravated assault" is an assault:
 - (a) With a deadly weapon without intent to kill; or
 - (b) With an intent to commit a felony.
- (2) Whoever commits an aggravated assault shall be guilty of a felony of the third degree punishable as provided in chapter 775.

Section 19. Section 784.03, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 784.03, F.S., for present text.)

784.03 Battery.—

- (1) A person commits battery if he:
 - (a) Actually and intentionally touches or strikes another person against the will of the other; or
 - (b) Intentionally causes bodily harm to an individual.
- (2) Whoever commits battery shall be guilty of a misdemeanor of the first degree, punishable as provided in chapter 775.

Section 20. Section 784.045, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 784.045, F.S., for present text.)

784.045 Aggravated battery.—

- (1) A person who in committing battery:
 - (a) Intentionally or knowingly causes great bodily harm, permanent disability or permanent disfigurement; or
 - (b) Uses a deadly weapon; commits aggravated battery.
- (2) Whoever commits aggravated battery shall be guilty of a felony of the second degree, punishable as provided in chapter 775.

Section 21. Section 784.05, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 784.05, F.S., for present text.)

784.05 Culpable negligence.—

- (1) Whoever through culpable negligence, exposes another person to personal injury shall be guilty of a misdemeanor of the second degree, punishable as provided in chapter 775.
- (2) Whoever through culpable negligence inflicts actual personal injury on another shall be guilty of a misdemeanor of the first degree, punishable as provided in chapter 775.

Section 22. Section 805.02, Florida Statutes, is renumbered and amended to read:

(Substantial rewording of section. See section 805.02, F.S., for present text.)

805.02 787.01 Kidnapping.—

- (1) "Kidnapping" means forcibly, secretly, or by threat confining, abducting or imprisoning another person against his will and without lawful authority with intent to:
 - (a) Hold for ransom or reward, or as a shield or hostage; or
 - (b) Commit or facilitate commission of any felony; or
 - (c) Inflict bodily harm upon or to terrorize the victim or other person; or
 - (d) Interfere with the performance of any governmental or political function.

- (2) Confinement of a child under the age of thirteen (13) is against his will within the meaning of subsection (1) if such confinement is without the consent of his parent or legal guardian.

- (3) Whoever kidnaps a person is guilty of a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in chapter 775.

Section 23. Section 805.01, Florida Statutes, is renumbered and amended to read:

(Substantial rewording of section. See section 805.01 F.S., for present text.)

805.01 787.02 False imprisonment.—

- (1) "False imprisonment" means forcibly, by threat, or secretly confining, abducting, imprisoning or restraining another person without lawful authority and against his will with any purpose other than those referred to in section 787.01.

- (2) Confinement of a child under the age of thirteen (13) is against his will within the meaning of this section if such confinement is without the consent of his parent or legal guardian.

- (3) Whoever commits the offense of false imprisonment shall be guilty of a felony of the third degree, punishable as provided in chapter 775.

Section 24. Section 787.03, Florida Statutes, is created to read:

787.03 Interference with custody.—

- (1) Whoever without lawful authority knowingly or recklessly takes or entices any child seventeen (17) years or under or any incompetent person from the custody of his parent, guardian or other lawful custodian, commits the offense of interference with custody and shall be guilty of a misdemeanor of the first degree, punishable as provided in chapter 775.

- (2) It is a defense that:

- (a) The defendant reasonably believes that his action was necessary to preserve the child or the incompetent person from danger to his welfare; or

- (b) The child or incompetent person was taken away at his own instigation without enticement and without purpose to commit a criminal offense with or against the child.

- (3) Proof that a child was seventeen (17) years or under creates the presumption that the defendant knew the child's age or acted in reckless disregard thereof.

Section 25. Section 805.03, Florida Statutes, is renumbered and amended to read:

805.03 787.04 Felony to remove children from state contrary to court order.—

- (1) It is unlawful for any person, in violation of a court order, to lead, take, entice or remove a child beyond the limits of this state with personal knowledge of the order.

- (2) It is unlawful for any person, with criminal intent, to lead, take, entice or remove a child beyond the limits of this state during the pendency of any action or proceedings affecting custody of a child after having received notice as required by law of the pendency of the action or proceeding, without the permission of the court in which the action or proceeding is pending.

- (3) It is unlawful for any person, who has carried beyond the limits of this state any child whose custody is involved in any action or proceeding pending in this state, pursuant to the order of the court in which the action or proceeding is pending, or pursuant to the permission of the court, thereafter, to fail to produce the child in the court or deliver the child to the person designated by the court.

- (4) Any person convicted of a violation of this law shall be guilty of a felony of the third degree, punishable as provided in section 775.082, section 775.083 or section 775.084 chapter 775.

Section 26. Section 806.01, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 806.01, F.S., for present text.)

806.01 Arson.—

(1) Any person who wilfully and maliciously by fire or explosive damages any structure whether the property of himself or another knowing or having reason to know that a human being is in the structure shall be guilty of arson in the first degree which constitutes a felony of the first degree, punishable as provided in chapter 775.

(2) Any person who wilfully and maliciously by fire or explosive damages any structure, whether the property of himself or another under any circumstances not referred to in subsection (1) shall be guilty of arson in the second degree which constitutes a felony of the second degree, punishable as provided in chapter 775.

(3) "Structure" means any building of any kind and any enclosed area with a roof over it, vehicle, vessel or aircraft.

Section 27. Section 806.02, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 806.02, F.S., for present text.)

806.02 Criminal mischief.—

(1) A person commits the offense of criminal mischief if he wilfully and maliciously injures or damages by any means any real or personal property belonging to another.

(2) (a) If the damage to such property is two hundred dollars (\$200) or less, it is a misdemeanor of the second degree, punishable as provided in chapter 775.

(b) If the damage to such property is greater than two hundred dollars (\$200) but less than \$1,000, it is a misdemeanor of the first degree, punishable as provided in chapter 775.

(c) If the damage is \$1,000 or greater or if there is interruption or impairment of a business operation, public communication, transportation, supply of water, gas or power or other public service which costs \$1,000 or more in labor and supplies to restore, it is a felony of the third degree, punishable as provided in chapter 775.

Section 28. Section 806.10, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 806.10, F. S., for present text.)

806.10 Preventing or obstructing extinguishment of fire.—

(1) Any person who wilfully and maliciously injures, destroys, removes, or in any manner interferes with the use of any vehicles, tools, equipment, water supplies, hydrants, towers, buildings, communication facilities, or any other instruments or facilities used in the detection, reporting, suppression, or extinguishment of fire shall be guilty of a felony of the third degree, punishable as provided in chapter 775.

(2) Any person who wilfully or unreasonably interferes with, hinders, or assaults or attempts to interfere with or hinder any fire fighter in the performance of his duty shall be guilty of a felony of the third degree, punishable as provided in chapter 775.

Section 29. Subsection (1) of section 806.111, Florida Statutes, is amended to read:

806.111 Fire bombs.—

(1) Every person who possesses, manufactures or disposes of a fire bomb with intent that such fire bomb be wilfully and maliciously used to set fire to burn any building or property is guilty of a felony of the third degree, punishable as provided in ~~section 775.082, section 775.083, or section 775.084~~ chapter 775.

Section 30. Section 810.011, Florida Statutes, is created to read:

810.011 Definitions.—As used in this chapter:

(1) "Structure" means any building of any kind either temporary or permanent which has a roof over it together with the curtilage thereof.

(2) "Conveyance" means any motor vehicle, ship, vessel, rail-car, trailer, aircraft or sleeping car and to enter a conveyance includes taking apart any portion of the conveyance.

(3) An act is committed "In the course of committing" if it occurs in an attempt to commit the offense or in flight after the attempt or commission.

(4) "Posted land" is that land upon which signs are placed not more than five hundred feet apart along, and at each corner of, the boundaries of the land, upon which signs there shall appear prominently, in letters of not less than two inches in height, the words "no trespassing" and in addition thereto shall appear the name of the owner, lessee, or occupant of said land. Said signs shall be placed along the boundary line of posted land in a manner and in such position as to be clearly noticeable from outside of the boundary line. It shall not be necessary to give notice by poster on any land or place not exceeding five acres on which there is a dwelling house in order to obtain the benefits of the statutes of this state prohibiting trespass.

(5) "Cultivated land" is that land which has been cleared of its natural vegetation and is presently planted with a crop, orchard, grove, pasture, or trees or is fallow land as part of a crop rotation.

(6) "Fenced land" is that land which has been enclosed by a fence of substantial construction, whether with rails, logs, post and railing, iron, steel, barbed wire, or other wire, or other material, which stands at least three (3) feet in height. For the purpose of this chapter it shall not be necessary to fence any boundary or part of a boundary of any land which shall be formed by water.

(7) Where lands are posted, cultivated or fenced as described herein then said lands for the purpose of this chapter shall be considered as enclosed and posted.

Section 31. Section 810.02, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 810.02, F.S., for present text.)

810.02 Burglary.—

(1) Burglary means entering or remaining in a structure or a conveyance with the intent to commit an offense therein, unless the premises are at the time open to the public or the defendant is licensed or invited to enter or remain.

(2) Burglary is a felony of the first degree, punishable by imprisonment for a term of years not exceeding life imprisonment or as provided in chapter 775, if in the course of committing the offense, the offender:

(a) Makes an assault upon any person; or

(b) Is armed or arms himself within such structure with explosives or a dangerous weapon.

(3) If the offender does not make an assault or is not armed or does not arm himself with a dangerous weapon or explosive as aforesaid during the course of committing the offense and the structure entered is a dwelling or there is a human being in the structure or conveyance at the time the offender entered or remained in the structure or conveyance, the burglary is a felony of the second degree, punishable as provided in chapter 775. Otherwise, burglary is a felony of the third degree, punishable as provided in chapter 775.

Section 32. Section 810.06, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 810.06, F.S., for present text.)

810.06 Possession of burglary tools.—Whoever has in his possession any tool, machine, or implement with intent to use the same or allow the same to be used to commit any burglary or trespass shall be guilty of a felony of the third degree, punishable as provided in chapter 775.

