CHAPTER 92

WITNESSES, RECORDS, AND DOCUMENTS

92.05 Final judgments and decrees of courts of record.—All final judgments and decrees heretofore or hereafter rendered and entered in courts of record of this state, and certified copies thereof, shall be admissible as prima facie evidence in the several courts of this state of the entry and validity of such judgments and decrees. For the purposes of this section, a court of record shall be taken and construed to mean any court other than a municipal court or the Metropolitan Court of Dade County.

History.—s. 1, ch. 4723, 1899; GS 1522; RGS 2722; CGL 4390; s. 7, ch. 22858, 1945; s. 1, ch. 67-362; s. 15, ch. 73-334.

92.06 Judgments and decrees of United States District Courts.—All final judgments and decrees heretofore or hereafter to be rendered and entered in the United States District Courts of this state and certified copies thereof are declared to be admissible as prima facie evidence in the several courts of this state of the entry and validity of such judgments and decrees.

History.—s. 1, ch. 14748, 1931; CGL 1936 Supp. 4391(1).

92.07 Judgments and decrees of this state.—The recitals in all judgments and decrees of the Supreme Court and of the several circuit courts of this state, when such judgment or decree appears regular and has been recorded as provided by law for more than 20 years, shall be admissible in evidence as prima facie proof of the truth of the facts so recited. Either party to any suit at law or equity may offer a properly certified copy of such judgment or decree entered and recorded more than 20 years prior to the institution of the suit in which the same is offered, and such copy shall be admissible in evidence as prima facie proof of the facts in said judgment or decree set forth; provided, however, the party offering the same shall at least 10 days before the trial of the suit in which this copy is offered in evidence give notice to the opposite side of the intention to offer such

copy in evidence and the purpose for which the same will be offered, and deliver with such notice a copy of the judgment or decree; provided, that nothing in this law shall render admissible in evidence any instrument of writing based on any judgment, deed of conveyance or power of attorney included in this law where any such instrument of writing has heretofore been brought in question in any action at law or in equity in any suit now pending or heretofore decided.

History.—s. 1, ch. 10111, 1925; CGL 4391.

92.08 Deeds and powers of attorney of record for 20 years or more.—The recitals in any deed of conveyance or power of attorney shall be admissible in evidence when offered in evidence by either party to any suit at law or in equity as prima facie proof of the truth of the facts therein recited, provided such deed of conveyance or power of attorney appears regular on its face and is a muniment in the chain of title under which the party offering the deed claims, and has been recorded as provided by law for more than 20 years prior to the institution of the suit in which it is offered; and provided further, that the party offering the deed of conveyance or power of attorney for such purposes shall at least 10 days before the trial of the suit in which the said copy is offered in evidence give notice to the opposite side of the intention to offer such copy in evidence and the purpose for which the same will be offered, and deliver with such notice a copy of the deed or power of attorney. The original deed or power of attorney shall be offered unless the party offering the certified copy shall show that the original is not within the custody or control of the party offering the copy.

History.—s. 2, ch. 10111, 1925; CGL 4392.

92.09 Effect of reversal, etc., of judgment or successful attack on deed.—No copy of a judgment or decree shall be admitted in evidence as aforesaid when it shall be made to appear that such decree has been reversed, annulled, vacated, or set aside, or that the same in collateral proceedings has been successfully attacked. No deed shall be admitted in evidence as hereinbefore provided if it shall appear that the execution or validity of said deed has been successfully attacked in any proceedings to which the grantee therein named or those or any of them holding under such grantee has been a party or parties.

History.—s. 3, ch. 10111, 1925; CGL 4393.

92.13 Certified copies of records of certified copies.—Certified copies of the record of certified copies of deeds, mortgages, powers of attorney and other instruments referred to in s. 695.19 shall have the same effect as to notice and all other purposes whatsoever as the record of the original has or can have; and certified copies of the record of such certified copies shall be admissible and may be used in evidence in the same manner and with like effect and under the same conditions as certified copies of the record of the original instrument.

History.—s. 2, ch. 11989, 1927; CGL 4388, 5718.

92.14 United States deeds and patents and copies thereof.—Deeds and patents issued by the United States Government and photographic copies made by authority of said government from its records thereof in the General Land Office, embracing lands in this state, and certified copies of the record thereof made in this state may be used in evidence in the courts of this state subject to the same rules that are applicable to the admission in evidence of other deeds and certified copies of the record thereof.

History.—s. 3, ch. 8565, 1921; CGL 5716.

92.141 Law enforcement employees; travel expenses; compensation as witness.—Any employee of a law enforcement agency of a municipality or county or the state who appears as an official witness to testify at any hearing or law action in any court of this state as a direct result of his or her employment in the law enforcement agency is entitled to per diem and travel expenses at the same rate provided for state employees under s. 112.061, except that if the employee travels by privately owned vehicle he or she is entitled to such travel expenses for the actual distance traveled to and from court. In addition thereto, such employee is entitled to receive the daily witness pay, exclusive of the mileage allowance, provided by s. 92.142, except when the employee is appearing as a witness during time compensated as a part of his or her normal duties.

