

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

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

**MEETING DATE:** Wednesday, November 1, 2017  
**TIME:** 1:00—5:00 p.m.  
**PLACE:** 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
		Workshop on Article I, Section 23 of the Florida Constitution: Right of Privacy	Discussed
		* Guest Speaker: The Honorable Major B. Harding, Former Chief Justice of the Florida Supreme Court	Presented
		* Guest Speaker: The Honorable Talbot "Sandy" D'Alemberte, President Emeritus and Professor of Law at Florida State University	Presented

NOTE: Public comment will be taken on all noticed agenda items.

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# CONSTITUTION REVISION COMMISSION

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2017 - 2018

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## **WORKSHOP ON ARTICLE I, SECTION 23: RIGHT OF PRIVACY**

### **DECLARATION OF RIGHTS COMMITTEE**

**November 1, 2017**

**1 PM – 5PM**

**110 Senate Office Building, Tallahassee, Florida**

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***WORKSHOP ON ARTICLE I, SECTION 23: RIGHT OF PRIVACY***

**DECLARATION OF RIGHTS COMMITTEE**

**November 1, 2017**

**1 PM – 5PM**

**110 Senate Office Building, Tallahassee, Florida**



**WORKSHOP PACKET**

**TAB 1**

# THE CONSTITUTION OF THE STATE OF FLORIDA

(as revised in 1968 and subsequently amended)



## PRIVACY PROVISIONS

### ARTICLE I, SECTION 23: RIGHT OF PRIVACY

**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.

### ARTICLE X, SECTION 22: PARENTAL NOTICE OF TERMINATION OF A MINOR’S PREGNANCY

**SECTION 22.** Parental notice of termination of a minor’s pregnancy.—The Legislature shall not limit or deny the privacy right guaranteed to a minor under the United States Constitution as interpreted by the United States Supreme Court. Notwithstanding a minor’s right of privacy provided in Section 23 of Article I, the Legislature is authorized to require by general law for notification to a parent or guardian of a minor before the termination of the minor’s pregnancy. The Legislature shall provide exceptions to such requirement for notification and shall create a process for judicial waiver of the notification.

**History.**—Added, H.J.R. 1, 2004; adopted 2004.

***WORKSHOP ON ARTICLE I, SECTION 23: RIGHT OF PRIVACY***

**DECLARATION OF RIGHTS COMMITTEE**

**November 1, 2017**

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**WORKSHOP PACKET**

**TAB 2**

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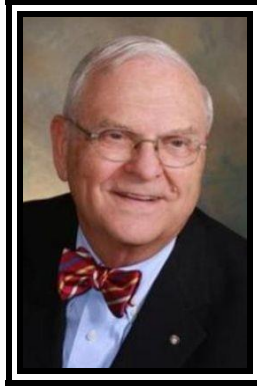
# CONSTITUTION REVISION COMMISSION

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## **SPEAKER BIOGRAPHY**



### **THE HONORABLE MAJOR B. HARDING**

Former Chief Justice, Florida Supreme Court (1998-2000)  
Shareholder, Ausley & McMullen

Justice Major B. Harding, a native of Charlotte, North Carolina, received his Bachelor of Science and Bachelor of Laws degrees from Wake Forest University, and a Master of Laws in Judicial Process from the University of Virginia. He also attended the United States Army Infantry School and the United States Army Judge Advocate General School.

Justice Harding began his legal career as an Assistant Staff Judge Advocate at Fort Gordon, Georgia. He later served as the Assistant County Solicitor prosecuting in Duval County's Criminal Court of Record, before entering private practice in 1964. In 1968, he received his first judicial appointment to the Duval County Juvenile Court. He was later appointed Circuit Judge in the Fourth Judicial Circuit, where he was elected Chief Judge in 1974 and 1975. On January 22, 1991, Governor Lawton Chiles appointed Justice Harding to the Florida Supreme Court where he served until his retirement on August 31, 2002, serving as Chief Justice from July 1998 to June 2000.