Section 33. Section 810.07, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 810.07, F.S., for present text.)

810.07 Prima facie evidence of intent.—In a trial on the charge of burglary, proof of the entering of such structure or

conveyance at any time stealthily and without consent of the owner or occupant thereof, shall be prima facie evidence of entering with intent to commit an offense.

Section 34. Section 810.08, Florida Statutes, is created to read:

810.08 Trespass in structure or conveyance.—A person trespasses if he wilfully enters any structure or conveyance of another without being authorized, licensed or invited. An offense under this section is a misdemeanor of the first degree, punishable as provided in chapter 775, if:

(1) The offender is armed or arms himself while in the structure or conveyance; or

(2) There is a human being in the structure or conveyance at the time the offender trespassed, attempted to trespass or was in the structure or conveyance. Otherwise, it is a misdemeanor of the second degree, punishable as provided in chapter 775.

Section 35. Section 810.09, Florida Statutes, is created to read:

810.09 Trespass on property other than structure or conveyance.—

(1) A person commits an offense if without being authorized, licensed or invited, he wilfully enters upon or remains in any property other than a structure or conveyance as to which notice against entering or remaining is given by:

(a) Actual communication to the defendant; or

(b) Posting, fencing or cultivation as prescribed in section 810.011.

(2) An offense under this subsection is a misdemeanor of the first degree, punishable as provided in chapter 775, if:

(a) The offender defies an order to leave personally communicated to him by the owner of the premises or other authorized person; or

(b) The offender wilfully opens any door, fence or gate or does any other act which exposes animals, crops or other property to waste, destruction or freedom. Otherwise, it is a misdemeanor of the second degree, punishable as provided in chapter 775.

Section 36. Section 821.071, Florida Statutes, is renumbered and amended to read:

~~§21.071~~ 810.10 Posted land; removing notices unlawful; penalty.—

(1) It is unlawful for any person to wilfully remove, destroy, mutilate or commit any act designed to remove, mutilate or reduce the legibility or effectiveness of any posted notice placed by the owner, tenant, lessee, or occupant of legally enclosed or legally posted land pursuant to any law of this state for the purpose of legally enclosing the same.

(2) Any person violating the provisions of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in ~~section 775.082 or section 775.083~~ chapter 775.

Section 37. Section 821.02, Florida Statutes, is renumbered and amended to read:

~~§21.02~~ 810.11 Placing signs adjacent to highways; penalty.—

(1) All persons are prohibited from placing, posting or erecting signs upon land or upon trees upon land adjacent to or adjoining all public highways of the state, without the written consent of the owner of such land, or the written consent of the attorney or agent of such owner.

(2) Every person convicted of a violation of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in ~~section 775.082 or section 775.083~~ chapter 775.

Section 38. Section 813.011, Florida Statutes, is renumbered and amended to read:

(Substantial rewording of section. See section 813.011, F.S., for present text.)

811.011 ~~813.011~~ Robbery.—

(1) "Robbery" means the taking of money or other property which may be the subject of larceny from the person or custody of another by force, violence or assault or putting in fear.

(2)(a) If in the course of committing the robbery the offender carried a firearm or other deadly weapon, then the robbery is a felony of the first degree, punishable by imprisonment for a term of years not exceeding life imprisonment or as provided in chapter 775.

(b) If in the course of committing the robbery the offender carried a weapon, then the robbery is a felony of the first degree, punishable as provided in chapter 775.

(c) If in the course of committing the robbery the offender carried no firearm, deadly weapon, or other weapon, then the robbery is a felony of the second degree.

(3) An act shall be deemed "in the course of committing the robbery" if it occurs in an attempt to commit robbery or in flight after the attempt or commission.

Section 39. Section 812.011, Florida Statutes, is created to read:

812.011 Definitions.—

(1) "Property" means anything of value, including but not limited to real estate, tangible and intangible personal property, contract rights, evidence of debt, choses-in action and other interest in or claims to wealth, admission or transportation tickets, animals, food and drink, gas, water, electric and other power and telephone service.

(2) "Value" equals fair market value of property;

(3) "Motor vehicle" means automobiles, motorcycles, motor trucks, mobile homes, trailer coaches, house trailers, camper type mobile homes mounted and transported wholly upon the body of a self-propelled vehicle any type of trailer or vehicle body without independent motive power drawn by or carried upon a self-propelled vehicle, designed for and used either as a means of transporting persons or property over the public streets and highways or for furnishing housing accommodations, or both, and all other vehicles operated over the public highways and streets of this state and propelled by power other than muscular power, but does not include traction engines, road rollers, or vehicles that run on a track.

(4) "Aircraft" means aircraft as defined in section 330.01.

(5) "Boat" means vessel as defined in section 371.021.

(6) "Boat motor" means any motor-driven device used for propelling a boat.

(7) "Public servant" means any public officer, agent, or employee of government, whether elected or appointed, including any executive, legislative or judicial officer, and any person participating as a special master, receiver, auditor, juror, arbitrator, umpire, referee, consultant, hearing examiner, or otherwise, in performing a governmental function; but the term does not include witnesses. Such term shall include a candidate for election to any such office including the time prior to the election, the time after he is elected and the time after he has qualified. It shall include any person appointed to any of the foregoing offices or employments before and after he qualifies.

(8) "Steal or Stolen" means to commit or have committed larceny.

(9) "Stolen property" means property which has been the object of larceny regardless of the fact that the property may previously have come temporarily into the possession of a person rightfully entitled to possession of the property.

Section 40. Section 811.021, Florida Statutes, is renumbered and amended to read:

~~811.021~~ 812.021 Larceny defined; penalties; sufficiency of indictment, information or warrant.—

(1) A person who with intent to unlawfully deprive or defraud the true owner of his real or personal property or of the use and benefit thereof, or to appropriate the same to the use of the taker or of any other person:

(a) Takes from the possession of the true owner, or of any other person; or obtains from such person possession by color or aid of fraudulent or false representations or pretense, or of any false token or writing; or obtains the signature of any person to a written instrument, the false making whereof would be punishable as forgery; or secretes, withholds, or appropriates to his own use, or that of any other than the true owner, any money, personal property, goods and chattels, thing in action, evidence of debt, contract, or property, or article of value of any kind; or

(b) Having in his possession, custody or control, as a broker, bailee, servant, attorney, agent, employee, clerk, trustee, or officer of any person, association, or corporation, member of co-partnership, pool or joint adventure or as a person authorized by agreement, or by competent authority, to hold or take such possession, custody, or control, any money, personal thing or action, goods and chattels, evidence of debt, contract, property, or article of value of any kind, appropriates the same to his own use, or that of any person other than the true owner or person entitled to the benefit thereof; or

(c) While acting as executor, administrator, committee, guardian, receiver, collector or trustee of any description, appointed by a deed, will, or other instrument, or by an order or judgment of a court or officer, secretes, withholds or otherwise appropriates to his own use, or that of any person other than the true owner, or person entitled thereto, any money, personal property, goods and chattels, thing in action, evidence of debt, contract, property or article of value of any kind, in his possession or custody by virtue of his office, employment or appointment; or

(d) Takes unpurchased merchandise of any mercantile establishment on the premises of such establishment with the intent to convert the same to personal use without paying the purchase price therefor; or

(e) Obtains property of another by threatening to:

1. accuse anyone of a criminal offense; or
2. expose any secret tending to subject any person to hatred, contempt or ridicule, or to impair his credit or business repute; or
3. take or withhold action as a public servant; or
4. bring about or continue a strike, boycott or other collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the defendant purports to act; or
5. testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

(f) Fails to take reasonable measures to restore property which he knows to have been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient after he comes into control of such property; shall, upon conviction, be guilty of larceny.

(2) If the property stolen is:

- (a) of the value of one hundred dollars or more; ; or if,
- (b) as part of a common scheme or design to defraud, property of the aggregate value of two hundred dollars or more is taken in any twelve consecutive month period by an agent, servant or employee from his principal or employer by a series or combination of any of the acts denounced in this section, as part of a common scheme or design to defraud; or
- (c) a will, codicil or other testamentary instrument; or
- (d) a firearm; or
- (e) a motor vehicle; or
- (f) any member of the genera bos (cattle) or equus (horse); the offender shall be deemed guilty of grand larceny which constitutes a felony of the third degree, punishable as provided in section 775.082, section 775.083, or section 775.084 chapter 775, unless the offender is a public servant who used his official position to commit the offense or in the course of committing the offense stole public property or property which the duty

of his office required him to receive and hold, in which case the offender shall be guilty of a felony of the second degree, punishable as provided in chapter 775.

(3) If the value of the property stolen is less than one hundred dollars, the offender shall be guilty of Larceny of property not described within subsection (2) is petit larceny, which constitutes a misdemeanor of the second degree, punishable as provided in section 775.082 or 775.083 chapter 775. Upon a second conviction of petit larceny, the offender shall be guilty of a misdemeanor of the first degree, punishable as provided in section 775.082 or section 775.083 chapter 775. Upon a third or subsequent conviction of the offense of petit larceny, the offender shall be guilty of a felony of the third degree, punishable as provided in section 775.082, section 775.083, or section 775.084, chapter 775.

(4) Hereafter it shall not be a defense to a prosecution for larceny, or for an attempt, solicitation or for conspiracy to commit the same, or for being accessory thereto, that the purpose for which the owner was induced by color of or aid of fraudulent or false representation or pretense, or of any false token or writing, to part with his property or the possession thereof, was illegal, immoral or unworthy.

(5) It shall be sufficient for any indictment, information, or warrant returned, filed or issued under this section to charge generally that the defendant at the time and in the county specified, did steal the personal or real property, thing in action, evidence of debt or contract or article of value out of which the prosecution arose, describing the same in general terms and alleging generally the ownership and value thereof. It shall not be necessary when alleging the larceny of property over a period of time that the exact date or dates the property was taken to be alleged but instead the total period of time may be alleged generally. This section shall not be construed as intending to interfere with the power of the court to require the state to furnish the defendant with a bill of particulars in proper cases and on sufficient showing that cause exists for the same.