History.—s. 1, ch. 63-508; s. 1, ch. 67-427; s. 3, ch. 76-237; s. 1, ch. 77-77; s. 22, ch. 78-361; s. 1, ch. 78-379; s. 43, ch. 81-259; s. 1, ch. 84-153; s. 505, ch. 95-147.

Note.—Former s. 90.141.

92.142 Witnesses; pay.—

(1) Witnesses in all cases, civil and criminal, in all courts, now or hereafter created, and witnesses summoned before any arbitrator or master in chancery shall receive for each day's actual attendance $5 and also 6 cents per mile for actual distance traveled to and from the courts. A witness in a criminal case required to appear in a county other than the county of his or her residence and residing more than 50 miles from the location of the trial shall be entitled to per diem and travel expenses at the same rate provided for state employees under s. 112.061, in lieu of any other witness fee at the discretion of the court.

(2) An employee of the state who is required, as a direct result of employment, to appear as an official witness to testify in the course of any action in any court of this state, or before a hearing officer, hearing examiner, or any board or commission of the state or of its agencies, instrumentalities, or political subdivisions, shall be considered to be on duty during such appearance and shall be entitled to per diem and travel expenses as provided in s. 112.061. Except as provided in s. 92.141 and as provided in this subsection, such employee shall be required to tender to the employing agency any witness fee and other expense reimbursement received by the employee for such appearance.

(3) Any witness subpoenaed to testify on behalf of the state in any action brought pursuant to s. 895.05 or chapter 542 who is required to travel outside his or her county of residence and more than 50 miles from his or her residence, or who is required to travel from out of state, shall be entitled to per diem and travel expenses at the same rate provided for state employees under s. 112.061 in lieu of any state witness fee.

History.—s. 5, ch. 3106, 1879; RS 1103; s. 1, ch. 4387, 1895; GS 1512; s. 2, ch. 5649, 1907; s. 1, ch. 6905, 1915; s. 1, ch. 7280, 1917; RGS 2712; CGL 4379; s. 1, ch. 29927, 1955; s. 8, ch. 65-483; s. 1, ch. 67-401; s. 15, ch. 73-334; s. 3, ch. 76-237; s. 1, ch. 77-77; s. 1, ch. 78-175; s. 22, ch. 78-361; ss. 1, 2, ch. 78-379; s. 1, ch. 83-36; s. 506, ch. 95-147.
Note.—Former s. 90.14.

92.15 Receipts in cases involving title from United States.—A receipt of a receiver of a United States Land Office shall in all cases be prima facie evidence that the title to the land covered by said receipt has passed from the United States to the person named in the receipt as having paid for the said land.
History.—s. 1, ch. 3915, 1889; RS 1119; GS 1537; RGS 2737; CGL 4409.

92.151 Witness compensation; payment; overcharges.—Compensation shall be paid to the witness by the party in whose behalf the witness is summoned, and the prevailing party may tax the same as costs against the prevailing party's adversary; but no person shall be compelled to attend court as a witness in any civil cause unless the party in whose behalf the person is summoned shall first pay the person the amount of compensation to which he or she would be entitled for mileage and per diem for 1 day, or the same is deposited with the executive officer of said court, and the person shall not be compelled to attend thereafter unless paid in advance. But if any witness should serve without payment in advance, at the completion of his or her services the witness may exhibit his or her account for compensation, and when the same shall have been taxed and approved by the court wherein the services have been rendered, such bill shall have the force and effect of judgment and execution against the party in whose behalf the witness was summoned, and be collected by the sheriff as in other cases of execution. Any witness who shall charge and receive more than is really due shall forfeit and pay to the party injured 4 times the amount so unjustly claimed; and if the witness shall willfully make out the account for more than is lawfully due, the witness shall forfeit the compensation.
History.—s. 41, Nov. 11, 1828; RS 1104; s. 4, ch. 4387, 1895; GS 1513; RGS 2713; CGL 4380; s. 3, ch. 76-237; s. 1, ch. 77-77; s. 22, ch. 78-361; s. 1, ch. 78-379; s. 507, ch. 95-147.
Note.—Former s. 90.15.

92.153 Production of documents by witnesses; reimbursement of costs.—
(1) DEFINITIONS.—As used in this section:
(a) "Disinterested witness" means a person to whom a summons is issued with respect to documents involving or relating to transactions of others and who has not initiated a proceeding, is not a party to a proceeding, and is not the subject of investigation in a proceeding and who, at the time the summons is issued, is not an officer, employee, accountant, or attorney, or acting as such, for a person who has initiated, is a party to, or is the subject of investigation in a proceeding.
(b) "Document" means any book, paper, record, or other data, or a reproduction thereof.
(c) "Proceeding" means any civil or criminal action before a court; any investigation, inquiry, or proceeding before a grand jury, a state attorney, or a state, county, municipal, or other governmental department, division, bureau, commission or other body, or any officer thereof; any action before an officer or person authorized to issue a summons; or any administrative action authorized by law.
(d) "Summons" means any subpoena, subpoena duces tecum, order, or other legal process which requires the production of documents.
(2) REIMBURSEMENT OF A DISINTERESTED WITNESS.—
(a) In any proceeding, a disinterested witness shall be paid for any costs the witness reasonably incurs either directly or indirectly in producing, searching for, reproducing, or transporting documents pursuant to a summons.
(b) In a proceeding before a court or an administrative agency or officer, which is not an investigation or inquiry and which by law or rule includes the right to a public trial or hearing in the same proceeding and which involves adversary parties, responsibility for payment to the disinterested witness shall be fixed by the court, agency, or officer before which the proceeding is pending. Payment shall be enforced by the court, agency, or officer upon motion by the disinterested witness.
(c) In all other proceedings, payment to the disinterested witness shall be made by the person or governmental authority requesting the summons. Any disinterested witness who desires reimbursement of such costs shall submit a request for reimbursement, supported by an affidavit, to the person or governmental authority responsible for payment. Payment shall be made within 30 days from the date the request is submitted. If payment is not made within such time, the witness may enforce payment by bringing a separate action in a court which has jurisdiction of the total amount of such costs and which is located in the judicial circuit where the witness resides.
History.—ss. 1, 2, ch. 81-196; s. 508, ch. 95-147.

