

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: SB 92

INTRODUCER: Senator Rich

SUBJECT: Statutes of Limitations/Wrongful Death Actions

DATE: January 8, 2010

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Favorable
2.			JU	
3.			JA	
4.			WPSC	
5.				
6.				

I. Summary:

The bill would amend the statute of limitations in civil actions, s. 95.11, F.S., to provide that wrongful death actions for intentional torts resulting in death from acts described in the murder or manslaughter statutes may be commenced at any time. (Currently there is a two year statute of limitations for wrongful death actions.)

This bill would substantially amend section 95.11 of the Florida Statutes.

II. Present Situation:

A statute of limitations is an absolute bar to the filing of a legal case after a date set by law. The date is commonly based on the time that has elapsed since the action giving rise to the case occurred. Such laws creating statutes of limitation specify when the time period begins, how long the limitations period runs, and circumstances by which the running of the statutes may be suspended.

Under current law, civil actions for a death caused by the wrongful act, negligence, default, or breach of contract or warranty of another may be brought under the Wrongful Death Act.¹ Section 768.21, F.S., specifies the types of damages that may be recovered under a wrongful death action. Section 95.11(4)(d), F.S., provides for a two year statute of limitations for wrongful death actions.

¹ Section 768.19, F.S.

III. Effect of Proposed Changes:

The bill would name the act the “Jeffrey Klee Memorial Act.”

It would amend s. 95.11, F.S., the statute of limitations in civil actions, to provide that wrongful death actions for intentional torts resulting in death from acts described in the murder or manslaughter statutes may be commenced at any time.² (Currently, there is a two year statute of limitations for wrongful death actions. No other civil cause of action has an unlimited statute of limitations. However, under the statute of limitations for criminal prosecutions, there is no time limitation for a capital felony, a life felony, or a felony resulting in a death.)

The bill would also specify that bringing a civil action is not conditioned upon the criminal prosecution, arrest, or conviction of the person being sued. Finally, the bill would provide language that limits the application of the changes to the time period in the civil statute of limitations to claims not otherwise time barred on the effective date of the act, which means that the extension of time will not be retroactively applied. Thus, if a wrongful death claim is barred by the statute of limitations prior to the bill’s effective date, it will remain barred. However, if such claim is not yet barred, it will benefit from the unlimited time extension under the bill.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

² Sections 782.04 and 782.07, F.S., respectively.

VI. Technical Deficiencies:

None.

VII. Related Issues:

This bill is named after Jeffrey Klee whose body was discovered in South Florida after being missing for more than 30 years. A friend of the victim recently admitted to a third party that he had killed Jeffrey accidentally. However, because prosecutors did not have sufficient evidence to go forward with more than a manslaughter prosecution, and the three year criminal statute of limitations that was in place during the relevant time period had expired (currently there is no limitation in any homicide prosecution), they were unable to file homicide charges against the alleged perpetrator.³

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

³ www.abajournal.com/news/florida_death_is_solved_after_30_years_but_no_charges... posted Nov. 21, 2008, 11:08a.m. CST.