(6) Nothing in this section shall be construed as in any way altering, modifying or repealing the following statutes or any part thereof: section 706.19, 811.02, 811.04, 812.10, 812.12, 821.10, 821.22 and 821.23.

(7) The failure, neglect, omission or refusal of any public servant to pay over or deliver to any official or person authorized or having the right by law to receive the same, for more than thirty days after the same has been collected or received by him, shall be prima facie evidence of the conversion to one's own use, or the secreting with intent to convert to one's own use, or the withholding with the intent to convert to one's own use the said money, property or effects.

Section 41. Section 811.16, Florida Statutes, is renumbered and amended to read:

(Substantial rewording of section. See section 811.16, Florida Statutes, for present text.)

811.16 812.031 Receiving stolen property.—

(1) Whoever intentionally receives, retains, disposes or aids in concealment of any stolen property of another without consent of the owner or person entitled to possession, knowing that it has been stolen, or under such circumstances as would induce a reasonable man to believe that the property was stolen, commits an offense.

(2) If the property received is:

- (a) property of the value of one hundred dollars or more; or
- (b) a will, codicil or other testamentary instrument; or
- (c) a firearm; or
- (d) a motor vehicle; or
- (e) any member of the genera bos (cattle) or equus (horse);

the offender shall be deemed guilty of a felony of the third degree, punishable as provided in chapter 775.

(3) If the property received is not described in subsection (2) above, the offender shall be deemed guilty of a misdemeanor of the second degree, punishable as provided in chapter 775.

(4) It shall not be necessary on the trial of the crime of receiving stolen property to prove that the person who stole the property has been convicted.

(5) In determining the value of the property received the aggregate value of all stolen property found in possession of the offender shall be used for the purposes of this section.

Section 42. Section 814.04, Florida Statutes, is renumbered and amended to read:

814.04 812.041 Unauthorized temporary use of motor vehicle, aircraft, boat or boat motor.—

(1) Any person who temporarily uses any motor vehicle, aircraft, boat, or boat motor without the authority of the owner or his representative, or who shall knowingly be a party to such unauthorized use, shall, upon conviction, be guilty of a misdemeanor of the first degree, punishable as provided in ~~section 775.082 or section 775.083~~ chapter 775.

(2) Nothing in this section shall be construed to apply to any case in which the taking of the property of another is with intent to steal the same or in which the taking is under a claim ~~of~~ of right or with the presumed consent of the owner or other person having the legal control, care, or custody of the same.

Section 43. Subsection (2) of section 811.165, Florida Statutes, is renumbered and amended to read:

811.165 812.051 Record of purchases and sales required of junk dealers and persons dealing in secondhand goods.—

(2) A failure to keep the records required under this section and for the period of time required shall be a misdemeanor of the first degree, punishable as provided in ~~section 775.082 or section 775.083~~ chapter 775.

Section 44. Section 799.01, Florida Statutes, is renumbered and amended to read:

799.01 826.01 Bigamy; punishment.—Whoever, having a husband or wife living, marries another person, ~~or continues to cohabit with such second husband or wife in this state,~~ shall (except in the cases mentioned in ~~section 799.02~~ section 826.02) be guilty of a felony of the third degree, punishable as provided in ~~section 775.082, section 775.083 or section 775.084~~ chapter 775.

Section 45. Section 799.02, Florida Statutes, is renumbered and amended to read:

799.02 826.02 Exceptions.—The provisions of ~~section 799.01~~ section 826.01 shall not extend to any person who reasonably believes that the prior spouse is dead; ~~whose husband or wife has been continually remaining beyond sea,~~ or to a person whose prior spouse has voluntarily deserted the other ~~him~~ and remained absent for the space of three years continuously, the party marrying again not knowing the other to be living within that time; ~~nor to any person whose bonds of matrimony have been dissolved; or to a person who violates its provisions because a domestic or foreign court has entered an invalid judgment purporting to terminate or annul the prior marriage and the defendant does not know that judgment to be invalid; or to any person who reasonably believes that he is legally eligible to remarry.~~

Section 46. Section 799.03, Florida Statutes, is renumbered and amended to read:

799.03 826.03 Knowingly marrying husband or wife of another.—Whoever knowingly marries the husband or wife of another person ~~knowing him or her to be the spouse of another person~~ shall be guilty of a felony of the third degree, punishable as provided in ~~section 775.082, section 775.083 or section 775.084~~ chapter 775.

Section 47. Section 826.04, Florida Statutes, is created to read:

826.04 Incest.—Whoever knowingly marries or has sexual intercourse with a person to whom he is related by lineal consanguinity, or a brother, sister, uncle, aunt, nephew, or niece commits incest which constitutes a felony of the third degree,

punishable as provided in chapter 775. "Sexual intercourse" is the penetration of the female sex organ by the male sex organ, however slight; emission of semen is not required.

Section 48. Section 827.01, Florida Statutes, is created to read:

827.01 Definitions.—As used in this section:

(1) "Child" means any person under the age of eighteen (18) years.

(2) "Placement" means the giving or transferring of possession or custody of a child, by any person to another person, for adoption or with intent or purpose of surrendering the control of the child.

(3) "Torture" means every act, omission or neglect whereby unnecessary or unjustifiable pain or suffering is caused.

Section 49. Section 828.04, Florida Statutes, is renumbered and amended to read:

(Substantial rewording of section. See section 828.04, F.S., for present text.)

827.03 Aggravated child abuse.—Whoever:

(1) Commits aggravated battery on a child; or

(2) Wilfully tortures a child; or

(3) Maliciously punishes a child; or

(4) Wilfully and unlawfully cages a child; shall be guilty of a felony of the second degree, punishable as provided in chapter 775.

Section 50. Section 827.04, Florida Statutes, is created to read:

827.04 Child abuse.—

(1) Whoever wilfully or by culpable negligence deprives a child of or allows a child to be deprived of necessary food, clothing, shelter and medical treatment or who knowingly or by culpable negligence or permits the physical or mental health of the child to be materially endangered and in so doing causes great bodily harm permanent disability or permanent disfigurement to such child shall be guilty of a felony of the third degree, punishable as provided in chapter 775.

(2) Whoever wilfully or by culpable negligence deprives a child of or allows a child to be deprived of necessary food, clothing, shelter and medical treatment or who knowingly or by culpable negligence or permits the physical or mental health of the child to be materially endangered shall be guilty of a misdemeanor of the first degree, punishable as provided in chapter 775.

Section 51. Section 828.042, Florida Statutes, is renumbered and amended to read:

828.042 827.05 Negligent treatment of children.—Whoever negligently deprives a child of or allows a child to be deprived of necessary food, clothing, ~~or shelter, or medical treatment~~ ~~any person under the age of sixteen years, and whoever negligently and without malice deprives of necessary sustenance or raiment, or negligently and without malice deprives of necessary treatment and attention his child or ward,~~ is guilty of a misdemeanor of the second degree, punishable as provided in ~~section 775.082 or section 775.083~~ chapter 775.

Section 52. Section 837.011, Florida Statutes, is created to read:

837.011 Definitions.—In this chapter, unless a different meaning plainly is required:

(1) "Official proceeding" means a proceeding heard or which may be or is required to be heard before any legislative, judicial, administrative or other governmental agency or official authorized to take evidence under oath, including any referee, master in chancery, hearing examiner, commissioner, notary or other person taking testimony or deposition in connection with any such proceeding.

(2) "Oath" includes affirmation or any other form of attestation required or authorized by law by which a person acknowledges that he is bound in conscience or law to testify truthfully in an official proceeding or other official matter.

(3) "Material matter" means any subject, regardless of its admissibility under the rules of evidence which could affect the court or outcome of the proceeding. Whether a matter is material in a given factual situation is a question of law.

Section 53. Section 837.01, Florida Statutes, is renumbered and amended to read:

(Substantial rewording of section. See section 837.01, F.S., for present text.)

~~837.01~~ 837.012 Perjury not in an official proceeding.—

(1) Whoever makes a false statement, which the maker does not believe to be true, under oath, not in an official proceeding, in regard to any material matter shall be guilty of a misdemeanor of the first degree, punishable as provided in chapter 775.

(2) Knowledge of the materiality of the statement is not an element of this crime, and the defendant's mistaken belief that his statement was not material is not a defense.

Section 54. Section 837.02, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 837.02, F.S. for present text.)

837.02 Perjury in official proceedings.—

(1) Whoever makes a false statement, which the maker does not believe to be true, under oath in an official proceeding in regard to any material matter shall be guilty of a felony of the third degree, punishable as provided in chapter 775.

(2) Knowledge of the materiality of the statement is not an element of this crime, and the defendant's mistaken belief that his statement was not material is not a defense.

Section 55. Subsection (1) of section 837.021, Florida Statutes, is amended to read:

837.021 Perjury by contradictory statements.—

(1) Whoever, in one or more ~~trials, hearings, investigations, depositions, or affidavits, official proceedings in which the making of statements under oath or affirmation is required or authorized by law,~~ wilfully makes two or more material statements under oath or affirmation, when in fact two or more of the statements contradict each other, is guilty of a felony of the third degree, punishable as provided in ~~section 775.082, section 775.083, or section 775.084~~ chapter 775. The prosecution may proceed in a single count by setting forth the wilful making of inconsistent statements under oath or affirmation pursuant to requirement or authorization of law and alleging in the alternative that one or more of them are false.

Section 56. Section 837.05, Florida Statutes, is created to read:

837.05 False reports to law enforcement authorities.—Whoever knowingly gives false information to any law enforcement officer concerning the alleged commission of any crime is guilty of a misdemeanor of the first degree, punishable as provided in chapter 775.

Section 57. Section 837.06, Florida Statutes, is created to read:

837.06 False official statements.—Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in chapter 775.

Section 58. Section 838.014, Florida Statutes, is created to read:

838.014 Definitions.—For the purposes of this chapter, unless a different meaning plainly is required:

(1) "Benefit" means gain or advantage, or anything regarded by the person to be benefited as a gain or advantage, including the doing of an act beneficial to any person in whose welfare he is interested;

(2) "Pecuniary benefit" is benefit in the form of any commission, gift, gratuity, property, commercial interests or any other thing of economic value;

(3) "Harm" means loss, disadvantage or injury to the person affected, including loss, disadvantage or injury to any other person with whose welfare he is interested.