Justice Harding has received a number of professional awards in recognition of his distinguished legal career. Such awards include, the American Academy of Matrimonial Lawyers Award for outstanding contribution to the field of matrimonial law, the American Bar Association Commission on Lawyer Assistance Programs Judicial Recognition Award, Jurist of the Year from the Jacksonville Chapter of the American Board of Trial Advocates, the Distinguished Service Award from the National Center for State Courts, and the William Hoeveller Judicial Professionalism Award. He has also served as the Dean of the Florida Judicial College, Chair of the Florida Court Education Council, Chair of the Florida Conference of Circuit Judges, President of the Tallahassee American Inns of Court, co-chair of the American Bar Association Bar Admission Committee, and Chair of the United States Constitution Bicentennial Commission of Jacksonville.

Justice Harding currently practices law with the firm of Ausley & McMullen in Tallahassee, FL, where he concentrates his practice on alternative dispute resolution and appellate law. He is AV rated by Martindale-Hubbell, listed in the Best Lawyers in Florida, and named to Florida Trend's Florida Legal Elite.

# FLORIDA PRIVACY RIGHTS



## JUSTICE MAJOR B. HARDING

*Presented before:*  
*Declaration of Rights Committee*  
*2017-2018 Constitution Revision Commission*  
*November 1, 2017*  
*110 Senate Office Building, Tallahassee, Florida*

## PRIVACY RIGHTS UNDER THE U.S. CONSTITUTION

The United States Constitution does not contain an explicit right of privacy.

While no explicit privacy right is expressed in the United States Constitution, the United States Supreme Court has found that several different types of privacy rights exist under the United States Constitution.

“Various guarantees create zones of privacy” - *Griswold v. Connecticut*, 381 U.S. 479, 484 (1965)

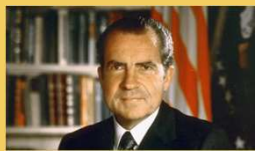
## PRIVACY RIGHTS UNDER THE U.S. CONSTITUTION

Privacy rights have been found from construing several guarantees under the U.S. Constitution, including:

- The First Amendment's Right to Assemble
- The Third Amendment's Prohibition Against Quartering Soldiers in Private Homes
- The Fourth Amendment's Protection Against Unreasonable Searches
- The Fifth Amendment's Rights Against Self-incrimination

## FLORIDA CONSTITUTION REVISION COMMISSION 1977-1978

Several major events in the 1970s prompted the 1977-1978 CRC to consider a privacy amendment to the Florida Constitution:



- Watergate Scandal
- Former President Nixon's Presidential Papers and Tape Recordings
- New Technology
  - Internet and Computer Protocols
  - Rise in Banking Wire Transfers



## U.S. PRIVACY PROTECTION STUDY COMMISSION 1977

In 1977, Congress commissioned a privacy protection committee to examine:

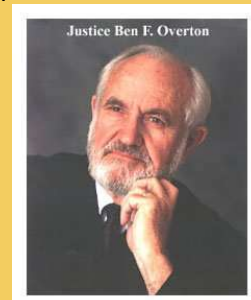
- Data Banks
- Automatic Data Processing Programs
- Informational Systems of Government and Private Organizations

The Commission recommended states consider privacy amendments.

## FLORIDA CONSTITUTION REVISION COMMISSION 1977-1978

*“Who, ten years ago, really understood that personal and financial data on a substantial part of our population could be collected by government or business and held for easy distribution by computer operated information systems? There is a public concern about how personal information concerning an individual citizen is used, whether it be collected by government or by business. The subject of individual privacy and privacy law is in a developing state...it is a new problem that should probably be addressed.”*

- Chief Justice Ben Overton, Florida Supreme Court  
Remarks at Opening Session of the 1977-1978 CRC



## FLORIDA CONSTITUTION REVISION COMMISSION 1977-1978

The 1977-1978 CRC proposed the following privacy amendment to the Florida Constitution:

***Article I, Section 23. Right of Privacy. Every natural person has the right to be let alone and free from governmental intrusion into his private life except as otherwise provided herein.***

The proposal, which was grouped with many other proposals related to the Declaration of Rights, was not adopted by voters.

