

**The Constitution Revision Commission**  
**COMMITTEE MEETING EXPANDED AGENDA**

**DECLARATION OF RIGHTS**  
**Commissioner Carlton, Chair**  
**Commissioner Stemberger, Vice Chair**

**MEETING DATE:** Wednesday, September 27, 2017  
**TIME:** 1:00—5:00 p.m.  
**PLACE:** Room 110 Senate Office Building, Tallahassee, Florida

**MEMBERS:** Commissioner Carlton, Chair; Commissioner Stemberger, Vice Chair; Commissioners Donalds, Gainey, Johnson, Joyner, and Lester

TAB	PROPOSAL NO. and INTRODUCER	PROPOSAL DESCRIPTION and COMMITTEE ACTIONS	COMMITTEE ACTION
1	Presentation on Understanding the Florida Constitution by Jon L. Mills, Dean Emeritus, Professor of Law, and Director of the Center for Governmental Responsibility at the University of Florida Levin College of Law		Presented
2	Presentation on Article I of the Florida Constitution: The Declaration of Rights by Timothy E. McLendon, Staff Attorney, Center for Governmental Responsibility at the University of Florida Levin College of Law		Presented
3	Other Related Meeting Documents		

---

## Declaration of Rights

---

**MEETING DATE:** Wednesday, September 27, 2017

**TIME:** 1:00—5:00 p.m.

**PLACE:** Room 110 Senate Office Building, Tallahassee,  
Florida

---

---

# CONSTITUTION REVISION COMMISSION

---

---

2017 - 2018

## PRESENTER BIOGRAPHY



### JON L. MILLS

Professor of Law

Dean Emeritus

Founder and Director, Center for Governmental Responsibility  
University of Florida Levin College of Law

Speaker of the Florida House of Representatives (1987-1988)

Jon L. Mills is Dean Emeritus, Professor of Law, and the Founder and Director of the Center for Governmental Responsibility at UF's Levin College of Law. He served as Dean of the UF Levin College of Law from 1999-2003 where he currently teaches Privacy, State Constitutional Law, Law and Policy in the Americas and Legislative Drafting. He is also Counsel to Boies, Schiller & Flexner LLP.

Dean Mills has a long and distinguished legacy of public service. He is a former member of the Florida House of Representatives where he served as Speaker from 1987-1988. Among his principle legislative accomplishments are the Growth Management Act, Wetlands Protection Act, Water Quality Assurance Act, Child Abuse Prevention Act (Mills Bill), Constitutional Right to Privacy, High Technology Economic Development Act, and the Far East Research & Development Council. Dean Mills was also a member of the 1997-1998 Florida Constitution Revision Commission (CRC). As a member of the CRC, he chaired the Style and Drafting Committee and was selected Most Valuable CRC Member.

Dean Mills is a globally recognized expert in privacy and cyber security issues. He has appeared in courts across the country in matters relating to the constitution, privacy, voting rights, and defamation. Such landmark litigation has included privacy intrusion cases representing the families of Dale Earnhardt, Jr., Gianni Versace, and Sea World trainer Dawn Brancheau. Dean Mills is the author of a number of publications including two books on privacy: *Privacy: The Lost Right* (Oxford University Press 2008) and *Privacy in the New Media Age* (University Press of Florida 2015).

**Constitutional Drafting**  
JON L. MILLS  
PROFESSOR OF LAW, DEAN EMERITUS, UF LEVIN COLLEGE OF LAW &  
DIRECTOR, CENTER FOR GOVERNMENTAL RESPONSIBILITY

---

---

---

---

---

---

---

---

**Nature of Constitutions vs. Statutes**

- ▶ Constitutions = organic and fundamental law
- ▶ Statute = act of the legislature

---

---

---

---

---

---

---

---

**U.S. Constitution vs. State Constitutions**

- ▶ U.S. Constitution grants enumerated powers to governmental branches; state constitutions limit power of governmental branches.
- ▶ State constitutions are more detailed than the U.S. Constitution.
- ▶ State constitutions are easier to amend than the U.S. Constitution.

---

---

---

---

---

---

---

---

## What is in the Florida Constitution?

- ▶ The Florida Constitution addresses the following topics:
  - ▶ I. Bill of Rights
    - ▶ Freedom of Speech, Right to Bear Arms, Privacy, etc.
  - ▶ II. Framing of a government
    - ▶ Three Branches of Government, Local governments, Finance & Taxes, etc.
  - ▶ III. Miscellaneous provisions
    - ▶ Pregnant Pigs, Slot Machines, Everglades Trust Fund, etc.

---

---

---

---

---

---

---

---

## How to Amend the Florida Constitution: Fla. Const. Art. XI

- ▶ 1. Legislative Proposal
- ▶ **2. Constitutional Revision Commission**
- ▶ 3. Citizens' Initiative
- ▶ 4. Constitutional Convention
- ▶ 5. Taxation & Budget Reform Commission

---

---

---

---

---

---

---

---

## 5 Rules for Constitutional Drafting

- ▶ 1. Clarity
  - ▶ Use specific, unambiguous language so your opponents cannot twist your intent.
- ▶ 2. Context
  - ▶ Understand where your proposed section/amendment fits within the constitution.
- ▶ 3. Conflicts
  - ▶ Consider conflicts between your proposed section/amendment and current sections.
- ▶ 4. Court Review
  - ▶ E.g. In Florida, proposed sections/amendments are put on the ballot, and the Fla. S. Ct. requires that ballot titles (≥ 15 words) and ballot summaries (≥ 75 words) contain clear & unambiguous language.
- ▶ 5. Changing Circumstances
  - ▶ Ambiguous, outdated, & narrowly-tailored sections may require amending as circumstances change.

---

---

---

---

---

---

---

---

### Case Study: Florida's 1885 Constitution vs. Today's Constitution on Education

Which do you think is better? For whom?

---

---

---

---

---

---

---

---

► The Legislature shall provide for a uniform system of public free schools, and shall provide for the liberal maintenance of the same.

1885 Florida Constitution: Art. XII, Sect. 1

---

---

---

---

---

---

---

---

► The education of children is a **fundamental value** of the people of the State of Florida. It is, therefore, a **paramount duty** of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require.

Today's Florida Constitution: Art. IX, Sect. 1

(History.—Am. proposed by Constitution Revision Commission, Revision No. 6, 1998, filed with the Secretary of State May 5, 1998; adopted 1998; Am. by initiative Petitions filed with the Secretary of State July 30, 2002, and August 1, 2002; adopted 2002.)