92.16 Certificates of Board of Trustees of the Internal Improvement Trust Fund respecting the ownership, conveyance of, and other facts in connection with public lands.—A certificate of the Board of Trustees of the Internal Improvement Trust Fund under its official seal, with respect to the present or past ownership by the state or by the school, seminary or internal improvement funds of any lands in this state, or of the conveyance or transfer of any such lands by said Board of Trustees of the Internal Improvement Trust Fund or of the State Board of Education or other officers or boards of the state having power to convey any such lands, or any facts shown by the public records of his or her office with respect to any of such lands, or the transfer, ownership, or conveyance of the same, shall be prima facie evidence of the facts therein certified, and every such certificate shall be admissible in evidence in all of the courts of this state. All such certificates shall, without other or further proof, be admitted to record and recorded in the deed books of the respective counties of this state where the lands mentioned in such certificates lie, and the record of every such certificate shall have the same force and effect for all purposes as the record of deeds.
History.—s. 1, ch. 2063, 1875; RS 1112; GS 1524; s. 1, ch. 7381, 1917; RGS 2724; CGL 4395; s. 7, ch. 22858, 1945; s. 3, ch. 63-294; ss. 27, 35, ch. 69-106; s. 509, ch. 95-147.

92.17 Effect of seal of Board of Trustees of the Internal Improvement Trust Fund.—The impression of the seal of the Board of Trustees of the Internal Improvement Trust Fund upon any deed, agreement or contract, purporting to have been made by the Board of Trustees of the Internal Improvement Trust Fund, or by the members of the State Board of Education, shall entitle the same to be received in evidence in all courts and in all proceedings in this state.

History.—s. 1, ch. 3127, 1879; ss. 1, 2, ch. 3877, 1889; RS 1114; GS 1526; RGS 2726; CGL 4397; s. 4, ch. 63-294; ss. 27, 35, ch. 69-106.

92.18 Certificate of state officer.—The certificate of any state officer, under seal of office, as to any official act occurring in the course of the official business of the office in which the state officer presides, shall be prima facie evidence of such fact.

History.—s. 1, ch. 3250, 1881; RS 1113; GS 1525; RGS 2725; CGL 4396; s. 510, ch. 95-147.

92.19 Portions of records.—In all cases where any certified copy of any record, pleading, document, deed, conveyance, paper or instrument in writing, involving the title to real estate shall be lawfully admissible in evidence in any of the courts of this state, a certified copy of such portions of such instrument as shall contain the essential parts thereof and only such portion of the descriptive matter thereof as shall be involved in the case on trial, shall likewise be admissible in evidence; and in no case shall it be necessary to include in such certified copies descriptive matter not involved in the case in which such copy is offered in evidence.

History.—s. 1, ch. 10237, 1925; CGL 4400.

92.20 Certificates issued under authority of Congress.—Every certificate issued under authority of the Congress and every duly certified copy thereof under the seal of the United States governmental department having the authority to issue such certified copy, relating to the grade, classification, quality or condition of agricultural products shall be accepted in any court of this state as prima facie evidence of the true grade, classification, condition or quality of such agricultural product at the time of its inspection.

History.—s. 1, ch. 13568, 1929; CGL 1936 Supp. 4400(1).

92.21 Certificate as to sanitary condition of buildings.—Every owner, agent, or lessee of any building or buildings used for the purpose of providing board and lodgings for the entertainment of guests, containing 10 rooms or more, who shall have obtained and posted a certificate as provided by law, may present the same as evidence in the owner's, agent's, or lessee's defense in any suit in any of the courts in this state in which damages are claimed for injuries from alleged unsanitary conditions of said buildings and premises.

History.—s. 4, ch. 4606, 1899; GS 1527; RGS 2727; CGL 4398; s. 511, ch. 95-147.

92.23 Rule of evidence in suits on fire policies for loss or damage to building.—In all suits or proceedings brought upon policies of insurance on buildings against loss or damage by fire, hereafter issued or renewed, the insurer shall not be permitted to deny that the property insured was worth, at the time of insuring it by the policy, the full sum insured therein on such property.

History.—s. 2, ch. 4677, 1899; GS 1528; RGS 2728; CGL 4399.