## ARTICLE I, SECTION 23: RIGHT OF PRIVACY

In 1980, the Legislature enacted a joint resolution placing the privacy amendment back on the ballot, but with the addition of a new provision:

***Article I, Section 23. Right of Privacy. Every natural person has the right to be let alone and free from government intrusion into his 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 meeting as provided by law. (Emphasis added)***

The privacy amendment passed with approximately 60% of the vote.

## FLORIDA CONSTITUTION REVISION COMMISSION 1997-1998

The 1997-1998 CRC proposed the following amendment to Article I, Section 23:

From “. . .into his private life . . .”

To “. . . into **that person's** private life . . .”

The amendment was adopted by the voters.

## ARTICLE I, SECTION 23: RIGHT OF PRIVACY

Cases decided by the Florida Supreme Court citing the right of privacy under the Florida Constitution can be grouped into five categories:

- Informational Privacy
- Parent's Rights (Actually Grandparent's Rights)
- Rights to Refuse Medical Treatment
- Right to Abortion
- Right to Free Movement (or Right to be Left Alone)

## ARTICLE I, SECTION 23: RIGHT OF PRIVACY

Initial cases construing the privacy right concerned informational privacy and the court did not find a right to privacy in such cases:

- Whether persons who contracted AIDS were entitled to information about blood donors, including names and records? **NO.**  
*Rasmussen v. South Florida Blood Service, 500 So. 2d 533 (Fla. 1987)*
- Whether meeting records of a university committee were private? **NO.**  
*Wood v. Marston, 442 So. 2d 934 (Fla. 1983)*
- Whether employee records in a tax supported hospital's permanent files were private? **NO.**  
*Michel v. Douglas, 464 So. 2d 545 (Fla. 1985)*
- Whether bank records subpoenaed in an investigation are private? **NO.**  
*Winfield v. Division of Pari-Mutuel Wagering, 477 So. 2d 544 (Fla. 1985)*

## ARTICLE I, SECTION 23: RIGHT OF PRIVACY

Parental rights cases mostly concern grandparents seeking to establish custody or visitation. The Florida Supreme Court has consistently upheld parent's privacy rights in such cases.

- *Beagle v. Beagle, 678 So.2d 1271 (Fla. 1996)*
- *Von Eiff v. Azicri, 720 So.2d 510 (Fla. 1996)*
- *Richardson v. Richardson, 766 So. 2d 1036 (Fla. 2000)*

## ARTICLE I, SECTION 23: RIGHT OF PRIVACY

### Abortion

- Federal abortion rights were established by the United States Supreme Court in *Roe v. Wade*, 410 U.S. 113 (1973).
- The Florida Supreme Court also found a right to abortion in *In Re TW*, 551 So.2d 1186 (Fla. 1989).
  - The majority concluded that where parental rights over a minor child are concerned, society has recognized additional state interests - protection of the immature minor and preservation of the family unit.
  - But the court ultimately found that neither of these interests were sufficiently compelling under Florida law to override the right of privacy under the Florida Constitution.
- The last abortion related case was decided earlier this year - *Gainesville Woman Care v. Florida*, 210 So. 3d 1243 (Fla. 2017)
  - The court found that a Florida statute requiring a 24-hour waiting period before a woman seeks an abortion was unconstitutional because it violated the right of privacy.

## ARTICLE I, SECTION 23: RIGHT OF PRIVACY

Privacy rights identified by the Florida Supreme Court under Article I, Section 23, include:

- Blood donors have a right of privacy if their names are requested by someone who has contracted AIDS.
- The right to refuse a blood transfusion due to religious beliefs.
- The right of a minor to an abortion without parental consent.
- The right of a minor to an abortion without parental notification.
- The right to an abortion without a required waiting period.