---

---

---

---

---

---

---

---

▶ The state shall provide at least the minimum amount of education necessary for all students at all schools, at no cost to the students, and should reasonably provide maintenance of the same.

Mock Section:  
What are the issues?

---

---

---

---

---

---

---

---

Consequences of Words

▶ Article VI, Section 5(b) of the Florida Constitution and states:

▶ "If all candidates for an office have the same party affiliation and the winner will have **no opposition** in the general election, all qualified electors, regardless of party affiliation, may vote in the primary elections for that office."

Art. VI, s. 5(b), Fla. Const.

---

---

---

---

---

---

---

---

In Conclusion

EVERY  
WORD  
MATTERS

---

---

---

---

---

---

---

---

**CONSTITUTION REVISION COMMISSION  
APPEARANCE RECORD**

(Deliver completed form to Commission staff)

9/27/17  
Meeting Date

Proposal Number (if applicable)

\*Topic Understanding the Florida Constitution Amendment Barcode (if applicable)

\*Name Jon L. Mills

Address UF Levin College of Law

Phone 352 273 0835

Street Guinnessville State FL Zip 32611

Email mills@law.ufl.edu

\*Speaking:  For  Against  Information Only Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Are you representing someone other than yourself?  Yes  No  
If yes, who? \_\_\_\_\_

Are you a registered lobbyist?  Yes  No  
Are you an elected official or judge?  Yes  No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record. \*Required



The Constitution Revision Commission  
**COMMITTEE MEETING PACKET TAB**

---

## Declaration of Rights

---

**MEETING DATE:** Wednesday, September 27, 2017

**TIME:** 1:00—5:00 p.m.

**PLACE:** Room 110 Senate Office Building, Tallahassee,  
Florida

2

Comment

---

---

# CONSTITUTION REVISION COMMISSION

---

---

2017 - 2018

---

---

## PRESENTER BIOGRAPHY



### TIMOTHY E. MCLENDON

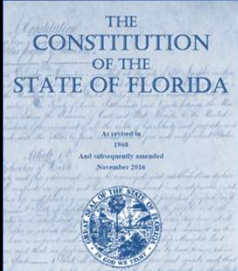
Staff Attorney

Center for Governmental Responsibility  
University of Florida Levin College of Law

Timothy E. McLendon currently works as a Staff Attorney in the Center for Governmental Responsibility, a research and policy institute affiliated with the UF Levin College of Law. His research has involved Everglades restoration policies, oil spill response and recovery, local land use law, sustainable development, historic preservation law, Florida constitutional law, and international environmental law. Mr. McLendon also teaches Florida Constitutional Law, Historic Preservation Law, and an interdisciplinary seminar on Law and Policy Issues in the Americas at the UF Levin College of Law.

A member of the Florida Bar, Mr. McLendon has practiced in state and federal courts where his cases included issues relating to constitutional law, privacy rights, open government, environmental and education law, as well as initiative amendments to the Florida Constitution. He previously researched legal and constitutional issues for the Florida Constitution Revision Commission in 1997-98, and the Florida Supreme Court's Committee on Privacy and Court Records in 2003-05. He also served on the Florida Supreme Court's Committee on Access to Court Records from 2006-09.

Mr. McLendon is the author of a number of publications including a handbook on Florida historic preservation law.



**Florida's Declaration of Rights: A review of Article I**

Timothy McLendon  
[mclendon@law.ufl.edu](mailto:mclendon@law.ufl.edu)  
Staff Attorney  
Center for Governmental Responsibility  
Univ. of Florida Levin College of Law

September 2017

---

---

---

---

---

---

---

---

**Florida's Constitution matters**

It determines:

- Form & scope of state government
- Powers of local government
- Independent agencies
- Jurisdiction of state courts
- Constitutional officers
- State & local taxing & bonding authority
- Duty of state re public education
- Basic rights (state able to provide *more* rights than fed. Const.)

---

---

---

---

---

---

---

---

**Federal & State Constitutions – basic principles**

- Federal Constitution – one of “enumerated powers”
  - Federal government must point to some grant of authority that allows it to act (e.g., Commerce Clause, 14<sup>th</sup> Amendment etc.)
- States, as original sovereigns, have power to act except where they have given power to the Fed. Govt. (in the U.S. Const.), or to the people (in their own constitutions).
  - Thus, a State Constitution operates as a limitation on state power, not a grant!

---

---

---

---

---

---

---

---

### Declarations of Rights as an expression of limits on state power

- The Declaration of Rights places limitations on the power of the Legislature
  - The Bill of Rights to the U.S. Constitution is similarly drafted to limit the power of the federal government in the areas it addresses.
  - The rights secured are, for the most part, negative rights (government is prevented from doing something)
  - One exception in the area of process (govt. must provide the process that is 'due')
- As the next chart shows, this creates a tension with the int'l understanding of 'human rights' compared with American 'basic rights'.

---

---

---

---

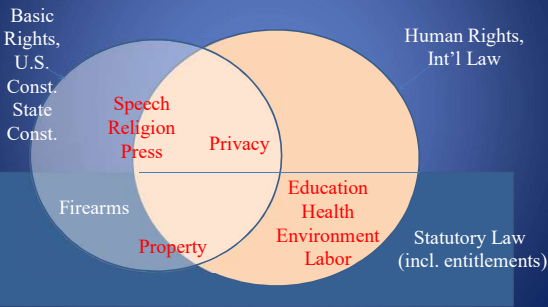
---

---

---

---

### Tension: Human rights distinguished from basic rights under U.S. Const. & State Const.



---

---

---

---

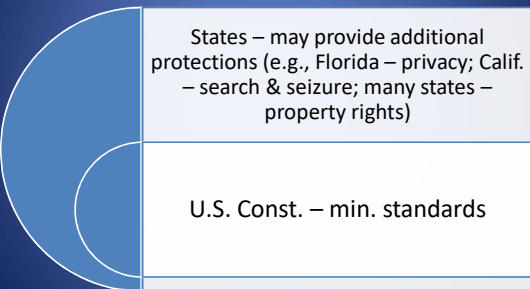
---

---

---

---

### Constitutional Rights in a Federal System



---

---

---

---

---

---

---

---

### Issue of “adequate & independent grounds”

- Provisions in Declarations of Rights in various state constitutions often track those of the Bill of Rights to the U.S. Const.
  - *Michigan v. Long*, 463 U.S. 1032 (1983) – U.S. Sup. Ct. will not overrule a state supreme court decision based on “adequate & independent grounds” in the state constitution.
    - Encouragement to develop independent state declarations of rights
  - J. Brennan encouraged this in 1977 *Harvard L. Rev.* article as means to avoid conservative reaction in fed. courts.