92.231 Expert witnesses; fee.—

(1) The term "expert witness" as used herein shall apply to any witness who offers himself or herself in the trial of any civil action as an expert witness or who is subpoenaed to testify in such capacity before a state attorney in the investigation of a criminal matter, or before a grand jury, and who is permitted by the court to qualify and testify as such, upon any matter pending before any court.

(2) Any expert or skilled witness who shall have testified in any cause shall be allowed a witness fee including the cost of any exhibits used by such witness in the amount of $10 per hour or such amount as the trial judge may deem reasonable, and the same shall be taxed as costs.

History.—ss. 1, 2, ch. 25090, 1949; s. 19, ch. 29737, 1955; s. 1, ch. 59-201; s. 3, ch. 76-237; s. 1, ch. 77-77; s. 22, ch. 78-361; s. 1, ch. 78-379; s. 512, ch. 95-147.

Note.—Former s. 90.231.

92.24 Certain tax deeds prima facie evidence of title.—All tax deeds issued under and pursuant to the provisions and in the form prescribed in and by the following acts and statutes of this state, to wit: s. 10, chapter 4888, Acts, 1901 and said section as amended by s. 1, chapter 5152, Acts, 1903; s. 577 of the General Statutes of Florida, 1906; s. 779 of the Revised General Statutes of Florida, 1920, and said section as amended by s. 12, chapter 14572, Acts, 1929; are declared to be prima facie evidence of the regularity of the proceedings from the valuation of the land described in such deeds respectively, by the assessors, to the date of the deed or deeds inclusive, and shall be so received in evidence in any and all the courts of this state, without regard to date of execution.

History.—s. 1, ch. 5150, 1903; GS 1521; RGS 2721; CGL 4389.

92.25 Records destroyed by fire; use of abstracts. Whenever in the trial of any suit, or in any proceeding in any court of this state, it shall be made to appear that the original of any deed or other instrument of writing, or of any record of any court relating to any land, the title thereof or any interest therein being in controversy in such suit or proceeding, is lost or destroyed, or not within the power of the party to produce the same, and that the record thereof has been heretofore destroyed by fire, and that no certified copy of such record is in the possession or control of such party, it is lawful for such party, and the court shall receive as evidence, any abstract of title, or letter-press copy thereof made in the ordinary course of business prior to such loss or destruction; and it is also lawful for any such party to offer, and the court shall receive as evidence, any copy, extract or minutes from such destroyed records, or from the original thereof, which were at the date of such destruction in the possession of any person or persons then engaged in the business of making abstracts of titles for others for hire.

History.—s. 1, ch. 4951, 1901; GS 1529; RGS 2729; CGL 4401.

92.251 Uniform Foreign Depositions Law.—

(1) This section may be cited as the "Uniform Foreign Depositions Law."

(2) Whenever any mandate, writ or commission is issued out of any court of record in any other state, territory, district, or foreign jurisdiction, or whenever upon

notice or agreement it is required to take the testimony of a witness or witnesses in this state, witnesses may be compelled to appear and testify in the same manner and by the same process and proceeding as may be employed for the purpose of taking testimony in proceedings pending in this state.

(3) This section shall be so interpreted and construed as to effectuate its general purposes to make uniform the law of those states which enact it.

History.—ss. 1, 2, 3, ch. 59-250; s. 3, ch. 76-237; s. 1, ch. 77-77; s. 22, ch. 78-361; s. 1, ch. 78-379.

Note.—Former s. 90.25.

92.26 Records destroyed by fire; use of sworn copies.—A sworn copy of any writing admissible under s. 92.25 made by the person or persons having possession of such writing shall be admissible in evidence; provided, the party desiring to use such sworn copy, as aforesaid, shall have given the opposite party a reasonable opportunity to verify the correctness of such copy; and provided, that no abstract of title or letter-press copy thereof, extract or minutes or copy made admissible in evidence by this section, shall be so admitted by virtue hereof unless a copy thereof shall have been served on the opposite party, or the opposite party's attorney or counsel, at least 10 days before the same is offered in evidence. Nothing herein shall be construed to prevent the impeachment of such evidence, or its exclusion by the court for good and sufficient cause.

History.—s. 1, ch. 4951, 1901; GS 1530; RGS 2730; CGL 4402; s. 513, ch. 95-147; s. 12, ch. 95-280.

92.27 Records destroyed by fire; effect of abstracts in evidence.—In all cases in which any destroyed abstracts, copies, minutes, extracts, maps or plats, or copies thereof, purchased and placed in the clerk's office, as provided by law, or which are made admissible in evidence under any of the provisions of this revision, whether purchased or placed in such office or not, shall be received in evidence under this law, all deeds or other instruments of writing appearing thereby to have been executed by any person or persons, or in which they appear to have joined, shall (except as against any person or persons in actual possession of the land or lot described therein at the time of the destruction of the record of such county, claiming title thereto, otherwise than under sale for taxes or special assessments) be presumed to have been executed and acknowledged according to law; and all sales under powers, and all judgments, decrees and legal proceedings, and all sales thereunder (sale for taxes and assessments, and judgments and proceedings for the enforcement of taxes and assessments excepted) shall be presumed to be regular and correct, except as against the person or persons in this section above-mentioned and excepted.