(4) "Public servant" means any public officer, agent, or employee of government, whether elected or appointed, including but not limited to any executive, legislative or judicial officer; any person who holds an office or position in a political party or political party committee, whether elected or appointed; and any person participating as a special master, receiver, auditor, juror, arbitrator, umpire, referee, consultant, hearing examiner, or person acting on behalf of any of these in performing a governmental function; but the term does not include witnesses. Such term shall include a candidate for election or appointment to any such office including any individual who seeks or intends to occupy any such office. It shall include any person appointed to any of the foregoing offices or employments before and after he qualifies.

(5) "Government" includes the state government and any city or county government or any branch, political subdivision or agency of the state, county or city government;

(6) "Corruptly" means done with a wrongful intent and for the purpose of obtaining or compensating or receiving compensation for any benefit resulting from some act or omission of a public servant which is inconsistent with the proper performance of his public duties.

Section 59. Sections 838.015 and 838.016, Florida Statutes, are created to read:

838.015 Bribery.—

(1) "Bribery" means corruptly to give, offer or promise to any public servant, or if a public servant, corruptly to request, solicit, accept or agree to accept for himself or another, any pecuniary or other benefit with an intent or purpose to influence the performance of any act or omission which the person believes to be or the public servant represents as being within the official discretion of a public servant or in violation of a public duty or in performance of a public duty.

(2) Prosecution under this section shall not require any allegation or proof that the public servant ultimately sought to be unlawfully influenced was qualified to act in the desired way, or that he had assumed office, or that the matter was properly pending before him or might by law properly be brought before him or that he possessed jurisdiction over the matter, or that his official action was necessary to achieve the person's purpose.

(3) Any person who commits bribery is guilty of a felony in the third degree, punishable as provided in chapter 775.

838.016 Unlawful compensation or reward for past official behavior.—

(1) It is unlawful for any person corruptly to give, offer, or promise to any public servant, or if a public servant, corruptly to request, solicit, accept or agree to accept any pecuniary or other benefit not authorized by law for the past performance of any act or omission which the person believes to have been or the public servant represents as having been either within the official discretion of the public servant or in violation of a public duty, or in performance of a public duty. Provided that nothing herein shall be construed so as to preclude a sheriff, deputy sheriff, city marshal or policeman from accepting rewards for services performed in apprehending any criminal.

(2) It is unlawful for any person corruptly to give, offer, or promise to any public servant, or if a public servant, corruptly to request, solicit, accept or agree to accept any pecuniary or other benefit not authorized by law for the past exertion of any influence upon or with any other public servant regarding any act or omission which the person believes to have been or which is represented to him as having been either within the official discretion of the other public servant or in violation of a public duty or in performance of a public duty.

(3) Prosecution under this section shall not require that the exercise of influence or official discretion, or violation of a public duty or performance of a public duty for which a pecuniary or other benefit was given, offered, promised, requested, or solicited, was accomplished or was within the in-

fluence, official discretion, or public duty of the public servant whose action or omission was sought to be rewarded or compensated.

(4) Whoever violates the provisions of this section shall be guilty of a felony of the third degree, punishable as provided in chapter 775.

Section 60. Section 838.021, Florida Statutes, is created to read:

838.021 Corruption by threat against public servant.—

(1) Whoever unlawfully harms or threatens unlawful harm to any public servant or to any other person with whose welfare he is interested with the intent or purpose:

(a) To influence the performance of any act or omission which the person believes to be or the public servant represents as being within the official discretion of the public servant or in violation of a public duty or in performance of a public duty.

(b) To cause or induce him to use or exert or procure the use or exertion of any influence upon or with any other public servant regarding any act or omission which the person believes to be or the public servant represents as being within the official discretion of the public servant or in violation of a public duty or in performance of a public duty.

(2) Prosecution under this section shall not require any allegation or proof that the public servant ultimately sought to be unlawfully influenced was qualified to act in the desired way, or that he had assumed office, or that the matter was properly pending before him or might by law properly be brought before him or that he possessed jurisdiction over the matter, or that his official action was necessary to achieve the person's purpose.

(3)(a) Whoever unlawfully harms any public servant or any other person with whose welfare he is interested shall be guilty of a felony of the second degree, punishable as provided in chapter 775.

(b) Whoever threatens unlawful harm to any public servant or to any other person with whose welfare he is interested shall be guilty of a felony of the third degree, punishable as provided in chapter 775.

Section 61. Section 838.031, Florida Statutes, is created to read:

838.031 Official misconduct.—

(1) "Official misconduct" means the commission of one of the following acts by a public servant, with corrupt intent to obtain a benefit for himself or another or to cause unlawful harm to another:

(a) Knowingly refraining or causing another to refrain from performing a duty imposed upon him by law; or

(b) Knowingly falsifying or causing another to falsify any official record or official document; or

(c) Knowingly violating or causing another to violate any statute or lawfully adopted regulation or rule relating to his office.

(2) Official misconduct under this section is a felony of the third degree, punishable as provided in chapter 775.

(3) "Corrupt" means done with knowledge that act is wrongful and with improper motives.

Section 62. Section 838.041, Florida Statutes, is created to read:

838.041 Misuse of confidential information.—Any public servant, who in contemplation of official action by himself or by a governmental unit with which he is associated, or in reliance on information to which he has access in his official capacity and which has not been made public, commits any of the following acts:

(a) The acquisition of a pecuniary interest in any property, transaction, or enterprise or gaining of any pecuniary or other benefit which may be affected by such information or official action; or

(b) Speculation or wagering on the basis of such information or action; or

(c) Aiding another to do any of the foregoing; shall be guilty of a misdemeanor of the first degree, punishable as provided in chapter 775.

Section 63. Whenever any reference is made in the Florida Statutes to an offense being punishable as provided by a specific section or sections of chapter 775, it shall be changed to read "punishable as provided in chapter 775."

Section 64. Section 776.03, Florida Statutes, is renumbered as section 777.03, Florida Statutes; sections 779.01, 779.02, 779.03, 779.04, 779.05, 779.06, 779.07, 779.08, 779.09, 779.10, 779.11, 779.12, 779.13, 779.14, 779.15, 779.16, 779.17, 779.18, 779.19, 779.20, and 779.21, Florida Statutes, are renumbered respectively as sections 876.32, 876.33, 876.34, 876.35, 876.36, 876.37, 876.38, 876.39, 876.40, 876.41, 876.42, 876.43, 876.44, 876.45, 876.46, 876.47, 876.48, 876.49, 876.50, 876.51, and 876.52, Florida Statutes; section 806.06, Florida Statutes, is renumbered as section 817.60, Florida Statutes; section 811.022, Florida Statutes, is renumbered as section 901.27, Florida Statutes; sections 811.165 and 811.201, Florida Statutes, are renumbered respectively as sections 812.051 and 812.061, Florida Statutes; section 814.05, Florida Statutes, is renumbered as section 322.274, Florida Statutes; section 814.07, Florida Statutes, is renumbered as section 319.36, Florida Statutes; section 823.03, Florida Statutes, is renumbered as section 806.101, Florida Statutes; section 828.041, Florida Statutes, is renumbered as section 827.07, Florida Statutes; and section 828.201, Florida Statutes, is renumbered as section 827.08, Florida Statutes.

Section 65. Sections 741.22, 775.11, 775.12, 782.01, 782.02, 782.05, 784.06, 794.02, 794.03, 794.04, 794.05, 794.06, 800.04, 806.03, 806.04, 806.05, 806.061, 806.07, 806.08, 806.09, 806.11, 806.12, 810.01, 810.03, 810.04, 810.05, 810.051, 811.03, 811.04, 811.163, 811.17, 811.28, 811.29, 811.30, 812.10, 812.12, 814.01, 814.02, 814.03, 814.06, 821.01, 821.011, 821.03, 821.04, 821.041, 821.05, 821.04, 821.08, 821.09, 821.10, 821.11, 821.12, 821.121, 821.13, 821.14, 821.15, 821.17, 821.18, 821.18, 821.19, 821.20, 821.21, 821.22, 821.221, 821.23, 821.24, 821.25, 821.26, 821.27, 821.28, 821.29, 821.30, 821.31, 821.32, 821.33, 821.34, 821.35, 821.37, 821.38, 822.01, 822.02, 822.03, 822.04, 822.05, 822.06, 822.07, 822.08, 822.09, 822.10, 822.11, 822.12, 822.13, 822.14, 822.15, 822.16, 822.17, 822.18, 822.19, 822.20, 822.21, 822.22, 822.23, 823.01, 823.02, 823.04, 823.041, 823.05, 823.06, 823.07, 823.08, 823.09, 823.10, 828.01, 828.03, 828.05, 828.06, 828.07, 828.08, 828.09, 828.10, 828.11, 828.17, 828.18, 828.19, 828.20, 828.21, 833.03, 833.04, Florida Statutes, 833.05, Florida Statutes, 837.01, 837.03, 837.04, 838.01, 838.011, 838.012, 838.013, 838.02, 838.03, 838.04, 838.05, 838.06, 838.07, 838.071, 838.08, 838.09, 838.10, 851.01, 851.02, 851.03, and 851.04, Florida Statutes, are repealed.

Section 66. This act shall take effect January 1, 1975.

Senator Pettigrew moved the following amendments to Amendment 1 which were adopted:

Amendment 1a—On page 48, line 2, before the word "servant" insert: public

Amendment 1b—On page 50, line 1, after "horse"; insert: or any hybrid of the specified genus;

Amendment 1c—On page 51, line 24, after "deliver" insert: any money, property, or effects

Amendment 1d—On page 52, line 21, after "horse"; insert: or any hybrid of the specified genus;

Amendment 1e—On page 67, lines 4-5, strike "828.03, 828.05, 828.08, 828.17"

Amendment 1 as amended was adopted.