---

---

---

---

---

---

---

---

### Previous Declarations of Rights

- Present in all previous Florida constitutions (1838, 1861, 1865, 1868, 1885).
  - Always the 1<sup>st</sup> Article
  - Provisions in first 3 constitutions were almost identical
    - Owe much to earliest state constitutions of the revolutionary era (e.g., Virginia & Mass.)

---

---

---

---

---

---

---

---

### Highlights of Article I

- “Linkage amendments” – linking the meaning of a provision in the Fla. Const. to an analogous one in the U.S. Cons.
  - Art. I, § 12; Art. I, § 17; Art. I, § 23 & Art. X, § 22
- Florida’s strong privacy provision, Art. I, § 23
- Florida’s broad Public Records & Meetings provision, Art. I, § 24
- Issues with Religious Freedom provision
  - Forbids indirect support to religion, Art. I, § 3
- Protection of Access to the Courts, Art. I, § 21

---

---

---

---

---

---

---

---

### Initial provisions

- Art. I, § 1 – all political power inherent in the people
  - Taken from similar language previous constitutions
  - Also language tracking 9<sup>th</sup> Amendment to U.S. Const.
    - Natural law: govt. is not the source of liberty, but its guarantor.
  - This supremacy is one basis for constitutional theory that the Fla. Const. is essentially a limitation on the otherwise plenary power of the Legislature (i.e. the people acting through their representatives).

---

---

---

---

---

---

---

---

### Art. I, § 2 – Basic Rights

- This was the sole subject of the 1998 CRC's Revision 9 (Basic Rights).
  - Added language 'male & female alike' after natural persons
    - Natural persons added in 1968 Const. (earlier constitutions provided 'all men')
    - Concern about possible same-sex marriage implications
  - 1998 revision added national origin to list of protected classes under the Fla. Const.
    - 1998 CRC rejected proposal to add 'sex' to list of protected classes
      - 1978 CRC proposal did this
    - List contained race & religion from 1968
    - Physical handicap added in 1974 (1998 revision changed the term to 'disability')
  - General right to property

---

---

---

---

---

---

---

---

### Art. I, § 3 – Religious freedom

- Tracks Establishment & Free Exercise clauses of the 1<sup>st</sup> Amend. the US Const.
- Clause from 1885 Const. prohibits any govt. financial aid to religion
  - So-called 'Blaine amendment' – 19<sup>th</sup> century background
  - Impact on school choice
- Fed. Courts had upheld these provisions even where there is impact on free exercise.
  - Locke v. Davey (US 2004)
- Prohibition on indirect aid to religion was basis for trial court ruling against voucher laws
  - Upheld by 1<sup>st</sup> DCA in 2004 – very good opinions on both sides

---

---

---

---

---

---

---

---

### Art. I, § 3 – Religious freedom, cont'd

- However, Fla. Sup. Ct. decided the voucher case on Art. IX (Education) grounds instead of Art. I, 3
  - *Bush v. Holmes*, Fla. 2006
- Proposed 2012 Legis. amend. to repeal this prohibition rejected by voters
- Florida's prohibition on indirect support for religion called into question by recent U.S. Sup. Ct. case
  - *Trinity Lutheran Church v. Pauley* (U.S. 2017)
- Missouri const. interpreted to prohibit church from participating in grant program open to all
  - U.S. Sup. Ct. found state discriminated against religion & state const. not valid reason to deny neutral benefits

---

---

---

---

---

---

---

---

---

---

### Art. I, § 4 – Freedom of Speech & Press

- Adopted in large part from 1885 Constitution.
- Courts have interpreted similarly to Free Speech clause of First Amendment
  - Tests applied are same tests as used under 1<sup>st</sup> amendment
    - No prior restraint on speech
    - Content-neutral time, place & manner restrictions serving legitimate govt. interests usually valid
      - Content-based restrictions presumptively invalid!
- Note Freedom of Press belongs to all citizens
  - Not a property right of the media! (blogs, tweets etc.)

---

---

---

---

---

---

---

---

---

---

### Further provisions

- Right to assemble, Art. I, § 5
  - Taken from 1885 Const.
  - Includes right to instruct representatives & petition for redress of grievances
    - Govt. agent forbidden from bringing malicious prosecution suit after wrongful death suit
      - *Cate v. Oldham* (Fla.1984)
- Right to work, Art. I, § 6
  - Based on 1944 amend. to 1885 Const.
  - No closed shop in Florida (requiring union membership)
  - But also fundamental right to collectively bargain
    - Same rights to public employees, but no right to strike

---

---

---

---

---

---

---

---

---

---

### Additional provisions

- Military power, Art. I, § 7
  - Subjection to civil power
  - Taken from 1868 & 1885 Constitutions
  - Read with Art. IV, § 1(a), Governor is Commander-in-Chief of the militia
    - Art. X, § 2(c), Gov. appoints militia officers; Senate confirmation for highest levels
- Right to bear arms, Art. I, § 8
  - Taken from 1885 Const.
  - 3-day waiting period was 1990 legis. amendment
  - Read together with 1998 CRC’s Revision 12:
    - Art. VIII, § 5 – county option for 3-5 day waiting periods & criminal background checks

---

---

---

---

---

---

---

---

---

---

### Due Process, Art. I, § 9

- Comparable clauses appeared in all previous Florida constitutions
- Includes both substantive & procedural due process
- Florida Sup. Ct. has found greater rights provided under Fla. provision (rejected attempt to tie to Fed. Due Process)
  - *State v. Glosson* (Fla. 1985)
  - **but** the tests used & the analysis usually tracks federal caselaw
    - *State v. Smith* (Fla. 1989)

---

---

---

---

---

---

---

---

---

---

### Prohibited laws, Art. I, § 10

- Adopted from 1885 Const.
  - Similar prohibitions in U.S. Const. Art. I, § 10 & cases interpreting that provision would be applicable here
  - Impairment of contracts – Fla. Sup. Ct.’s stricter test:
    1. Impairment must be reasonable
      - General social problem; area already subject to regulation; duration of the effect; and
    2. Impairment must be necessary to serve important public interest
      - *Pomponio v. Claridge of Pompano Condo.* (Fla. 1980)