History.—s. 4, ch. 4951, 1901; GS 1531; RGS 2731; CGL 4403.

92.28 Records destroyed by fire; land title suits; what may be received in evidence.—In all suits or proceedings concerning any land, or any estate, interest or right in, or any lien or encumbrance upon the same, when it shall be made to appear that the original of any deed, conveyance, map, plat or other written or record evidence has been lost or destroyed, or is not in the power, custody or control of the party wishing to use it on the trial to produce same, and the record thereof has been heretofore destroyed by fire, the court shall receive all such evidence as may have a bearing on the case to establish the execution or contents of any deed, conveyance, map, plat record, or other written evidence so lost or destroyed; provided, that the testimony of the parties themselves shall be received only in such cases, and subject to all the qualifications in respect to such testimony as now provided by law; and provided further, that any writing in the hands of any person or persons, which may become admissible in evidence under the provisions of this section, or any part of this law, shall be rejected and not admitted as evidence, unless the same appear upon the face thereof without erasure, blemish, alteration, interlineation or interpolation in any material part, unless the same shall be explained to the satisfaction of the court, and appear fairly and honestly made in the ordinary course of business.

History.—s. 5, ch. 4951, 1901; GS 1532; RGS 2732; CGL 4404.

92.29 Photographic or electronic copies.—Photographic reproductions or reproductions through electronic recordkeeping systems made by any federal, state, county, or municipal governmental board, department or agency, in the regular course of business, of any original record, document, paper or instrument in writing or in an electronic recordkeeping system, which is, or may be, required or authorized to be made, filed, or recorded with that board, department or agency shall in all cases and in all courts and places be admitted and received as evidence with a like force and effect as the original would be, whether the original record, document, paper, or instrument in writing or in an electronic recordkeeping system is in existence or not.

History.—s. 1, ch. 20866, 1941; s. 7, ch. 94-348.

92.295 Copies of voter registration records.—Any reproduction of an original voter registration record stored pursuant to s. 98.461, whether microfilmed or maintained digitally or on electronic, magnetic, or optic media, which reproduction is certified by the supervisor of elections who is the custodian of the record, is admissible as evidence in any judicial or administrative proceeding in this state with the same effect as the original voter registration record, whether the original voter registration record exists or not.

History.—s. 1, ch. 88-45; s. 7, ch. 90-315.

92.30 Presumption of death; official findings.—A written finding of presumed death, made by the Secretary of the Army, the Secretary of the Navy, or other officer or employee of the United States authorized to make such findings, pursuant to the [1]Federal Missing Persons Act (56 Stat. 143, 1092, and Pub. L. No. 408, Ch. 371, 2d Sess. 78th Cong.; 50 U.S.C. App. Supp. 1001-17), as now or hereafter amended, or a duly certified copy of such finding, shall be received in any court, office, or other place in this state as evidence of the death of the person therein found to be dead, and the date, circumstances, and place of the person's disappearance.

History.—s. 1, ch. 22866, 1945; s. 22, ch. 77-104; s. 514, ch. 95-147.

[1]**Note.**—Repealed by Act Sept. 6, 1966, Pub. L. No. 89-554, s. 8(a), 80 Stat. 632, 651-654, 656, 657, 659, 662.

92.31 Missing persons and persons imprisoned or interned in foreign countries; official reports.—An official written report or record, or duly certified copy thereof, that a person is missing, missing in action, interned in a neutral country, or beleaguered, besieged, or captured by an enemy, or is dead, or is alive, made by any officer or employee of the United States authorized by the act referred to in s. 92.30, or by any other law of the United States to make same, shall be received in any court, office, or other place in this state as evidence that such person is missing, missing in action, interned in a neutral country, or beleaguered, besieged, or captured by an enemy, or is dead, or is alive, as the case may be.

History.—s. 2, ch. 22866, 1945.

92.32 Official findings and reports; presumption of authority to issue or execute.—For the purposes of this law, any finding, report, or record, or duly certified copy thereof, purporting to have been signed by such an officer or employee of the United States as is described above, shall prima facie be deemed to have been signed and issued by such an officer or employee pursuant to law, and the person signing same shall prima facie be deemed to have acted within the scope of the person's authority. If a copy purports to have been certified by a person authorized by law to certify the same, such certified copy shall be prima facie evidence of the person's authority so to certify.

History.—s. 3, ch. 22866, 1945; s. 515, ch. 95-147.

92.33 Written statement concerning injury to person or property; furnishing copies; admission as evidence.—Every person who shall take a written statement by any injured person with respect to any accident or with respect to any injury to person or property shall, at the time of taking such statement, furnish to the person making such statement a true and complete copy thereof. Any person having taken, or having possession of any written statement or a copy of such statement, by any injured person with respect to any accident or with respect to any injury to person or property shall, at the request of the person who made such statement or his or her personal representative, furnish the person who made such statement or his or her personal representative a true and complete copy thereof. No written statement by an injured person shall be admissible in evidence or otherwise used in any manner in any civil action relating to the subject matter thereof unless it shall be made to appear that a true and complete copy thereof was furnished to the person making such statement at the time of the making thereof, or, if it shall be made to appear that thereafter a person having possession of such statement refused, upon request of the person who made the statement or his or her personal representatives, to furnish him or her a true and complete copy thereof.