Senator Pettigrew moved the following title amendment:

Amendment 2—On page 1, line 3, through page 8, line 30, strike all of the title and insert:

A bill to be entitled

An act relating to criminal law; creating section 775.011, Florida Statutes, providing for title and applicability; creating section 775.012, Florida Statutes, providing for general purposes; creating section 775.021, Florida Statutes, providing for rules of construction; amending section 775.08, Flor-

ida Statutes, providing for classes and definitions of offenses; amending section 775.082, Florida Statutes, providing for penalties amending section 775.083, Florida Statutes, relating to fines; amending section 775.084, Florida Statutes, relating to subsequent felony offenses; creating section 775.086, Florida Statutes, relating to extended terms for subsequent misdemeanors; creating section 775.087, Florida Statutes, relating to felony reclassification for possession of weapons or for battery; renumbering and amending section 932.465, Florida Statutes, relating to time limitations; renumbering and amending section 776.011, Florida Statutes, relating to principal in first degree; renumbering and amending section 776.04, Florida Statutes, relating to attempts, solicitation and conspiracy creating sections 776.012, 776.021, 776.031, 776.041, 776.05, 776.051, 776.06, 776.07, and 776.08, Florida Statutes, relating to justifiable use of force; amending section 782.04, Florida Statutes, defining the crimes of and providing the penalties for murder; amending section 782.07, Florida Statutes, defining the crime of and providing the penalty for manslaughter; creating section 782.071, Florida Statutes, defining the crime of and penalty for vehicular homicide; renumbering and amending section 784.02, Florida Statutes, defining the crime of and providing the penalty for assault; renumbering and amending section 784.04, Florida Statutes, defining the crime of and providing the penalty for aggravated assault; amending section 784.03, Florida Statutes, defining the crime of and providing the penalty for battery; amending section 784.045, Florida Statutes, defining the crime of and providing the penalty for aggravated battery; amending section 784.05, Florida Statutes, defining the crime of and providing the penalty for culpable negligence; renumbering and amending section 805.02, Florida Statutes, defining the crime of and providing the penalty for kidnapping; renumbering and amending section 805.01, Florida Statutes, defining the crime of and providing the penalty for false imprisonment; creating section 787.03, Florida Statutes, defining the crime of and providing the penalty for interference with custody; renumbering and amending section 805.03, Florida Statutes, defining the crime of and providing the penalty for removing children from state; amending section 806.01, Florida Statutes, defining the crimes of and providing the penalties for arson; amending section 806.02, Florida Statutes, defining the crime of and providing the penalties for criminal mischief; amending section 806.10, Florida Statutes, defining the crime of and providing the penalty for obstructing extinguishment of fire; amending subsection (1) of section 806.111, Florida Statutes, defining the crime of and providing the penalty for possession of fire bombs; creating section 810.011, Florida Statutes, providing for definitions; amending section 810.02, Florida Statutes, defining the crime of and providing the penalties for burglary; amending section 810.06, Florida Statutes, defining the crime of and providing the penalty for possession of burglary tools; amending section 810.07, Florida Statutes, relating to evidence of intent; creating section 810.08, Florida Statutes, defining the crime of and providing the penalty for trespass in structure or conveyance; creating section 810.09, Florida Statutes, defining the crime of and providing the penalty for trespass on property other than structure or conveyance; renumbering and amending section 821.071, Florida Statutes, defining the crime of and providing the penalty for unlawfully removing notices; renumbering and amending section 821.02, Florida Statutes, defining the crime of and providing the penalty for placing signs adjacent to highway; renumbering and amending section 813.011, Florida Statutes, defining the crimes of and providing the penalties for robbery; creating section 812.011, Florida Statutes, providing for definitions; renumbering and amending section 811.021, Florida Statutes, defining the crime of and providing the penalty for larceny; renumbering and amending section 811.16, Florida Statutes, defining the crime of and providing the penalty for receiving stolen property; renumbering and amending section 814.04, Florida Statutes, defining the crime of and providing the penalty for unauthorized use of motor vehicle, etc.; renumbering and amending subsection (2) of section 811.165, Florida Statutes, relating to records of purchases and sales; renumbering and amending section 799.01 and 799.02, Florida Statutes, defining the crime of and providing the penalty for bigamy; renumbering and amending section 799.03, Florida Statutes, defining the crime of and providing the penalty for knowingly marrying the spouse of another; creating section 826.04, Florida Statutes, defining the crime of and providing the penalty for incest; creating section 827.01, Florida Statutes, providing for definitions; renumbering and amending section 828.04, Florida Statutes, defining the crime of and providing

the penalty for aggravated child abuse; creating section 827.04, Florida Statutes, defining the crime of and providing the penalty for child abuse; renumbering and amending section 828.042, Florida Statutes, defining the crime of and providing the penalty for negligent treatment of children; creating section 837.011, Florida Statutes, providing for definitions; renumbering and amending section 837.01, Florida Statutes, defining the crime of and providing the penalty for perjury not in an official proceeding; amending section 837.02, Florida Statutes, defining the crime of and providing the penalty for perjury in official proceedings; amending subsection (1) of section 837.021, Florida Statutes, defining the crime of and providing the penalty for perjury by contradictory statements; creating section 837.05, Florida Statutes, defining the crime of and providing the penalty for making false reports to law enforcement authorities; creating section 837.06, Florida Statutes, defining the crime of and providing the penalty for false official statements; creating section 838.014, Florida Statutes, providing for definitions; creating section 838.015, Florida Statutes, defining the crime of and providing the penalty for bribery; creating section 838.016, Florida Statutes, making unlawful certain compensation or rewards for past official behavior and providing penalty; creating section 838.021, Florida Statutes, defining the crime of and providing the penalty for corruption by threat against public servant; creating section 838.031, Florida Statutes, defining the crime of and providing the penalty for official misconduct; creating section 838.041, Florida Statutes, defining the crime of and providing the penalty for misuse of confidential information; providing that reference to punishable as provided in specific section of chapter 775 shall be changed to punishable as provided in chapter 775; renumbering section 776.03, Florida Statutes, as section 777.03, Florida Statutes; renumbering sections 779.01, 779.02, 779.03, 779.04, 779.05, 779.06, 779.07, 779.08, 779.09, 779.10, 779.11, 779.12, 779.13, 779.14, 779.15, 779.16, 779.17, 779.18, 779.19, 779.20 and 779.21, Florida Statutes, as sections 876.32, 876.33, 876.34, 876.35, 876.36, 876.37, 876.38, 876.39, 876.40, 876.41, 876.42, 876.43, 876.44, 876.45, 876.46, 876.47, 876.48, 876.49, 876.50, 876.51 and 876.52, Florida Statutes, respectively; renumbering section 806.06, Florida Statutes, as section 817.60, Florida Statutes; renumbering section 811.022, Florida Statutes, as section 901.27, Florida Statutes; renumbering sections 811.165 and 811.201, Florida Statutes, as sections 812.051 and 812.201, Florida Statutes, respectively; renumbering section 814.05, Florida Statutes, as section 322.274, Florida Statutes; renumbering section 814.07, Florida Statutes, as section 319.36, Florida Statutes; renumbering section 823.03, Florida Statutes, as section 806.101, Florida Statutes; renumbering section 828.041, Florida Statutes, as section 827.07, Florida Statutes; and renumbering section 828.201, Florida Statutes, as section 827.08, Florida Statutes; repealing section 741.22, Florida Statutes, relating to incest; repealing section 775.11, Florida Statutes, relating to prosecution for second offenses; repealing section 775.12, Florida Statutes, relating to limitation of repeal; repealing sections 782.01, 782.02, and 782.05, Florida Statutes, relating to homicide; repealing section 784.06, Florida Statutes, relating to assault; repealing sections 794.02, 794.03, 794.04, 794.05, and 794.06, Florida Statutes, relating to rape; repealing section 800.04, Florida Statutes, relating to crimes against nature; repealing sections 806.03, 806.04, 806.05, 806.061, 806.07, 806.08, 806.09, 806.11, and 806.12, Florida Statutes, relating to arson; repealing sections 810.01, 810.03, 810.04, 810.05, and 810.051, Florida Statutes, relating to burglary; repealing sections 811.03, 811.04, 811.163, 811.17, 811.28, 811.29, and 811.30, Florida Statutes, relating to larceny; repealing sections 812.10 and 812.12, Florida Statutes, relating to embezzlement; repealing sections 814.01, 814.02, 814.03, and 814.06, Florida Statutes, relating to auto theft; repealing sections 821.01, 821.011, 821.03, 821.04, 821.041, 821.05, 821.07, 821.08, 821.09, 821.10, 821.11, 821.12, 821.121, 821.13, 821.14, 821.15, 821.16, 821.17, 821.18, 821.19, 821.20, 821.21, 821.221, 821.13, 821.14, 821.15, 821.16, 821.17, 821.18, 821.19, 821.20, 821.21, 821.22, 821.221, 821.23, 821.24, 821.25, 821.26, 821.27, 821.28, 821.29, 821.30, 821.31, 821.32, 821.33, 821.34, 821.35, 821.37, and 821.38, Florida Statutes, relating to trespass and injury to real property; repealing sections 822.01, 822.02, 822.03, 822.04, 822.05, 822.06, 822.07, 822.08, 822.09, 822.10, 822.11, 822.12, 822.13, 822.14, 822.15, 822.16, 822.17, 822.18, 822.19, 822.20, 822.21, 822.22, and 822.23, Florida Statutes, relating to malicious injury to buildings; repealing sections 823.01, 823.02, 823.04, 823.041, 823.05, 823.06, 823.07, 823.08, 823.09, and 823.10, Florida Statutes, relating to nuisances and doors of certain buildings; repealing sections 828.01, 828.03, 828.05,

828.06, 828.07, 828.08, 828.09, 828.10, 828.11, 828.17, 828.18, 828.19, 828.20, and 828.21, Florida Statutes, relating to cruelty to animals and children; repealing sections 833.03 and 833.04, Florida Statutes, and section 833.05, Florida Statutes, relating to conspiracy; repealing sections 837.01, 837.03, and 837.04, Florida Statutes, relating to perjury; repealing sections 838.01, 838.012, 838.013, 838.02, 838.03, 838.04, 838.05, 838.06, 838.07, 838.071, 838.08, 838.09, and 838.10, Florida Statutes, relating to bribery; repealing sections 851.01, 851.02, 851.03, and 851.04, Florida Statutes, relating to bucket shops; providing an effective date.