---

---

---

---

---

---

---

---

---

---



**Imprisonment for debt, Art. I, § 11**

- Taken from 1868 & 1885 Constitutions
- Applies only to contracted debts
  - Court-ordered alimony or child support is not ‘debt’ within the meaning of this provision.
    - *Fishman v. Fishman* (Fla. 1995)
    - But the property division parts of a divorce settlement would be ‘debt’ under this provision & the prohibition on imprisonment would apply – even for contempt
      - *Howell v. Howell* (Fla. 2d DCA 1968)
  - Taxes generally not ‘debts’, but user fees may well be considered ‘debts’ under this provision

---

---

---

---

---

---

---

---

---

---

**Searches & Seizures, Art. I, § 12**

- First provision subject to so-called *linkage amendment*
  - 1982 legislative amendment explicitly that it be construed in conformity with the U.S. Supreme Court’s interpretation of the 4<sup>th</sup> Amendment.
- Legis. response to *State v. Sarmiento* (Fla. 1981) which found greater protection in Fla. provision
  - Fla. Sup. Ct. in *Bernie v. State* (Fla. 1988) took note of the amendment & its restriction on the Court

---

---

---

---

---

---

---

---

---

---

**Art. I, § 12, cont’d**

- What if U.S. Sup. Ct. has not yet spoken on 4<sup>th</sup> Amendment matter?
  - Maybe some leeway for Fla. Sup. Ct. to have independent interpretation – until there is U.S. Sup. Ct. caselaw to the contrary
    - See *State v. Wells* (Fla. 1989) (Shaw, dissenting).
- Prohibition on intercepting private communications
  - No additional protections beyond 4<sup>th</sup> amendment
    - *State v. Hume* (Fla. 1987) – amend. to Art. I, § 12 followed privacy amendment, Art. I, § 23

---

---

---

---

---

---

---

---

---

---

### Additional protections in criminal cases

- Habeas corpus, Art. I, § 13
  - Similar provisions in all earlier Fla. Constitutions
  - Common law writ to inquire about legality of present restraint on liberty
  - Jurisdiction provisions in Art. V, §§ 3(b)(9), 4(b)(3), 5(b) – Fla. Sup. Ct., DCA's & Circuit Courts
    - Any judge may issue these writs
- Pretrial release & detention, Art I, § 14
  - Similar provisions in earlier constitutions
  - 1982 amendment substituted words 'pretrial release' for bail
    - Earlier provision required greater presumption that bail be granted
    - Rejected 1978 CRC proposal for non-monetary bail (release with conditions) included in 1982 amendment.

---

---

---

---

---

---

---

---

---

---

### Further protections in criminal cases

- Prosecution for crime & offenses committed by children, Art. I, § 15
  - First part tracks 1885 Const.
    - Note: does not require indictment for non-capital felonies
  - 2<sup>nd</sup> part is new to 1968 Const.
    - *Brazill v. State* (Fla. 4<sup>th</sup> DCA 2003) – no absolute right to juvenile system; Legis. may determine by law
- Rights of accused & victims, Art. I, § 16
  - First part comes from 1885 Const.
  - 2<sup>nd</sup> part added by 1987 legis. amendment
    - Crime victims & kin of homicide victims given right to be informed, be present & be heard at crucial stages of criminal proceedings
    - Subordinate to rights of accused

---

---

---

---

---

---

---

---

---

---

### Excessive punishments, Art. I, § 17

- Similar provision in 1885 Constitution.
- 2<sup>nd</sup> example of *linkage amendment*
  - 1998 amendment changed wording to track 8<sup>th</sup> Amendment to U.S. Const.
    - From 'cruel **and** unusual' to 'cruel **or** unusual'
    - Interesting history of amendment (first time Fla. Sup. Ct. removed on ballot title & summary grounds; re-submitted & approved by voters in 2002)
  - Explicitly requires conformity of interpretation of this provision with U.S. Sup. Court's construction of 8<sup>th</sup> Amendment
    - Prompted by *Jones v. State* (Fla. 1997) – strong minority of Sup. Ct. called into question constitutionality of electric chair

---

---

---

---

---

---

---

---

---

---

### Additional protections in criminal cases

- Administrative penalties, Art. I, § 18
  - No administrative agency able to impose prison sentences
  - 1998 CRC amend. (part of Rev. 13) specifically allowed courts martial to impose prison sentences as provided by law
    - Response to 1<sup>st</sup> DCA case questioning constitutionality of courts martial
- Costs, Art. I, § 19
  - Similar provision in 1885 Const.
  - Preconviction costs do not include subsistence & health care costs in detention centers
- Treason, Art. I, § 20
  - Taken from 1868 & 1885 Constitutions
  - Modeled on U.S. Const., art. III, § 3, cl. 1

---

---

---

---

---

---

---

---

---

---

### Access to courts, Art. I, § 21

- Similar provision in 1885 Constitution
- Common Law or pre-1968 Const. cause of action may not be abolished without reasonable alt., unless
  1. Legis. can show “overpowering public necessity” **and**
  2. No alternative method to meet this necessity.
  - *Kluger v. White* (Fla. 1973)
- Workers comp. sys. provided valid alt. to court system
  - *Medina v. Gulf Coast Linen Svcs.* (Fla. 1<sup>st</sup> DCA 2002)
- Tort actions
  - 12-year statute of limitations violated Access to Courts where it foreclosed action against maker of drug used by mother when pregnant where injury was not discovered until 20 years after drug was used that teenage girls whose mothers used the drug were developing cancer. *Diamond v. E. Squibb & Sons, Inc.* (Fla. 1981)

---

---

---

---

---

---

---

---

---

---

### Access to courts, cont'd

- *Mitchell v. Moore* (Fla. 2001)
  - Prison access to justice case
- Statute required prisoner filing civil claims as indigent (without fees) to submit copies of all filings filed over past 5 years
- Fla. Sup. Ct. – right of access is infringed
  - Statute creates difficult additional procedural burden (inmates often did not have copies)
  - Under strict scrutiny, statute struck down

---

---

---

---

---

---

---

---

---

---

### Trial by jury, Art. I, § 22

- Similar provisions in 1885 Const.
- Pre-1776 common law rights to jury trials preserved
  - If right to jury trial existed prior to 1776, that right is continued by this provision.
    - *In re Forfeiture of 1978 Chevrolet Van* (Fla. 1986)
- Nature of remedy may require jury trial
  - *Broward County v. LaRosa* (Fla. 1987) – civil rights board could not award intangible damages (traditionally awarded by juries at common law)