## FUTURE PRIVACY ISSUES IN AMERICA

- Smartphones
  - Enormous amount of personal information.
- Facebook, Google, Apple, etc.
  - Companies obtain and maintain an enormous amount of personal data on millions of people.
- Twitter and Texting
- Private Tech Companies
  - Government access to information held by private companies.
- Documents that are subpoenaed and withheld

*Thank you for your service to Florida and for your interest and consideration of these extremely important issues for our present and future.*

*- Justice Major B. Harding*

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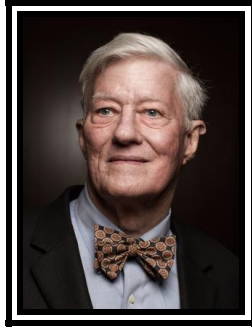
# CONSTITUTION REVISION COMMISSION

2017 - 2018

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## SPEAKER BIOGRAPHY



### **THE HONORABLE TALBOT “SANDY” D’ALEMBERTE**

Partner, D’Alemberte & Palmer, P.L.L.C.  
President Emeritus and Professor, Florida State University  
Chair, 1977-1978 Florida Constitution Revision Commission  
Former President, American Bar Association

Talbot “Sandy” D’Alemberte is currently President Emeritus and a Professor of Law at The Florida State University. He led the university as President for nearly a decade from January 1994 to January 2003. Prior to his presidency, he also served as Dean of the FSU College of Law.

Born in Tallahassee, Professor D’Alemberte was educated in public schools in Tallahassee and Chattahoochee, Florida. In 1955, he earned his Bachelor of Arts degree with honors in political science from the University of the South in Sewanee, Tennessee. After service as a naval officer, he received his Juris Doctor with honors from the University of Florida. During the early years of his law practice, Professor D’Alemberte concentrated on media and public law work. His cases included the proceedings that led to the first rule allowing camera access to courtrooms, service as Chief Counsel in impeachment proceedings against three justices of the Florida Supreme Court, the representation of the Florida House of Representatives in several constitutional cases, and pro bono counsel in four death penalty cases.

From 1966 to 1972, he represented Dade County in the Florida House of Representatives where he chaired several legislative committees including the Judiciary Committee, which drafted and passed a major judicial reform constitutional amendment in 1972. After leaving the Florida Legislature, he chaired the Florida Commission on Ethics in 1974-75 and the Florida Constitution Revision Commission in 1977-1978.

Professor D’Alemberte continues to be active in the organized bar, serving as past President of the American Bar Association (1991-1992), past President of the American Judicature Society (1982-1984), and past Chair of the ABA Section of Legal Education and Admission to the Bar (1982-1983).

Professor D’Alemberte has won numerous awards for his contribution to the legal profession, including the ABA Medal, the highest award of the association. He is also the author several authoritative works on Florida Constitutional Law including, *The Florida Constitution* (Greenwood Press 1991) and *Florida Constitutional Law* (2d ed., Oxford University Press 2016).

***WORKSHOP ON ARTICLE I, SECTION 23: RIGHT OF PRIVACY***

**DECLARATION OF RIGHTS COMMITTEE**

**November 1, 2017**

**1 PM – 5PM**

**110 Senate Office Building, Tallahassee, Florida**



**WORKSHOP PACKET**

**TAB 3**





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**Florida Alliance of Planned Parenthood Affiliates, Inc.**

VIA Electronic Mail  
Committee Chairwoman Lisa Carlton  
Declaration of Rights Committee  
Florida Constitution Revision Commission  
[Lisa.Carlton@flcrc.gov](mailto:Lisa.Carlton@flcrc.gov)  
CC: Tashiba Robinson, Committee Staff Director  
[Tashiba.Robinson@flcrc.gov](mailto:Tashiba.Robinson@flcrc.gov)

RE: Public Comment for November 1<sup>st</sup> Hearing on Right to Privacy

Dear Chair Carlton:

Below are the comments we would like to submit for the record for the November 1<sup>st</sup> public hearing regarding the Article 1, Section 23 workshop.

### **What does Florida's Constitutional Right to Privacy Means for Abortion Rights?**

Florida's state constitution, unlike the federal constitution, expressly protects the right to privacy. It is one of only a handful of states to do so. Article 1, Section 23 of the Florida constitution provides: "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."

The privacy right broadly protects a person's right to decisional autonomy, which encompasses the right to abortion. Critically, Florida courts have applied a stricter standard in analyzing abortion restrictions under the state's constitutional privacy protections than federal courts would use under the federal Constitution for the same restrictions.