History.—s. 1, ch. 26482, 1951; s. 516, ch. 95-147.

92.38 Comparison of disputed writings.—Comparison of a disputed writing with any writing proved to the satisfaction of the judge to be genuine, shall be permitted to be made by the witnesses; and such writings, and the evidence of witnesses respecting the same, may be submitted to the jury, or to the court in case of a trial by the court, as evidence of the genuineness, or otherwise, of the writing in dispute.

History.—s. 55, ch. 1096, 1861; RS 1121; GS 1539; RGS 2739; CGL 4411.

Note.—Former s. 90.20.

92.39 Evidence of individual's claim against the state in suits between them.—In suits between the state and individuals, no claim for a credit shall be allowed upon trial, but such as shall appear to have been presented to the Comptroller for the Comptroller's examination, and by him or her disallowed in whole or in part, unless it shall be proved to the satisfaction of the court that the defendant is, at the time of the trial, in possession of vouchers not before in the defendant's power to procure, and that the defendant was prevented from exhibiting a claim for such credit at the Comptroller's office by unavoidable accident.

History.—s. 4, Feb. 10, 1837; RS 1122; GS 1540; RGS 2740; CGL 4412; s. 517, ch. 95-147.

Note.—Former s. 90.22.

92.40 Reports of building, housing, or health code violations; admissibility.—A copy of a report, notice, or citation of a violation of any building, housing, or health code by a governmental agency charged with the enforcement of such codes, certified by the agency, if otherwise material shall be admissible as evidence.

History.—s. 11, ch. 73-330.

92.50 Oaths, affidavits, and acknowledgments; who may take or administer; requirements.—

(1) IN THIS STATE.—Oaths, affidavits, and acknowledgments required or authorized under the laws of this state (except oaths to jurors and witnesses in court and such other oaths, affidavits and acknowledgments as are required by law to be taken or administered by or before particular officers) may be taken or administered by or before any judge, clerk, or deputy clerk of any court of record within this state, including federal courts, or before any United States commissioner or any notary public within this state. The jurat, or certificate of proof or acknowledgment, shall be authenticated by the signature and official seal of such officer or person taking or administering the same; however, when taken or administered before any judge, clerk, or deputy clerk of a court of record, the seal of such court may be affixed as the seal of such officer or person.

(2) IN OTHER STATES, TERRITORIES, AND DISTRICTS OF THE UNITED STATES.—Oaths, affidavits, and acknowledgments required or authorized under the laws of this state, may be taken or administered in any other state, territory, or district of the United States, before any judge, clerk or deputy clerk of any court of record, within such state, territory, or district, having a seal, or before any notary public or justice of the peace, having a seal, in such state, territory, or district; provided, however, such officer or person is authorized under the laws of such state, territory, or district to take or administer oaths, affidavits and acknowledgments. The jurat, or certificate of proof or acknowledgment, shall be authenticated by the signature and official seal of such officer or person taking or administering the same; provided, however, when taken or administered by or before any judge, clerk, or deputy clerk of a court

of record, the seal of such court may be affixed as the seal of such officer or person.

(3) IN FOREIGN COUNTRIES.—Oaths, affidavits, and acknowledgments, required or authorized by the laws of this state, may be taken or administered in any foreign country, by or before any judge or justice of a court of last resort, any notary public of such foreign country, any minister, consul general, charge d'affaires, or consul of the United States resident in such country. The jurat, or certificate of proof or acknowledgment, shall be authenticated by the signature and official seal of the officer or person taking or administering the same; provided, however, when taken or administered by or before any judge or justice of a court of last resort, the seal of such court may be affixed as the seal of such judge or justice.

History.—s. 1, ch. 48, 1845; RS 1299; GS 1730; RGS 2945; CGL 4669; s. 1, ch. 23156, 1945; s. 7, ch. 24337, 1947; s. 15, ch. 73-334; s. 3, ch. 76-237; s. 1, ch. 77-77; s. 22, ch. 78-361; s. 1, ch. 78-379.

Note.—Former s. 90.01.

92.51 Oaths, affidavits, and acknowledgments; taken or administered by commissioned officer of United States Armed Forces.—

(1) Oaths, affidavits, and acknowledgments required or authorized by the laws of this state may be taken or administered within or without the United States by or before any commissioned officer in active service of the Armed Forces of the United States with the rank of second lieutenant or higher in the Army, Air Force or Marine Corps or ensign or higher in the Navy or Coast Guard when the person required or authorized to make and execute the oath, affidavit, or acknowledgment is a member of the Armed Forces of the United States, the spouse of such member or a person whose duties require the person's presence with the Armed Forces of the United States.

(2) A certificate endorsed upon the instrument which shows the date of the oath, affidavit, or acknowledgment and which states in substance that the person appearing before the officer acknowledged the instrument as the person's act or made or signed the instrument under oath shall be sufficient for all intents and purposes. The instrument shall not be rendered invalid by the failure to state the place of execution or acknowledgment.