---

---

---

---

---

---

---

---

---

---

### Right of privacy, Art. I, § 23

- Proposed by 1978 CRC, rejected by voters
  - 1980 Legis. amend. is substantially the same
- Florida’s right to privacy is stronger than that under U.S. Const.:
  - “Since the people of this state exercised their prerogative and enacted an amend. to the Fla. Const. which expressly & succinctly provides for a strong right to privacy not found in the U.S. Const., it can only be concluded that the right is much broader in scope than that of Fed. Const.”
    - *Winfield v. Div. of Pari-Mutuel Wagering* (Fla. 1985)

---

---

---

---

---

---

---

---

---

---

### Right to privacy, cont’d

- Encompasses a Right to bodily autonomy
  - Includes right to abortion, *In re T.W.* (Fla. 1989)
  - But – another linkage amendment, Art. X, § 22, adopted in 2004, allows Legis. to adopt a parental notification statute, requires linkage with U.S. Sup. Ct. interpretation of privacy rights in this area.
  - 2012 – Legis. proposed amendment prohibiting public funding of abortion & requiring conformity with U.S. Sup. Ct. cases on all aspects of abortion
    - This linkage amendment was rejected by voters

---

---

---

---

---

---

---

---

---

---

### Right to privacy – bodily autonomy

- Does not include a right to physician-assisted suicide
  - *Krischer v. McIver* (Fla. 1997) – state has compelling interest to preserve life, prevent suicide & preserve integrity of medical profession
- Includes right to refuse medical treatment
  - *In re Dubreuil* (Fla. 1993)
  - This right may be exercised by surrogate
    - *In re Guardianship of Browning* (Fla. 1990) (living will)
    - *In re Guardianship of Schiavo* (Fla. 2d DCA 2005)

---

---

---

---

---

---

---

---

### Right to privacy - information

- Subject to public right of access to public records & meetings
  - Complicated issue where court or official records involves sensitive privacy issues.
    - *Post-Newsweek Stations v. John Doe* (Fla. 1992) – balance public interest against privacy rights of subjects of records
    - *State v. Rolling* (Fla. 8<sup>th</sup> Jud. Cir. Ct. 1994) – strictly controlled access to autopsy photographs from murder case

---

---

---

---

---

---

---

---

### Access to public records & meetings, Art. I, § 24

- Original Sunshine Law, Fla. Stat. ch. 119, dates to 1967
  - 1978 CRC proposal to constitutionalise right of access to public records & meetings (as 2 separate provisions)
  - But in 1992, Fla. Sup. Ct. held on separation of powers grounds that the law did not apply to the Legis. or to const. officers of other branches.
    - *Locke v. Hawkes* (Fla. 1992) (subsequently modified)
  - Result was this amendment, adopted in Nov. 1992

---

---

---

---

---

---

---

---

### Access to public records & meetings, cont'd

- Art. I, § 24 applies to records of all branches of govt. at all levels.
  - And applies to all meetings when official acts taken or official business discussed.
- Provision for Legislature to create exemptions from public records
  - Requires 2/3 vote by each house, bill must state the specific public necessity justifying the exemption & be no broader than necessary
    - 2/3 vote requirement added by legis. amend. in 2002

---

---

---

---

---

---

---

---

### Access to public records & meetings, cont'd

- Art. I, § 24(d) grandfathered in existing laws limiting public access to meetings & records, and also grandfathered in court rules limiting access that were in effect in November 1992.
  - Unlike Legis., Supreme Court has no general power to create new exemptions in court rules
  - Recent rules amendments have focused on eliminating exempt & confidential information from court filings
    - 2005 Court Committee on Privacy & Court Records
    - Issue of privacy in context of electronic court records

---

---

---

---

---

---

---

---

### Taxpayers' Bill of Rights, Art. I, § 25

- Tax & Budget Reform Comm'n proposal, adopted by voters in 1992
  - Mandate to the Legislature to enact a law (the 'Taxpayers' Bill of Rights') clarifying taxpayers' rights & responsibilities, and those of the government
- Legislature implemented with Fla. Stat. § 213.015

---

---

---

---

---

---

---

---

### Claimant's right to fair compensation, Art. I, § 26

- Part of a 2004 initiative amendment battle between doctors & trial lawyers.
  - This provision applies to medical liability claims, sponsored by medical doctors
  - Requires 75% of awards up to \$250,000 & 90% of awards above \$250,000 go to clients.
  - However, Sup. Ct. has held that this right may be waived by contract.
    - See *Adv. Op. Atty. Gen'l*, 880 So. 2d 675 (Fla.2004).
- Amendments sponsored by the trial lawyers are found in Art. X, §§ 25 & 26

---

---

---

---

---

---

---

---

---

---

### Marriage defined, Art. I, § 27

- Definition of marriage in Florida limited to one man and one woman
  - Initiative amendment, adopted in 2008
- Superseded by U.S. Sup. Ct.'s 2015 *Obergefell* decision
  - Invalidated all state restrictions on same-sex marriage
- Example of other constitutional provisions which have been invalidated
  - *E.g.*, term limits for U.S. Congress in Art. VI, 4(b)

---

---

---

---

---

---

---

---

---

---

### 1997-98 CRC – unsuccessful Declaration of Rights proposals

- Other proposals considered by CRC in 1997-98 that impacted Declaration of Rights:
  - CRC Prop. 1 (Sundberg) – would have prevented forfeiture of property without felony conviction
  - CRC Prop. 2 (Sundberg) – equal opportunity in employment, public housing, education
  - CRC Prop. 13 (Brochin) – would have required unanimous jury recommendation for death penalty
    - Series of recent cases (U.S. & Fla. Sup. Ct.). Legis. adopted law in 2017 to make this effective in Fla.
  - CRC Prop. 17 (Riley) – would have added sexual orientation to list of protected classes in Art. I, § 2

---

---

---

---

---

---

---

---

---

---

**1997-98 CRC – unsuccessful  
Declaration of Rights proposals**

- CRC Prop. 21 (Rundle) – no right to jury trial for alleged fathers in paternity suits
- CRC Prop. 29 (Riley) – would have created right to medical marijuana
- CRC Prop. 38 (Mills) – environmental bill of rights
- CRC Prop. 56 (Zack) – right to medical care for minor children
- CRC Prop. 57 (Zack) – prohibit sale of personal data without written consent
  - CRC Prop. 171 (Mills) - similar
- CRC Prop. 58 (Zack) – would have added ‘age’ to protected classes in Art. I, § 2
- CRC Prop. 86 (Freidin) – women & men to have equal rights
- CRC Prop. 95 (Evans) –required reimbursement for persons falsely charged with crimes upon acquittal