Relying on this amendment, Florida courts have struck down a total of three abortion restrictions, although one of those restrictions (parental notification) was essentially reinstated after the constitution was amended to override one of the decisions.

### **How Might the Proposed Amendment Change the Legal Landscape on Abortion in Florida?**

The proposed amendment would change the constitution to read: "Every natural person has the right to be let alone and free from governmental intrusion into the person's private life with respect to privacy of information and the disclosure thereof, 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."

If this were to pass, Florida's constitutional "Right to Privacy" provision would no longer protect a person's interest in decisional autonomy which includes, among many other things, the right to choose to terminate a pregnancy.

If the amendment passed, the 24-hour waiting period requirement, which is temporarily blocked while the litigation is ongoing but is otherwise still in law, could go into effect. The parental consent law, which was previously struck down in a final judgment, would not automatically return, but the legislature could pass a new version without fear that it would be blocked using the state right to privacy.

### **Impact on minors**

In 1989, the Florida Supreme Court struck down a parental consent law in Florida, holding that the state's constitutional right to privacy encompasses a minor's right to abortion.

Considering that the state otherwise allows minors to consent to any medical procedure involving her pregnancy or existing child, and finding that appealing a rejection from a judicial bypass procedure is meaningless, the court concluded that the state lacked a compelling interest and that the consent law therefore violated the privacy amendment to the Florida constitution.

Ten years later, in 1999, the legislature passed a parental notification law instead. This law was also challenged and, following the same reasoning as the parental consent case, the Florida Supreme Court in 2003 struck down the restriction, finding it no less intrusive on a minor's right to abortion than requiring parental consent.

Shortly after this case was decided, in 2004, voters approved a constitutional amendment to explicitly allow for parental notification laws (Fla. Const. art. X, § 22), essentially overruling the 2003 decision.

The following year, the legislature passed a law requiring parental notification 48 hours prior to a minor's abortion (Fla. Stat. Ann. § 390.01114); this was not challenged and it is still the law.

### **How do Floridians feel about restricting access to safe and legal abortion?**

In 2012, the legislature referred Amendment 6 to the ballot to ask if voters supported taking access to abortion away from public employees' health plans. Voters held this effort 15-percent below the required 60+1 margin required to pass, defeating the measure by a 55/45 margin. More Floridians voted against Amendment 6 than any of the other 11 amendments on the ballot. In fact, more Floridians voted against Amendment 6 even than voted to reelect President Obama.

More recently, public opinion research indicates Floridians continue to support access to safe and legal abortion:

- A [2014 Pew poll](#) found Floridians favored abortion being legal in all or most cases by a 56/39 margin.

- Similarly, in 2015, [Sunshine State News reported](#) on a Quinnipiac University poll showing, “53 percent of Florida voters want abortion legalized in all or most situations while 40 percent of those surveyed oppose it in most or all cases.”
- In 2016, a [poll conducted by The National Latina Institute for Reproductive Health](#) (NLIRH) found, “a strong majority of Florida Latino/a voters believe abortion should be legal, affordable and covered by health insurance, no matter the source of coverage...The poll also points to how Florida Latino/a voters oppose the nationwide trend of restrictive and medically unnecessary laws at the state level which make it harder for a woman to access abortion care and harder for doctors and clinics to provide that care.”

## **Conclusion**

Florida’s constitutional right to privacy encompasses a person's “right to the sole control of his or her person” and the “right to determine what shall be done with his own body.”

The Florida Supreme Court has specifically recognized that “a competent person has the constitutional right to choose or refuse medical treatment, and that right extends to all relevant decisions concerning one’s health.”

If a pregnant woman decides to refuse a certain medical intervention in her pregnancy, for example, a court would have to determine whether the state’s compelling state interest is sufficient to override the pregnant woman’s constitutional right to the control of her person, including her right to refuse medical treatment.

The proposed amendment would gut the privacy amendment of this important protection. This could have a broad impact on not only reproductive decision-making, but medical decision-making of any type.