Senator Pettigrew moved the following amendment to Amendment 2 which was adopted:

Amendment 2a—On page 10, lines 10—12, strike “828.03, 828.05, 828.08, 828.17”

Amendment 2 as amended was adopted.

Senator McClain moved the following amendment:

Amendment 3—On page 21, line 23, strike “six (6)” and insert: four (4)

Amendment 3 failed by the following vote:

Yeas—13

Barron	Myers	Stolzenburg	Wilson
Glisson	Scarborough	Sykes	
Gruber	Sims	Ware	
McClain	Smathers	Weber	

Nays—14

Mr. President	Johnston	Poston	Winn
de la Parte	Lewis	Saunders	Zinkil
Graham	Pettigrew	Trask	
Johnson	Plante	Vogt	

Senator Smathers moved the following amendment which was adopted:

Amendment 4—On page 66, lines 18 and 19, strike: 794.02, 794.03, 794.04, 794.05, 794.06

Senator Gruber moved the following amendment which was adopted:

Amendment 5—On page 20, lines 26—29, strike everything on and included; and on page 21, strike lines 1—11 and insert: 775.087 Possession or use of weapon or aggravated battery; felony reclassification. (4)—Unless otherwise provided by law, whenever a person is charged with a felony, except a felony in which the use of a weapon or firearm is an essential element, and during the commission of such felony the defendant displayed, used, threatened or attempted to use any weapon or firearm, or during the commission of such felony the defendant committed an aggravated battery, the felony for which the person is charged shall be reclassified as follows:

(a) (1) In the case of a felony of the first degree, to a life felony;

(b) (2) In the case of a felony of the second degree, to a felony of the first degree;

(c) (3) In the case of a felony of the third degree, to a felony of the second degree.

(2) Notwithstanding the general application of the penalties elsewhere provided, a minimum sentence of five (5) years shall be imposed for felonies involving threatened or actual use of a firearm, or destructive device as defined in §790.001(4) and (6). Such minimum sentence shall not be suspended or deferred, and no person serving such a minimum sentence shall be eligible for parole under the provisions of §947.16 during such five (5) year term.

On motion by Senator Plante, the Senate reconsidered the vote by which Amendment 3 failed. The question recurred on Amendment 3 which was adopted.

Senator McClain moved the following amendment which was adopted:

Amendment 6—On page 57, line 11, insert: a new Section 52 and renumber subsequent sections.

Section 52. Section 856.04, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 856.04, F. S., for present text.)

856.04 Desertion; withholding support.—Any person who deserts or, after notice by the state attorney, fails to provide support which he or she is able to provide to his or her children or spouse which such person knows he or she is legally obligated to support and over which no court has jurisdiction in any proceedings for child support or dissolution of marriage, shall be guilty of a felony of the third degree, punishable as provided in chapter 775.

Senator Gruber moved the following amendment:

Amendment 7—On page 20, line 27, strike the period and insert: ; minimum sentence.

The amendment was adopted by the following vote:

Yeas—18

Mr. President	Johnston	Poston	Weber
Barron	Lane (31st)	Sims	Winn
Brantley	Lewis	Sykes	Zinkil
Gruber	McClain	Trask	
Johnson	Plante	Ware	

Nays—11

de la Parte	Gordon	Pettigrew	Vogt
Gallen	Graham	Scarborough	Wilson
Gillespie	Peterson	Smathers	

By unanimous consent Senators Myers and Williams were recorded as voting nay.

Senator Gruber moved the following title amendment which was adopted:

Amendment 8—On page 1, strike all of line 22 and everything before the semicolon on line 23, and insert: use or possession of firearms or weapons or aggravated battery in commission of felony

Senator McClain moved the following title amendment which was adopted:

Amendment 9—On page 7, line 14, between the semicolon and the word “renumbering” insert: amending section 856.04, Florida Statutes to provide that desertion under certain circumstances is a third degree felony;

Senator Smathers moved the following title amendment which was adopted:

Amendment 10—On page 8, lines 27 and 28, strike “repealing sections 794.02, 794.03, 794.04, 794.05, and 794.06, Florida Statutes, relating to rape;”

On motion by Senator Ware, by two-thirds vote CS for HB 2179 as amended was read the third time by title.

Senator Brantley moved that the Senate reconsider the vote by which CS for HB 2179 was placed on third reading and the motion failed.

Senator de la Parte moved the following amendment:

Amendment 11—On page 2, line 5 of Amendment 5, strike “5 years” and insert: 1 year

On motion by Senator Barron, debate was limited to 1 minute per side on Amendment 11.

The question recurred on the adoption of Amendment 11 and the amendment failed to receive the required two-thirds vote. The vote was:

Yeas—18

Barron	Lane (31st)	Plante	Vogt
de la Parte	Lane (23rd)	Poston	Wilson
Gillespie	McClain	Saunders	Winn
Gordon	Myers	Scarborough	
Graham	Pettigrew	Smathers	

Nays—15

Mr. President	Henderson	Peterson	Ware
Childers	Johnson	Sims	Weber
Glisson	Johnston	Stolzenburg	Zinkil
Gruber	Lewis	Sykes	

By unanimous consent Senator Glisson changed his vote from nay to yea.

CS for HB 2179 as amended passed and was certified to the House. The vote was:

Yeas—25

Mr. President	Johnson	Plante	Weber
Barron	Johnston	Poston	Wilson
Childers	Lane (31st)	Saunders	Winn
Gallen	Lane (23rd)	Sims	Zinkil
Glisson	Lewis	Stolzenburg	
Gruber	McClain	Sykes	
Henderson	Peterson	Ware	

Nays—8

Gillespie	Graham	Pettigrew	Smathers
Gordon	Myers	Scarborough	Vogt

By unanimous consent Senator de la Parte was recorded as voting nay; Senator Saylor, yea.

CS for SB 904 was laid on the table.

On motion by Senator Barron, the rules were waived and time of adjournment was extended until 1:00 p.m.

On motions by Senator Gillespie, HB 2856 was withdrawn from the Committees on Commerce and Ways and Means by two-thirds vote and placed on the calendar.

SB 182 was taken up and on motion by Senator Gillespie—

HB 2856—A bill to be entitled An act relating to automobile license plates; amending §320.72(5), Florida Statutes, 1971, as amended by chapter 73-3, Laws of Florida; providing authority to issue automobile license plates stamped MC for congressmen and USS for United States senators; providing an effective date.

—a similar measure was substituted therefor and read the second time by title. On motion by Senator Gillespie, by two-thirds vote HB 2856 was read the third time by title, passed and certified to the House. The vote was:

Yeas—20

Mr. President	Gordon	Peterson	Smathers
Childers	Graham	Pettigrew	Vogt
de la Parte	Gruber	Plante	Williams
Gillespie	Lane (23rd)	Saunders	Wilson
Glisson	Myers	Saylor	Winn

Nays—11

Henderson	Lane (31st)	Sims	Ware
Johnson	Lewis	Stolzenburg	Zinkil
Johnston	Poston	Sykes	

SB 182 was laid on the table.

Senator Plante moved that the Senate reconsider the vote by which CS for HB 2179 as amended passed.

HB 2812—A bill to be entitled An act relating to traffic control; adding subsection (6) to §316.196, Florida Statutes, 1971, to except certain vehicles under tow from the maximum width, height, and length requirements; providing an effective date.

—was read the second time by title. On motion by Senator Poston, by two-thirds vote HB 2812 was read the third time by title, passed and certified to the House. The vote was:

Yeas—26

Mr. President	Johnson	Plante	Vogt
Childers	Johnston	Poston	Ware
Gillespie	Lane (23rd)	Saylor	Wilson
Glisson	Lewis	Sims	Winn
Gordon	Myers	Smathers	Zinkil
Graham	Peterson	Stolzenburg	
Gruber	Pettigrew	Sykes	

Nays—1

Henderson

CS for HB 2809—A bill to be entitled An act relating to beach erosion control; amending §161.091(1) and (2), Florida Statutes, 1973, to authorize the department of natural resources to pay up to seventy-five percent (75%) of the non-federal construction and maintenance costs of specified beach erosion control projects; prohibiting use of funds for beach restoration where there is no public access; requiring specified local effort; providing for reimbursement of local outstanding obligations and of funds advanced prior to availability of state or federal funds; repealing §161.091(3), Florida Statutes, 1971, as amended, relating to the establishment of project trust fund accounts; prohibiting transfer from the trust fund; providing an effective date.

—was read the second time by title.

Senator Childers moved the following amendment which was adopted:

Amendment 1—On page 7, lines 4, 5 and 6, strike "All funds not encumbered by the end of the fiscal year in which such funds are appropriated shall revert to the general revenue fund unallocated."

On motion by Senator Childers, by two-thirds vote CS for HB 2809 as amended was read the third time by title, passed and certified to the House. The vote was:

Yeas—29

Mr. President	Gruber	Peterson	Sykes
Barron	Henderson	Pettigrew	Ware
Childers	Johnson	Plante	Williams
de la Parte	Johnston	Poston	Winn
Gillespie	Lane (23rd)	Saylor	Zinkil
Glisson	Lewis	Sims	
Gordon	McClain	Smathers	
Graham	Myers	Stolzenburg	

Nays—None

By unanimous consent Senators Wilson and Vogt were recorded as voting yea.

On motion by Senator Childers, the rules were waived and CS for HB 2809 was ordered immediately certified to the House.

SB 1012—A bill to be entitled An act relating to providing for pay adjustments on Department of Transportation road construction contracts; providing an effective date.

—was read the second time by title.

The Committee on Ways and Means offered the following amendment which was moved by Senator Saunders and failed.

Amendment 1—On page 3, strike all of lines 1 and 2 and insert: D. No price adjustment shall be made for any month in which the contract unit price for bituminous material exceeds the adjusted unit price as determined in paragraph (A).