---

---

---

---

---

---

---

---

---

---

**1997-98 CRC – unsuccessful  
Declaration of Rights proposals**

- CRC Prop. 97 (Evans) – prohibit partial-birth abortion
- CRC Prop. 104 (Evans) – parental right to direct upbringing & education of their children
- CRC Prop. 107 (Connor) – parental consent to medical treatment for children, including abortion
  - CRC Prop. 125 & 127 (Mathis) – protect unborn children in Art. I, § 2
- CRC Prop. 141 (Mathis) – conjugal visits for prisoners
- CRC Prop. 144 (Barnett) – prohibit arbitrary or capricious punishments
- CRC Prop. 141 (Mathis) – conjugal visits for prisoners
- CRC Prop. 144 (Barnett) – prohibit arbitrary or capricious punishments
- CRC Prop. 170 (Mills) – would have created ‘citizens advocate’ or ombudsman position to aid citizens in obtaining redress of grievances
- CRC Prop. 178 (Connor) – right of political association fundamental
- CRC Prop. 187 (Connor) – freedom of religion, state laws burdening religion require compelling interest & narrow tailoring

---

---

---

---

---

---

---

---

---

---

**Unsuccessful initiative amendments  
dealing with Art. I**

- 1984 – proposed Citizen’s Rights in Civil Actions
  - Would have limited amount of damages to %age of actual liability; set \$100,000 limit on non-economic damages
  - Disallowed by Sup. Ct. in *Evans v. Firestone* (Fla. 1984)
    - performed multiple functions
- 1988 – proposed Art. I, § 21, Limitations on Non-Economic Damages in Civil Actions
  - Limited non-econ. damages in personal injury cases to \$100,000
  - Allowed on ballot, but not approved by voters

---

---

---

---

---

---

---

---

---

---



### Unsuccessful initiative amendments dealing with Art. I

- 1994 – init. amend. to Art. I, § 10, “Restricts Laws Related to Discrimination”
  - Prevent govt. from enacting discrimin. laws
    - Only allowed race, color, religion, sex, nat’l origin, age, handicap, marital or family status
  - Disallowed by Sup. Ct.
    - *Adv. Op. Restricts Laws Related to Discrim.* (Fla. 1994) – single subject & ballot title/summary
- 1994 – init. amend. to Art. I, § 16, “Stop Early Release of Prisoners”
  - Make prisoners serve 85% of sentence
- Disallowed by Sup. Ct.
  - *Adv. Op. Stop Early Release* (Fla. 1994) – ballot title & summary
    - Promised to ‘ensure’ prisoners served time, but amend. did not account for exec. clemency

---

---

---

---

---

---

---

---

---

---

### Unsuccessful art. I initiatives

- 1994 – amend. to Art. I, § 2, “Property Rights”
  - Would require compensation when govt. action damaged value of private property
- Part of 4 Tax Cap init. disallowed by Sup. Ct.
  - *Adv. Op. Tax Limitation* (Fla. 1994).
    - single subject issues with affect on branches & levels of govt.; ballot title & summary issues
    - Unsuccessful 1997 attempt – in art. X
- 1998 – proposed Art. I, § 24, “Right of Citizens to Choose Healthcare Providers”
  - Would have prevented insurance cos. from limiting patient choice of physicians
- Disallowed by Sup. Ct.
  - *Adv. Op. Right of Citizens to Choose Healthcare Providers* (Fla. 1998).
    - single subject violation because affected both legal & contractual limits on choice of physician; summary vague

---

---

---

---

---

---

---

---

---

---

### Unsuccessful Discrimination Initiatives - 2000

- Package of 4 initiative amendments that would have amended Art. I to end govt. programs that treated people differently based on race in:
  - 1) education; 2) public employment; 3) public contracts; 4) all govt. discrimination practices
  - Invalidated by Sup. Ct., *Adv. Op. Bar Govt. from Treating People Differently* (Fla. 2000)
    - Single subject violation because it combined employment, education & contracting; and for impact on branches of govt.; summaries invalid

---

---

---

---

---

---

---

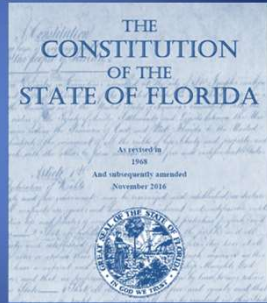
---

---

---

## Conclusion

- Importance of CRC's work
  - Scrutinize proposals
    - This committee's role
  - Consider consequences upon other areas
- How is productivity to be measured?
  - Is it by revisions actually adopted?
    - Need to look at the quality, not quantity of this committee's work, and that of the CRC



---

---

---

---

---

---

---

---

CONSTITUTION REVISION COMMISSION  
**APPEARANCE RECORD**

(Deliver completed form to Commission staff)

9/27/17  
Meeting Date

Proposal Number (if applicable)

\*Topic Article I

Amendment Barcode (if applicable)

\*Name Timothy McLendon

Address UF Levin College of Law

Phone 352 273 0835

Street Gainesville State FL Zip 32611

Email mcclendon@law.ufl.edu

\*Speaking:  For  Against  Information Only

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Are you representing someone other than yourself?  Yes  No  
If yes, who? \_\_\_\_\_

Are you a registered lobbyist?  Yes  No  
Are you an elected official or judge?  Yes  No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

\*Required

The Constitution Revision Commission  
**COMMITTEE MEETING PACKET TAB**

---

## Declaration of Rights

---

**MEETING DATE:** Wednesday, September 27, 2017

**TIME:** 1:00—5:00 p.m.

**PLACE:** Room 110 Senate Office Building, Tallahassee,  
Florida

CONSTITUTION  
OF THE  
STATE OF FLORIDA

AS REVISED IN 1968 AND SUBSEQUENTLY AMENDED

The Constitution of the State of Florida as revised in 1968 consisted of certain revised articles as proposed by three joint resolutions which were adopted during the special session of June 24-July 3, 1968, and ratified by the electorate on November 5, 1968, together with one article carried forward from the Constitution of 1885, as amended. The articles proposed in House Joint Resolution 1-2X constituted the entire revised constitution with the exception of Articles V, VI, and VIII. Senate Joint Resolution 4-2X proposed Article VI, relating to suffrage and elections. Senate Joint Resolution 5-2X proposed a new Article VIII, relating to local government. Article V, relating to the judiciary, was carried forward from the Constitution of 1885, as amended.