What’s more, as [Howard Simon of the ACLU recently pointed out in the Orlando Sentinel](#), “Florida’s fundamental right to privacy protects us against a variety of governmental intrusions. It is part of the fabric of protection from surveillance and searches by government officials, and it provides us with the right to be free from government scrutiny for activities in our own homes...While specifically drawn to create the impression that it strengthens a right to privacy relating to information that government collects on you and discloses to others about you, if this proposal passes, Floridians will lose protections against a variety of physical intrusions on our privacy by rapidly developing surveillance techniques, including the use of drones, cellphone tracking and other technologies.”

Sincerely,

Laura Goodhue  
Executive Director  
Florida Alliance of Planned Parenthood Affiliates

**CONSTITUTION REVISION COMMISSION  
APPEARANCE RECORD**

(Deliver completed form to Commission staff)

11/1/19  
Meeting Date

\_\_\_\_\_  
Proposal Number (if applicable)

\_\_\_\_\_  
Amendment Barcode (if applicable)

\*Topic Privacy Workshop  
\*Name Major B. Harding  
Address Ausley McMullen Phone \_\_\_\_\_  
Tallahassee Fl City State Zip \_\_\_\_\_ Email \_\_\_\_\_

\*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**

**CONSTITUTION REVISION COMMISSION**  
**APPEARANCE RECORD**

(Deliver completed form to Commission staff)

11/1/17  
Meeting Date

\_\_\_\_\_  
Proposal Number (if applicable)

\_\_\_\_\_  
Amendment Barcode (if applicable)

\*Topic Privacy Workshop

\*Name Sandy D'Alemberte

Address c/o Florida State University

Phone \_\_\_\_\_

Tallahassee State FL Zip \_\_\_\_\_

Email \_\_\_\_\_

\*Speaking:  For  Against  Information Only  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.

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**\*Required**

**CONSTITUTION REVISION COMMISSION  
APPEARANCE RECORD**

(Deliver completed form to Commission staff)

11-1-17  
Meeting Date

\_\_\_\_\_  
Proposal Number (if applicable)

\_\_\_\_\_  
Amendment Barcode (if applicable)

\*Topic Privacy Clause Amendment

\*Name Debra DeLand

Address 1625 E. Broad St

City Tallahassee State FL Zip 32308

Phone 850-251-4280

Email balmadana1@yahoo.com

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

\*Speaking:  For  Against  Information Only

Are you representing someone other than yourself?  Yes  No

If yes, who? FL NOW National Organization for Women

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

**CONSTITUTION REVISION COMMISSION**

**APPEARANCE RECORD**

(Deliver completed form to Commission staff)

11/1/17  
Meeting Date

# 22

Proposal Number (if applicable)

\*Topic WORKSHOP

Amendment Barcode (if applicable)

\*Name MARTY MONROE

Phone 850 224-2545

Address 2507 Callaway Rd Suite 102A

FALLAHASSEE FL 32303

Email LWVFAdvocacy@gmail.com

City State Zip

\*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? League of Women Voters of Florida

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

***WORKSHOP ON ARTICLE I, SECTION 23: RIGHT OF PRIVACY***

**DECLARATION OF RIGHTS COMMITTEE**

**November 1, 2017**

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**WORKSHOP PACKET**

**TAB 4**



# CONSTITUTION REVISION COMMISSION

## 2017 - 2018

### ARTICLE I: DECLARATION OF RIGHTS

### PUBLIC PROPOSALS

(CURRENT THROUGH 10/6/17)

#	<u>Public Proposal Number</u>	<u>Repeal, Create, or Amend Section</u>	<u>Description</u>
<i>Privacy</i>			
1	PUB 800572	§ 23	Limits right of privacy to only unreasonable governmental intrusion.
2	PUB 700698	§ 23	Limits right of privacy to privacy of information and its disclosure.
3	PUB 700125	§ 23	Limits right of privacy to informational, documentary privacy.
4	PUB 700018	§ 23	Expands right of privacy to include any intrusion into a person's private life.
5	PUB 700683	§ 23	Specifies that the right of privacy is a fundamental right.
6	PUB 800792		Establishes right of privacy in income tax returns and right to refuse disclosure thereof.
7	PUB 700136	§ 23	Repeals right of privacy.
8	PUB 700149	§ 23	Repeals permitted exceptions to right of privacy.
9	PUB 700213	§ 23	Requires the state to protect the privacy of natural persons against nongovernmental intrusion for commercial purposes.
10	PUB 700395	§ 23	Establishes the right of natural persons to refuse to answer questions considered intrusive, private, or sensitive. Prohibits certain medical providers and facilities from inquiring about mental or emotional state as a precondition of treatment for an unrelated matter.
11	PUB 700504	§ 23	Establishes a broad right to privacy for "individuals" rather than natural persons (not limited to government intrusion). Provides that all homo sapiens are "individuals" at every stage of development, including fertilization or conception.