Senator Saunders moved the following amendment which was adopted:

Amendment 2—On page 3, line 3, insert: E. No adjustment shall be made to the contract unit price for bituminous material on any applicable contract unless a contractor agrees to the application of this adjustment for all applicable contracts he holds with the department. The department shall notify each contractor in writing by registered mail of his right to have this act apply to his contracts with the department. If a contractor fails to respond within 15 calendar days of such notice, no adjustment provided for in this act shall be made to any applicable contract.

Senator Sykes presiding

On motion by Senator Saunders, by two-thirds vote SB 1012 as amended was read the third time by title, passed and ordered engrossed. The vote was:

Yeas—21

Mr. President	Gruber	Saunders	Williams
Barron	Johnston	Sayler	Winn
Childers	Lane (23rd)	Sims	Zinkil
de la Parte	Lewis	Smathers	
Glisson	Pettigrew	Sykes	
Graham	Poston	Ware	

Nays—8

Gillespie	McClain	Plante	Stolzenburg
Henderson	Peterson	Scarborough	Wilson

By unanimous consent, Senator Gordon was recorded as voting nay; Senator Vogt, yea.

On motion by Senator Saunders, the rules were waived and SB 1012 as amended was ordered immediately certified to the House, after engrossing.

The President presiding

SM 1111—A memorial to the Congress of the United States urging the rejection of any amendment to the Marine Mammal Protection Act of 1972 that would permit commercial fishermen to kill dolphins.

—was read the second time in full. On motion by Senator Barron, SM 1111 was adopted and certified to the House. The vote was:

Yeas—33

Mr. President	Gruber	Pettigrew	Sykes
Barron	Henderson	Plante	Ware
Childers	Johnson	Poston	Williams
Deeb	Johnston	Saunders	Wilson
de la Parte	Lane (23rd)	Sayler	Winn
Gillespie	Lewis	Scarborough	Zinkil
Glisson	McClain	Sims	
Gordon	Myers	Smathers	
Graham	Peterson	Stolzenburg	

Nays—None

By unanimous consent Senator Vogt was recorded as voting yea.

On motion by Senator Barron, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Mallory E. Horne, President May 24, 1974

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments and passed as amended HB 3365.

Allen Morris, Clerk

The Honorable Mallory E. Horne, President

May 23, 1974

I am directed to inform the Senate that the House of Representatives has adopted HM 2792 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative D. McDonald and others—

HM 2792—A memorial to the Congress of the United States urging Congress to enact HR 11394 which would repeal the Professional Standards Review portion of Title XI of the Social Security Act.

—was read the first time in full and referred to the Committee on Health and Rehabilitative Services.

The Honorable Mallory E. Horne, President

May 23, 1974

I am directed to inform the Senate that the House of Representatives has passed—

HB 3951

HB 4117

—and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Finance & Taxation—

HB 3951—A bill to be entitled An act relating to sales tax; amending §212.08(7)(i), Florida Statutes, 1973, providing that exemption from sales and use taxes for sales of utilities and fuel to residential households shall apply regardless of whether separately metered and billed to the residents or metered and billed to the landlord; providing an effective date.

—was read the first time by title and placed on the calendar.

By the Committee on Transportation and Representative Holloway and others—

HB 4117—A bill to be entitled An act relating to bridge designation; designating the bridge over the intracoastal canal on State Road 292 in Escambia County as the Gulf Gateway Bridge; directing the department of transportation to erect markers; providing an effective date.

—was read the first time by title and placed on the calendar.

The Honorable Mallory E. Horne, President

May 23, 1974

I am directed to inform the Senate that the House of Representatives has adopted HCR 4082 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on General Legislation and Representative Harlee—

HCR 4082—A concurrent resolution in memory of Florida Highway Patrol Sergeant G. W. "Whitey" Knutsen.

—was read the first time in full and placed on the calendar.

The Honorable Mallory E. Horne, President

May 23, 1974

I am directed to inform the Senate that the House of Representatives has adopted HCR 4220 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Craig and others—

HCR 4220—A Concurrent Resolution honoring Angel Sagaz.

—was read the first time in full and placed on the calendar.

The Honorable Mallory E. Horne, President

May 23, 1974

I am directed to inform the Senate that the House of Representatives has passed HB 3754 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Tucker (by request)—

HB 3754—A bill to be entitled An act providing a monetary award to S. Allen Norris for his meritorious suggestion regarding the collection of taxes from insurance companies writing workmen's compensation coverage; providing an appropriation; providing an effective date.

—was read the first time by title and placed on the Calendar.

The Honorable Mallory E. Horne, President May 22, 1974

I am directed to inform the Senate that the House of Representatives has passed as amended—

HB 2205	HB 2886	HB 3839
HB 4142	HB 3020	CS for HB 3796
HB 3500	HB 3063	

—and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Community Affairs—

HB 2205—A bill to be entitled An act relating to the creation of special improvement districts and the recognition of the tribal councils of the Seminole and Miccosukee tribes as the governing bodies of the respective districts; amending Chapter 285, Florida Statutes, 1971, by adding subsection 285.17 recognizing the special improvement districts; and subsection 285.18 granting governing powers to the tribal councils which shall include law enforcement, housing, health care, and other powers by enumeration not limitation; empowering said councils to employ needed personnel to carry out such powers; granting them needed authority, privileges, protection, and benefits as found in subsection 112.19 and 870.05, Florida Statutes, 1971, and Part IV of Chapter 23, Florida Statutes, 1971, providing an effective date.

—was read the first time by title and placed on the Calendar.

On motion by Senator Lewis, unanimous consent was obtained to take up HB 2205 out of order.

On motions by Senator Lewis, by two-thirds vote HB 2205 was read the second time by title and by two-thirds vote was read the third time by title, passed and certified to the House. The vote was:

Yeas—32

Mr. President	Henderson	Pettigrew	Stolzenburg
Barron	Johnson	Plante	Sykes
Childers	Johnston	Poston	Ware
Gillespie	Lane (23rd)	Saunders	Weber
Glisson	Lewis	Sayler	Williams
Gordon	McClain	Scarborough	Wilson
Graham	Myers	Sims	Winn
Gruber	Peterson	Smathers	Zinkil

Nays—None

By unanimous consent Senator Vogt was recorded as voting yea.

SB 763 was laid on the table.

By Representatives Lewis and Libertore—

HB 2886—A bill to be entitled An act relating to real estate brokers; amending sections 475.13, 475.23, and 475.24, Florida Statutes; increasing the registration renewal and reissue fees of real estate brokers, salesmen and branch offices; providing an effective date.

—was read the first time by title and placed on the calendar.

By Representative Cohen and others—

HB 3839—A bill to be entitled An act relating to the Florida Wing of the Civil Air Patrol; providing nonprofit educational

status; providing an appropriation; authorizing certain expenditures; requiring a surety bond be furnished; providing an effective date.

—was read the first time by title and placed on the calendar.

By the Committee on Finance & Taxation—

HB 4142—A bill to be entitled An act relating to prosecution for worthless checks; amending §832.06(1), Florida Statutes, relating to prosecution for worthless checks given tax collectors for specified licenses, to include hunting and fishing licenses; providing for participation of game and fresh water fish commission in enforcement procedures; requiring county tax collectors to swear out a complaint against persons for the issuance of worthless checks or drafts given as payment for any sum due his office except ad valorem taxes; providing that county tax collectors shall make a written report to the appropriate governmental entity 30 days after service of the warrant or 60 days after the collector swears out the complaint; amending §843.14, Florida Statutes, 1973, providing an exception to the compound felony statute; providing an effective date.

—was read the first time by title and referred to the Committee on Criminal Justice.

By Representatives Martinez and Sessums—

HB 3020—A bill to be entitled An act relating to the Florida retirement system; amending §2(1)(b) and (c), (5)(a) and (6)(a), chapter 72-345, Laws of Florida, as amended by chapter 72-359, Laws of Florida, appearing as §121.052(1)(b) and (c), (5)(a) and (6)(a), Florida Statutes, 1972 Supplement; providing for participation by county court judges in the elected state officers class of the Florida retirement system; providing an effective date.

—was read the first time by title and placed on the calendar.

On motion by Senator Ware, unanimous consent was obtained to take up HB 3020 out of order.

On motions by Senator Ware, by two-thirds vote HB 3020 was read the second time by title and by two-thirds vote was read the third time by title, passed and certified to the House. The vote was:

Yeas—31

Mr. President	Henderson	Plante	Sykes
Barron	Johnson	Poston	Ware
Childers	Johnston	Saunders	Weber
Gillespie	Lane (23rd)	Sayler	Williams
Glisson	Lewis	Scarborough	Wilson
Gordon	McClain	Sims	Winn
Graham	Myers	Smathers	Zinkil
Gruber	Peterson	Stolzenburg	

Nays—None

By unanimous consent Senator Vogt was recorded as voting yea.

SB 329 was laid on the table.

By the Committee on Retirement, Personnel & Claims and Representative Melvin—

CS for HB 3796—A bill to be entitled An act relating to career service; providing for additional exempt positions in each department; amending paragraphs (h) and (k) of subsection (2) of §110.051, Florida Statutes, 1973; providing an effective date.

—was read the first time by title and placed on the calendar.

By Representative Reynolds—

HB 3500—A bill to be entitled An Act relating to historic preservation; creating Part V, chapter 266, Florida Statutes, creating the historic Boca Raton board of commissioners; declaring its purpose and functions; providing for the appointment, terms of office, bonding and payment of the expenses of its members; describing the powers and duties of said board;

providing for the establishment of historical districts and an architectural review board for same; providing for the right of eminent domain; and for the coordination of activities with a state division of archives and history; and providing an effective date.

—was read the first time by title and referred to the Committee on Ways and Means.

By Representatives Tillman and Poorbaugh—

HB 3063—A bill to be entitled An act relating to county court judges; providing for the designation of a county court judge to serve as circuit judge in any county where there is no resident circuit judge; providing an effective date.

—was read the first time by title and placed on the Calendar.

The Honorable Mallory E. Horne, President May 22, 1974

I am directed to inform the Senate that the House of Representatives has passed—

HB 2498 HB 4144

—and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative L. McDonald and others—

HB 2498—A bill to be entitled An act relating to dressed poultry inspections; repealing §583.18 (4), Florida Statutes, to remove the inspection fee on dressed poultry sold in this state or used in the preparation of food served to the public; providing an effective date.