Sections composing the 1968 revision have no history notes. Subsequent changes are indicated by notes appended to the affected sections. The indexes appearing at the beginning of each article, notes appearing at the end of various sections, and section and subsection headings are added editorially and are not to be considered as part of the constitution.

PREAMBLE

We, the people of the State of Florida, being grateful to Almighty God for our constitutional liberty, in order to secure its benefits, perfect our government, insure domestic tranquility, maintain public order, and guarantee equal civil and political rights to all, do ordain and establish this constitution.

ARTICLE I

DECLARATION OF RIGHTS

**SECTION 1. Political power.**

All political power is inherent in the people. The enunciation herein of certain rights shall not be construed to deny or impair others retained by the people.

**SECTION 2. Basic rights.**

All natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property; except that the ownership, inheritance, disposition and possession of real property by aliens ineligible for citizenship may be regulated or prohibited by law. No person shall be deprived of any right because of race, religion, national origin, or physical disability.

History.—Am. S.J.R. 917, 1974; adopted 1974; Am. proposed by Constitution Revision Commission, Revision No. 9, 1998, filed with the Secretary of State May 5, 1998; adopted 1998.

**SECTION 3. Religious freedom.**

There shall be no law respecting the establishment of religion or prohibiting or penalizing the free exercise thereof. Religious freedom shall not justify practices inconsistent with public morals, peace or safety. No revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.

**SECTION 4. Freedom of speech and press.**

Every person may speak, write and publish sentiments on all subjects but shall be responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions and civil actions for defamation the truth may be given in evidence. If the matter charged as defamatory is true and was published with good motives, the party shall be acquitted or exonerated.

History.—Am. proposed by Constitution Revision Commission, Revision No. 13, 1998, filed with the Secretary of State May 5, 1998; adopted 1998.

**SECTION 5. Right to assemble.**

The people shall have the right peaceably to assemble, to instruct their representatives, and to petition for redress of grievances.

**SECTION 6. Right to work.**

The right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization. The right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged. Public employees shall not have the right to strike.

**SECTION 7. Military power.**

The military power shall be subordinate to the civil.

**SECTION 8. Right to bear arms.**

(a) The right of the people to keep and bear arms in defense of themselves and of the lawful authority of the state shall not be infringed, except that the manner of bearing arms may be regulated by law.

(b) There shall be a mandatory period of three days, excluding weekends and legal holidays, between the purchase and delivery at retail of any handgun. For the purposes of this section, “purchase” means the transfer of money or other valuable consideration to the retailer, and “handgun” means a firearm capable of being carried and used by one hand, such as a pistol or revolver. Holders of a concealed weapon permit as prescribed in Florida law shall not be subject to the provisions of this paragraph.

(c) The legislature shall enact legislation implementing subsection (b) of this section, effective no later than December 31, 1991, which shall provide that anyone violating the provisions of subsection (b) shall be guilty of a felony.

(d) This restriction shall not apply to a trade in of another handgun.

History.—Am. C.S. for S.J.R. 43, 1989; adopted 1990.

**SECTION 9. Due process.**

No person shall be deprived of life, liberty or property without due process of law, or be twice put in jeopardy for the same offense, or be compelled in any criminal matter to be a witness against oneself.

History.—Am. proposed by Constitution Revision Commission, Revision No. 13, 1998, filed with the Secretary of State May 5, 1998; adopted 1998.

**SECTION 10. Prohibited laws.**

No bill of attainder, ex post facto law or law impairing the obligation of contracts shall be passed.

**SECTION 11. Imprisonment for debt.**

No person shall be imprisoned for debt, except in cases of fraud.

**SECTION 12. Searches and seizures.**

The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, and against the unreasonable interception of private communications by any means, shall not be violated. No warrant shall be issued except upon probable cause, supported by affidavit, particularly describing the place or places to be searched, the person or persons, thing or things to be seized, the communication to be intercepted, and the nature of evidence to be obtained. This right shall be construed in conformity with the 4th Amendment to the United States Constitution, as interpreted by the United States Supreme Court. Articles or information obtained in violation of this right shall not be admissible in evidence if such articles or information would be inadmissible under decisions of the United States Supreme Court construing the 4th Amendment to the United States Constitution.

History.—Am. H.J.R. 31-H, 1982; adopted 1982.

**SECTION 13. Habeas corpus.**

The writ of habeas corpus shall be grantable of right, freely and without cost. It shall be returnable without delay, and shall never be suspended unless, in case of rebellion or invasion, suspension is essential to the public safety.

**SECTION 14. Pretrial release and detention.**

Unless charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption is great, every person charged with a crime or violation of

municipal or county ordinance shall be entitled to pretrial release on reasonable conditions. If no conditions of release can reasonably protect the community from risk of physical harm to persons, assure the presence of the accused at trial, or assure the integrity of the judicial process, the accused may be detained.

History.—Am. H.J.R. 43-H, 1982; adopted 1982.

**SECTION 15. Prosecution for crime; offenses committed by children.**

(a) No person shall be tried for capital crime without presentment or indictment by a grand jury, or for other felony without such presentment or indictment or an information under oath filed by the prosecuting officer of the court, except persons on active duty in the militia when tried by courts martial.

(b) When authorized by law, a child as therein defined may be charged with a violation of law as an act of delinquency instead of crime and tried without a jury or other requirements applicable to criminal cases. Any child so charged shall, upon demand made as provided by law before a trial in a juvenile proceeding, be tried in an appropriate court as an adult. A child found delinquent shall be disciplined as provided by law.

**SECTION 16. Rights of accused and of victims.**

(a) In all criminal prosecutions the accused shall, upon demand, be informed of the nature and cause of the accusation, and shall be furnished a copy of the charges, and shall have the right to have compulsory process for witnesses, to confront at trial adverse witnesses, to be heard in person, by counsel or both, and to have a speedy and public trial by impartial jury in the county where the crime was committed. If the county is not known, the indictment or information may charge venue in two or more counties conjunctively and proof that the crime was committed in that area shall be sufficient; but before pleading the accused may elect in which of those counties the trial will take place. Venue for prosecution of crimes committed beyond the boundaries of the state shall be fixed by law.

(b) Victims of crime or their lawful representatives, including the next of kin of homicide victims, are entitled to the right to be informed, to be present, and to be heard when relevant, at all crucial stages of criminal proceedings, to the extent that these rights do not interfere with the constitutional rights of the accused.