# CONSTITUTION REVISION COMMISSION

## 2017 - 2018

#	<u>Public Proposal Number</u>	<u>Repeal, Create, or Amend Section</u>	<u>Description</u>
12	PUB 700662	§ 23	Establishes a broad right to privacy for “individuals” rather than natural persons (not limited to government intrusion). Provides that all homo sapiens are “individuals” at every stage of development, including fertilization or conception.
13	PUB 700151	§ 23	Provides that the right of privacy does not prevent the public from recording public employees, agents, and officials in the performance of their duties.
14	PUB 800791	§ 23	Provides that the right of privacy does not authorize abortion. Establishes a right to financial privacy.
15	PUB 800760	Art. X, § 22	Provides that notification of a parent or guardian of the termination of a minor’s pregnancy is not appropriate in all cases. Repeals power of legislature to provide for parental notification, establish exceptions or create judicial waiver process. Authorizes the legislature to require the referral of a minor to a mental health professional, counselor, or social worker.
16	PUB 700039	Art. X, § 22	Provides that abortion shall be abolished in Florida if ever found unconstitutional by the U.S. Supreme Court.
17	PUB 700492	(New)	Establishes a state duty to protect human life upon the medical detection of a heartbeat. Prohibits any person from ending the life of a fetus upon the detection of a heartbeat. Provides an exemption for involuntary termination during an attempt to save the life of the mother.
18	PUB 700570	(New)	Establishes a state duty to protect human life upon the medical detection of a heartbeat. Prohibits any person from ending the life of a fetus upon the detection of a heartbeat. Provides an exemption for involuntary termination during an attempt to save the life of the mother.
19	PUB 700688	(New)	Establishes a state duty to protect human life upon the medical detection of a heartbeat. Prohibits any person from ending the life of a fetus upon the detection of a heartbeat. Provides an exemption for involuntary termination during an attempt to save the life of the mother.
20	PUB 700775	(New)	Establishes a state duty to protect human life upon the medical detection of a heartbeat. Prohibits any person from ending the life of a fetus upon the

# CONSTITUTION REVISION COMMISSION

## 2017 - 2018

#	<u>Public Proposal Number</u>	<u>Repeal, Create, or Amend Section</u>	<u>Description</u>
			detection of a heartbeat. Provides an exemption for involuntary termination during an attempt to save the life of the mother.
21	PUB 700779	Art. X, § 22	Repeals parental notification provisions. Provides that a minor's right of privacy may not be interpreted to deny the life of any human being, including unborn children at every stage of biological development.
22	PUB 700434	(New)	Prohibits the state from abridging the right of a woman to seek or procure an abortion and from imposing requirements or conditions on her ability to do so.
23	PUB 700255	(New)	Prohibits abortions except where pregnancy is a medical threat to the life of the mother.
24	PUB 700506	§ 23	Provides that the right of privacy does not include the right to abortion.
25	PUB 700569	§ 23	Provides that the right of privacy does not include the right to abortion.
26	PUB 700615	§ 23	Provides that the right of privacy does not include the right to abortion.
27	PUB 700357	§ 23	Provides that the right of privacy does not apply to the state's interest in protecting unborn life.
28	PUB 700514	§ 23	Provides that the right of privacy does not limit the right of human beings, born and preborn, to life, liberty, and the pursuit of happiness.
29	PUB 700776	(New)	Requires that the God-given right to life of every human being at any stage of development be recognized and protected.
30	PUB 700528	§ 23	Provides that the right of privacy does not limit the right of human beings, born and preborn, to life, liberty, and the pursuit of happiness.
31	PUB 700634	§ 23	Provides that the right of privacy does not limit the right of human beings, born and preborn, to life, liberty, and the pursuit of happiness. Specifies that the right of privacy does not include the right to abortion at any stage of development.
32	PUB 800788	(New)	Provides that unborn human beings may not be deprived of life. Prohibits abortion except in cases of rape, incest, or harm/life threatening condition of the mother.
33	PUB 700433	§ 23	Provides that the right of privacy does not protect the invocation of physician-assisted suicide.