—was read the first time by title and placed on the Calendar.

By the Committee on Health & Rehabilitative Services and Representative Lewis—

HB 4144—A bill to be entitled An act relating to the blind and severely handicapped; providing definitions; creating a council within the department of general services for the purchase of products and services of the blind and other severely handicapped; providing for membership of the council providing powers and duties of the council requiring state agencies to procure products and services of the blind and other severely handicapped from certain nonprofit agencies; providing for cooperation between the council and state agencies; requiring an annual report by the council to governor and the legislature; prohibiting evasion of the intent of the act by a state agency; providing a penalty; providing an effective date.

—was read the first time by title and placed on the Calendar.

The Honorable Mallory E. Horne, President May 22, 1974

I am directed to inform the Senate that the House of Representatives has passed as amended—

HB 3490 CS for HB's 3277 & 3340
HB 3920

—and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Blackburn and others—

HB 3490—A bill to be entitled An act relating to criminal analysis laboratories; providing a legislative intent; providing a statewide laboratory system; amending section 23.086 (5)(b), Florida Statutes; providing for laboratory services; providing for powers and duties of the department of law enforcement; providing for matching funds for existing laboratories; providing an option to become a state operated laboratory; providing a crime laboratory council; providing for duties of the council; providing for organization of the council; providing for compensation; providing an appropriation; providing an effective date.

—was read the first time by title and referred to the Committee on Criminal Justice.

By the Committee on Commerce—

HB 3920—A bill to be entitled An act relating to the division of economic development and the division of tourism; amends subsections 1, 2, 3 and 4 of section 288.03, Florida Statutes, removing from the division of economic development certain power and authority relative to tourism; and creates section 288.34, Florida Statutes, granting the division of tourism power and authority to conduct a Florida tourism promotional program; adding subsections (11), (12), (13), (14) and (15) to section 20.17, Florida Statutes, 1973: creating a Florida tourism commission within the division of tourism and providing for the membership, duties, qualifications, and responsibilities of the commission; creating a tourism advisory council within the division of tourism and providing for its membership and duties; provides an effective date.

—was read the first time by title and referred to the Committee on Commerce.

By the Committee on Governmental Operations and Representative Dubbin and others—

CS for HB's 3277 and 3340—A bill to be entitled An act relating to the implementation of the emergency telephone number "911"; providing a title; providing an intent; providing for a state plan; providing a system director; providing for telephone industry coordination; providing for coin telephone conversion; providing for system approval; repealing section 365.17 Florida Statutes, regarding voluntary "911" implementation; providing an appropriation; providing an effective date.

—was read the first time by title and referred to the Committee on Governmental Operations.

The Honorable Mallory E. Horne, President May 24, 1974

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By the Committee on Commerce—

CS for SB 663—A bill to be entitled An act relating to quarter horse racing and harness racing; amending section 550.33, Florida Statutes, by adding subsection (7); authorizing substitute races of horses registered with the International Arabian Horse Association, Appaloosa Horse Club, the Palomino Horse Breeders of America or The Jockey Club; limiting races to 12 daily; providing for examination of all such horses prior to racing; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment (1)—On page 1, line 17, strike everything after the enacting clause and insert the following:

Section 1. Section 550.33, Florida Statutes, is amended by adding subsection (7) to read:

550.33 Quarter horse racing.—

(7) Any quarter horse racing permit holder operating under a valid permit issued by the division of pari-mutuel wagering is authorized to substitute other races of other breeds of horses which are, respectively, registered with the international arabian horse association, appaloosa horse club, the palomino horse breeders of America, or the jockey club, for no more than fifty (50%) percent of the quarter horse races daily, provided that no more than three (3) races daily may be comprised of thoroughbred horses registered with the jockey club; provided, further, that any permittee operating within an area of fifty (50) air miles of a licensed thoroughbred track cannot substitute thoroughbred races under this section while a thoroughbred horse race meet is in progress within said fifty (50) miles; provided, further, that no races comprised of thoroughbred horses under this section registered with the jockey club shall be permitted during the period beginning September 1 and ending on January 5 of each year in any county

where there is one or more licensed dog tracks conducting a race meet; provided, further, that nothing contained herein shall be interpreted in any manner to affect the competitive award of matinee performances to jai alai frontons or dog tracks in opposition to races comprised of thoroughbred horses registered with the jockey club under this section.

Section 2. Limitation of races.—A quarter horse or harness racing permit holder is authorized to conduct no more than twelve (12) races per racing day.

Section 3. This act shall become effective immediately upon becoming law.

Amendment (2)—On page 1, line 4, strike all of title and insert: An act relating to horse racing; amending §550.33 Florida Statutes by adding a new subsection (7); authorizing the substitute races of horses other than quarter horses; providing certain limitations on operation; limiting racing to twelve (12) per day for quarter horse and harness racing; providing an effective date.

On motions by Senator Barron, the Senate concurred in House amendments 1 and 2 to CS for SB 663.

CS for SB 663 passed as amended, was ordered engrossed and the action of the Senate was certified to the House. The vote was: ,

Yeas—31

Mr. President	Gruber	Peterson	Sykes
Barron	Henderson	Plante	Vogt
Childers	Johnson	Poston	Ware
de la Parte	Johnston	Saunders	Weber
Gillespie	Lane (23rd)	Scarborough	Williams
Glisson	Lewis	Sims	Wilson
Gordon	McClain	Smathers	Winn
Graham	Myers	Stolzenburg	

Nays—None

By unanimous consent Senator Pettigrew was recorded as voting yea.

The Honorable Mallory E. Horne, President May 24, 1974

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By the Committee on Natural Resources and Conservation and Senator Lane (23rd) and others—

CS for SB 504—A bill to be entitled An act relating to water management districts and regional water supply authorities; providing legislative findings; providing water production powers and duties of water management districts; providing duties of basin boards; providing for review of water management district action by the department of natural resources and for adoption of review procedures by the department; directing that laws creating southwest Florida water management district and central and south Florida flood control district be included in chapter 373, Florida Statutes; providing for creation of regional water supply authorities by interlocal agreement and providing powers, duties and responsibilities thereof; amending sections 373.0695, 373.026 and 373.043, Florida Statutes; providing for severability and an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 3, line 27, strike “existing and future” and on line 28 strike the semicolon and all of lines 29 and 30 on page 3 and all of lines 1 and 2 on page 4 and insert: period on line 28, page 3

Amendment 2—On page 11, line 21, strike “existing and future” and on line 23 strike the semicolon and everything from “provided” on line 23, page 11, through line 27 and insert: period on line 23

Amendment Sub. 5—On page 4, line 14, after word: to insert: *such interest as is necessary in*

Amendment #6—On page 9, line 3, strike take any and insert: *acquire title to such interest in real*

On motions by Senator de la Parte, the Senate concurred in House amendments 1, 2, 5 and 6 to CS for SB 504.

On motion by Senator de la Parte the Senate reconsidered the vote by which the Senate concurred in House Amendment 2.

Senator Williams moved the following amendment to House Amendment 2 which failed:

Amendment 2a—Page 11 after the period on line 23 insert:

(6) If, upon the termination of any water rights or other authorization by the county supplying the water, any claim of inverse condemnation should arise, then the inverse condemnation claim for damages shall not exceed the depreciated value of the usable facilities and the original purchase price of the property rights acquired. (Renumber subsequent (Sub) sections)

The question recurred on Amendment 2 and the Senate concurred.

CS for SB 504 passed as amended, was ordered engrossed and the action of the Senate was certified to the House. The vote was:

Yeas—26

Mr. President	Lane (23rd)	Poston	Vogt
Barron	Lewis	Saylor	Ware
de la Parte	McClain	Scarborough	Weber
Gillespie	Myers	Sims	Wilson
Gordon	Peterson	Smathers	Winn
Gruber	Pettigrew	Stolzenburg	
Johnson	Plante	Sykes	

Nays—7

Childers	Henderson	Saunders	Zinkil
Glisson	Johnston	Williams	

By unanimous consent Senator Graham was recorded as voting yea.

The Honorable Mallory E. Horne, President May 23, 1974

I am directed to inform the Senate that the House of Representatives has passed with amendment—

By the Committee on Health and Rehabilitative Services—

CS for SB 219—A bill to be entitled An act relating to health and rehabilitative services; amending subsection (1) of section 945.12, Florida Statutes, to provide for inmate transfers for rehabilitative treatment; amending subsection (1) of section 947.16, Florida Statutes, to provide, for purposes of parole eligibility, that the definition of “confined” includes persons transferred by the division of corrections to any appropriate treatment facility; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment (1)—On page 2, line 10, after “court,” insert: and whose record during confinement is good

On motion by Senator Myers, the Senate concurred in the House amendment to CS for SB 219.

CS for SB 219 passed as further amended, was ordered engrossed and the action of the Senate was certified to the House.

The vote was:

Yeas—32

Mr. President	Gruber	Peterson	Stolzenburg
Barron	Henderson	Pettigrew	Sykes
Childers	Johnson	Plante	Vogt
de la Parte	Johnston	Poston	Ware
Gillespie	Lane (23rd)	Saunders	Weber
Glisson	Lewis	Sayler	Williams
Gordon	McClain	Sims	Wilson
Graham	Myers	Smathers	Zinkil

Nays—None

On motions by Senator Saunders, Senate Bills 833, 235, 761 and HB 1936 were withdrawn from the Committee on Ways and Means by two-thirds vote and placed on the calendar.

The Journal of May 23 was corrected and approved as follows:

Page 470, counting from the bottom of column 1, strike line 5 and insert: to the department without specific designation to a unit of

Page 472, column 1, strike line 15, and insert: vide certain other powers for condominium associations; re-

CO-INTRODUCERS

Senators Sayler, Weber, Ware and Lewis were recorded as co-introducers of SB 48.

The hour of adjournment having arrived, a point of order was called and the Senate adjourned at 1:00 p.m. to convene at 10:00 a.m., May 27, 1974.