History.—Am. S.J.R. 135, 1987; adopted 1988; Am. proposed by Constitution Revision Commission, Revision No. 13, 1998, filed with the Secretary of State May 5, 1998; adopted 1998.

**SECTION 17. Excessive punishments.**

Excessive fines, cruel and unusual punishment, attainder, forfeiture of estate, indefinite imprisonment, and unreasonable detention of witnesses are forbidden. The death penalty is an authorized punishment for capital crimes designated by the legislature. The prohibition against cruel or unusual punishment, and the prohibition against cruel and unusual punishment, shall be construed in conformity with decisions of the United States Supreme Court which interpret the prohibition against cruel and unusual punishment provided in the Eighth Amendment to the United



States Constitution. Any method of execution shall be allowed, unless prohibited by the United States Constitution. Methods of execution may be designated by the legislature, and a change in any method of execution may be applied retroactively. A sentence of death shall not be reduced on the basis that a method of execution is invalid. In any case in which an execution method is declared invalid, the death sentence shall remain in force until the sentence can be lawfully executed by any valid method. This section shall apply retroactively.

History.—Am. H.J.R. 3505, 1998; adopted 1998; Am. H.J.R. 951, 2001; adopted 2002.

**SECTION 18. Administrative penalties.**

No administrative agency, except the Department of Military Affairs in an appropriately convened court-martial action as provided by law, shall impose a sentence of imprisonment, nor shall it impose any other penalty except as provided by law.

History.—Am. proposed by Constitution Revision Commission, Revision No. 13, 1998, filed with the Secretary of State May 5, 1998; adopted 1998.

**SECTION 19. Costs.**

No person charged with crime shall be compelled to pay costs before a judgment of conviction has become final.

**SECTION 20. Treason.**

Treason against the state shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort, and no person shall be convicted of treason except on the testimony of two witnesses to the same overt act or on confession in open court.

**SECTION 21. Access to courts.**

The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.

**SECTION 22. Trial by jury.**

The right of trial by jury shall be secure to all and remain inviolate. The qualifications and the number of jurors, not fewer than six, shall be fixed by law.

**SECTION 23. Right of privacy.**

Every natural person has the right to be let alone and free from governmental intrusion into the person's private life except as otherwise provided herein. This section shall not be construed to limit the public's right of access to public records and meetings as provided by law.

History.—Added, C.S. for H.J.R. 387, 1980; adopted 1980; Am. proposed by Constitution Revision Commission, Revision No. 13, 1998, filed with the Secretary of State May 5, 1998; adopted 1998.

## **SECTION 24. Access to public records and meetings.**

(a) Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

(b) All meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, shall be open and noticed to the public and meetings of the legislature shall be open and noticed as provided in Article III, Section 4(e), except with respect to meetings exempted pursuant to this section or specifically closed by this Constitution.

(c) This section shall be self-executing. The legislature, however, may provide by general law passed by a two-thirds vote of each house for the exemption of records from the requirements of subsection (a) and the exemption of meetings from the requirements of subsection (b), provided that such law shall state with specificity the public necessity justifying the exemption and shall be no broader than necessary to accomplish the stated purpose of the law. The legislature shall enact laws governing the enforcement of this section, including the maintenance, control, destruction, disposal, and disposition of records made public by this section, except that each house of the legislature may adopt rules governing the enforcement of this section in relation to records of the legislative branch. Laws enacted pursuant to this subsection shall contain only exemptions from the requirements of subsections (a) or (b) and provisions governing the enforcement of this section, and shall relate to one subject.

(d) All laws that are in effect on July 1, 1993 that limit public access to records or meetings shall remain in force, and such laws apply to records of the legislative and judicial branches, until they are repealed. Rules of court that are in effect on the date of adoption of this section that limit access to records shall remain in effect until they are repealed.

History.—Added, C.S. for C.S. for H.J.R.’s 1727, 863, 2035, 1992; adopted 1992; Am. S.J.R. 1284, 2002; adopted 2002.

## **SECTION 25. Taxpayers’ Bill of Rights.**

By general law the legislature shall prescribe and adopt a Taxpayers’ Bill of Rights that, in clear and concise language, sets forth taxpayers’ rights and responsibilities and government’s responsibilities to deal fairly with taxpayers under the laws of this state. This section shall be effective July 1, 1993.

History.—Proposed by Taxation and Budget Reform Commission, Revision No. 2, 1992, filed with the Secretary of State May 7, 1992; adopted 1992.

Note.—This section, originally designated section 24 by Revision No. 2 of the Taxation and Budget Reform Commission, 1992, was redesignated section 25 by the editors in order to avoid confusion with section 24 as contained in H.J.R.'s 1727, 863, 2035, 1992.

**SECTION 26. Claimant's right to fair compensation.**

(a) Article I, Section 26 is created to read "Claimant's right to fair compensation." In any medical liability claim involving a contingency fee, the claimant is entitled to receive no less than 70% of the first \$250,000.00 in all damages received by the claimant, exclusive of reasonable and customary costs, whether received by judgment, settlement, or otherwise, and regardless of the number of defendants. The claimant is entitled to 90% of all damages in excess of \$250,000.00, exclusive of reasonable and customary costs and regardless of the number of defendants. This provision is self-executing and does not require implementing legislation.

(b) This Amendment shall take effect on the day following approval by the voters.

History.—Proposed by Initiative Petition filed with the Secretary of State September 8, 2003; adopted 2004.

**SECTION 27. Marriage defined.**

Inasmuch as marriage is the legal union of only one man and one woman as husband and wife, no other legal union that is treated as marriage or the substantial equivalent thereof shall be valid or recognized.

History.—Proposed by Initiative Petition filed with the Secretary of State February 9, 2005; adopted 2008.

CONSTITUTION REVISION COMMISSION  
**APPEARANCE RECORD**

(Deliver completed form to Commission staff)

01/27/17  
Meeting Date

Proposal Number (if applicable)

\*Topic Gun Proposals

Amendment Barcode (if applicable)

\*Name Gary Delimont

Address 1683 Woodlawn Way

Street 1683 Woodlawn Way  
City Greif Breeze State FL Zip 32513

Phone 678-860-7071  
Email Bosida@moms

\*Speaking:  For  Against  Information Only

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Are you representing someone other than yourself?  Yes  No

If yes, who? Moms demand Action / Everytown

Are you a registered lobbyist?  Yes  No

Are you an elected official or judge?  Yes  No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

\*Required