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#	<u>Public Proposal Number</u>	<u>Repeal, Create, or Amend Section</u>	<u>Description</u>
34	PUB 700453	(New)	Provides that the spouse of a terminally ill, uncommunicative person may contravene such person's documented end of life wishes if such documents are outdated or obsolete.
35	PUB 700628	(New)	Provides that the liberty of parents to direct the upbringing, education, and care of their children is a fundamental right. Prohibits denial of parental rights because of a disability.
36	PUB 700431	(New)	Provides that the liberty of parents to direct the upbringing, education, and care of their children is a fundamental right. Prohibits denial of parental rights because of a disability.
37	PUB 800513	(New)	Establishes parental rights.
38	PUB 700593	(New)	Establishes grandparent visitation rights.
39	PUB 700715	(New)	Establishes grandparent visitation rights.
40	PUB 700442	(New)	Establishes grandparent visitation rights if the parent is deceased and visitation is in the best interests of the child.
41	PUB 700709	§ 23	Provides that the right of privacy may not limit a grandparent's right to seek visitation of their grandchildren when a compelling state interest exists relating to the best interests of the child.
42	PUB 801125	§ 23	Provides that the right of privacy may not limit a grandparent's right to seek visitation of their grandchildren when a compelling state interest exists relating to the best interests of the child.

***WORKSHOP ON ARTICLE I, SECTION 23: RIGHT OF PRIVACY***

**DECLARATION OF RIGHTS COMMITTEE**

**November 1, 2017**

**1 PM – 5PM**

**110 Senate Office Building, Tallahassee, Florida**



**WORKSHOP PACKET**

**TAB 5**

By Commissioner Stemberger

stembergj-00039-17

201722\_\_

1                   A proposal to amend  
 2           Section 23 of Article I of the State Constitution to  
 3           specify that a person has the right of privacy from  
 4           governmental intrusion into the person's private life  
 5           with respect to the privacy of information and the  
 6           disclosure thereof.

7  
 8 Be It Proposed by the Constitution Revision Commission of  
 9 Florida:

10  
 11           Section 23 of Article I of the State Constitution is  
 12 amended to read:

13                                   ARTICLE I

14   DECLARATION OF RIGHTS

15           SECTION 23. Right of privacy.—Every natural person has the  
 16 right to be let alone and free from governmental intrusion into  
 17 the person's private life with respect to privacy of information  
 18 and the disclosure thereof, except as otherwise provided herein.  
 19 This section shall not be construed to limit the public's right  
 20 of access to public records and meetings as provided by law.

By Commissioner Rouson

rousond-00050-17

201764\_\_

1                   A proposal to amend  
 2           Section 23 of Article I of the State Constitution to  
 3           specify that the right of privacy may not be construed  
 4           to limit a grandparent's right to seek visitation of  
 5           his or her grandchildren under certain circumstances.

6  
 7 Be It Proposed by the Constitution Revision Commission of  
 8 Florida:

9  
 10           Section 23 of Article I of the State Constitution is  
 11 amended to read:

12                                   ARTICLE I  
 13                                   DECLARATION OF RIGHTS

14           SECTION 23. Right of privacy.—Every natural person has the  
 15 right to be let alone and free from governmental intrusion into  
 16 the person's private life except as otherwise provided herein.  
 17 This section shall not be construed to limit the public's right  
 18 of access to public records and meetings as provided by law.  
 19 This section shall not be construed to limit a grandparent's  
 20 right to seek visitation of his or her grandchildren when a  
 21 compelling state interest exists relating to the best interest  
 22 of the child.