(3) If the signature, rank, and branch of service or subdivision thereof of any commissioned officer appears upon such instrument, document or certificate no further proof of the authority of such officer so to act shall be required and such action by such commissioned officer shall be prima facie evidence that the person making such oath, affidavit or acknowledgment is within the purview of this act.

History.—ss. 1, 2, 3, ch. 61-196; s. 3, ch. 76-237; s. 1, ch. 77-77; s. 22, ch. 78-361; s. 1, ch. 78-379; s. 518, ch. 95-147.

Note.—Former s. 90.011.

92.52 Affirmation equivalent to oath.—Whenever an oath shall be required by any law of this state in any proceeding, an affirmation may be substituted therefor.

History.—RS 1300; GS 1731; RGS 2946; CGL 4670; s. 3, ch. 76-237; s. 1, ch. 77-77; s. 22, ch. 78-361; s. 1, ch. 78-379.

Note.—Former s. 90.02.

92.525 Verification of documents; perjury by false written declaration, penalty.—

(1) When it is authorized or required by law, by rule of an administrative agency, or by rule or order of court that a document be verified by a person, the verification may be accomplished in the following manner:

(a) Under oath or affirmation taken or administered before an officer authorized under s. 92.50 to administer oaths; or

(b) By the signing of the written declaration prescribed in subsection (2).

(2) A written declaration means the following statement: "Under penalties of perjury, I declare that I have read the foregoing [document] and that the facts stated in it are true," followed by the signature of the person making the declaration, except when a verification on information or belief is permitted by law, in which case the words "to the best of my knowledge and belief" may be added. The written declaration shall be printed or typed at the end of or immediately below the document being verified and above the signature of the person making the declaration.

(3) A person who knowingly makes a false declaration under subsection (2) is guilty of the crime of perjury by false written declaration, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) As used in this section:

(a) The term "administrative agency" means any department or agency of the state or any county, municipality, special district, or other political subdivision.

(b) The term "document" means any writing including, without limitation, any form, application, claim, notice, tax return, inventory, affidavit, pleading, or paper.

(c) The requirement that a document be verified means that the document must be signed or executed by a person and that the person must state under oath or affirm that the facts or matters stated or recited in the document are true, or words of that import or effect.

History.—s. 12, ch. 86-201.

92.53 Videotaping of testimony of victim or witness under age 16 or person with mental retardation.—

(1) On motion and hearing in camera and a finding that there is a substantial likelihood that a victim or witness who is under the age of 16 or who is a person with mental retardation as defined in [1]s. 393.063(41) would suffer at least moderate emotional or mental harm due to the presence of the defendant if the child or person with mental retardation is required to testify in open court, or that such victim or witness is otherwise unavailable as defined in s. 90.804(1), the trial court may order the videotaping of the testimony of the victim or witness in a case, whether civil or criminal in nature, in which videotaped testimony is to be utilized at trial in lieu of trial testimony in open court.

(2) The motion may be filed by:

(a) The victim or witness, or the victim's or witness's attorney, parent, legal guardian, or guardian ad litem;

(b) A trial judge on his or her own motion;

(c) Any party in a civil proceeding; or

(d) The prosecuting attorney or the defendant, or the defendant's counsel.

(3) The judge shall preside, or shall appoint a special master to preside, at the videotaping unless the following conditions are met:

(a) The child or person with mental retardation is represented by a guardian ad litem or counsel;

(b) The representative of the victim or witness and the counsel for each party stipulate that the requirement for the presence of the judge or special master may be waived; and

(c) The court finds at a hearing on the motion that the presence of a judge or special master is not necessary to protect the victim or witness.

(4) The defendant and the defendant's counsel shall be present at the videotaping, unless the defendant has waived this right. The court may require the defendant to view the testimony from outside the presence of the child or person with mental retardation by means of a two-way mirror or another similar method that will ensure that the defendant can observe and hear the testimony of the victim or witness in person, but that the victim or witness cannot hear or see the defendant. The defendant and the attorney for the defendant may communicate by any appropriate private method.

(5) Any party, or the court on its own motion, may request the aid of an interpreter, as provided in s. 90.606, to aid the parties in formulating methods of questioning the child or person with mental retardation and in interpreting the answers of the child or person with mental retardation throughout proceedings conducted under this section.

(6) The motion referred to in subsection (1) may be made at any time with reasonable notice to each party to the cause, and videotaping of testimony may be made any time after the court grants the motion. The videotaped testimony shall be admissible as evidence in the trial of the cause; however, such testimony shall not be admissible in any trial or proceeding in which such witness testifies by use of closed circuit television pursuant to s. 92.54.

(7) The court shall make specific findings of fact, on the record, as to the basis for its ruling under this section.

History.—ss. 1, 2, ch. 79-69; s. 1, ch. 84-36; ss. 5, 9, ch. 85-53; s. 9, ch. 85-80; s. 1, ch. 93-131; s. 21, ch. 94-154; s. 1379, ch. 95-147.

[1]**Note.**—Redesignated as s. 393.063(42) by s. 3, ch. 94-154.

Note.—Former ss. 918.17, 90.90.

92.54 Use of closed circuit television in proceedings involving victims or witnesses under the age of 16 or persons with mental retardation.—

(1) Upon motion and hearing in camera and upon a finding that there is a substantial likelihood that the child or person with mental retardation will suffer at least moderate emotional or mental harm due to the presence of the defendant if the child or person with mental retardation is required to testify in open court, or that such victim or witness is unavailable as defined in s. 90.804(1), the trial court may order that the testimony of a child under the age of 16 or person with mental retardation who is a victim or witness be taken outside of the courtroom and shown by means of closed circuit television.

(2) The motion may be filed by the victim or witness; the attorney, parent, legal guardian, or guardian ad litem of the victim or witness; the prosecutor; the defendant or the defendant's counsel; or the trial judge on his or her own motion.

(3) Only the judge, the prosecutor, the defendant, the attorney for the defendant, the operators of the videotape equipment, an interpreter, and some other person who, in the opinion of the court, contributes to the well-being of the child or person with mental retardation and who will not be a witness in the case may be in the room during the recording of the testimony.

(4) During the child's or person's with mental retardation testimony by closed circuit television, the court may require the defendant to view the testimony from the courtroom. In such a case, the court shall permit the defendant to observe and hear the testimony of the child or person with mental retardation, but shall ensure that the child or person with mental retardation cannot hear or see the defendant. The defendant's right to assistance of counsel, which includes the right to immediate and direct communication with counsel conducting cross-examination, must be protected and, upon the defendant's request, such communication shall be provided by any appropriate electronic method.

(5) The court shall make specific findings of fact, on the record, as to the basis for its ruling under this section.

History.—s. 6, ch. 85-53; s. 12, ch. 87-224; s. 2, ch. 93-131; s. 22, ch. 94-154; s. 1380, ch. 95-147.

92.55 Judicial or other proceedings involving victim or witness under the age of 16 or person with mental retardation; special protections.—

(1) The Legislature finds that Rule 3.220, Rules of Criminal Procedure, Rule 1.280, Rules of Civil Procedure, and Rule 8.070, Rules of Juvenile Procedure, as such rules pertain to protective orders, are not adequate in protecting the interests of children or persons with mental retardation as witnesses in criminal, civil, or juvenile proceedings. Accordingly, the Legislature requests the Supreme Court, pursuant to the authority vested in the court by s. 2(a), Art. V of the State Constitution, to adopt rules amending the Rules of Criminal Procedure, the Rules of Civil Procedure, and the Rules of Juvenile Procedure as necessary to comply with this section.

(2) Upon motion of any party, upon motion of a parent, guardian, attorney, or guardian ad litem for a child under the age of 16 or person with mental retardation, or upon its own motion, the court may enter any order necessary to protect a child under the age of 16 or person with mental retardation who is a victim or witness in any judicial proceeding or other official proceeding from severe emotional or mental harm due to the presence of the defendant if the child or person with mental retardation is required to testify in open court. Such orders shall relate to the taking of testimony and shall include, but not be limited to:

(a) Interviewing or the taking of depositions as part of a civil or criminal proceeding.

(b) Examination and cross-examination for the purpose of qualifying as a witness or testifying in any proceeding.

(c) The use of testimony taken outside of the courtroom, including proceedings under ss. 92.53 and 92.54.

(3) In ruling upon the motion, the court shall take into consideration:

(a) The age of the child, the nature of the offense or act, the relationship of the child to the parties in the case or to the defendant in a criminal action, the degree of emotional trauma that will result to the child as a consequence of the defendant's presence, and any other fact that the court deems relevant; or

(b) The age of the person with mental retardation, the functional capacity of the person with mental retardation, the nature of the offenses or act, the relationship of the person with mental retardation to the parties in the case or to the defendant in a criminal action, the degree of emotional trauma that will result to the person with mental retardation as a consequence of the defendant's presence, and any other fact that the court deems relevant.

(4) In addition to such other relief as is provided by law, the court may enter orders limiting the number of times that a child or person with mental retardation may be interviewed, prohibiting depositions of a child or person with mental retardation, requiring the submission of questions prior to examination of a child or person with mental retardation, setting the place and conditions for interviewing a child or person with mental retardation or for conducting any other proceeding, or permitting or prohibiting the attendance of any person at any proceeding. The court shall enter any order necessary to protect the rights of all parties, including the defendant in any criminal action.

History.—s. 7, ch. 85-53; s. 3, ch. 93-131; s. 23, ch. 94-154.

92.56 Judicial proceedings and court records involving sexual offenses.—

(1) All court records, including testimony from witnesses, that reveal the photograph, name, or address of the victim of an alleged offense described in chapter 794 or chapter 800, or act of child abuse, aggravated child abuse, or sexual performance by a child as described in chapter 827, are confidential and exempt from the provisions of s. 24(a), Art. I of the State Constitution and may not be made public if, upon a showing to the trial court with jurisdiction over the alleged offense, the state or the victim demonstrates that:

(a) The identity of the victim is not already known in the community;

(b) The victim has not voluntarily called public attention to the offense;

(c) The identity of the victim has not otherwise become a reasonable subject of public concern;

(d) The disclosure of the victim's identity would be offensive to a reasonable person; and

(e) The disclosure of the victim's identity would:

1. Endanger the victim because the assailant has not been apprehended and is not otherwise known to the victim;

2. Endanger the victim because of the likelihood of retaliation, harassment, or intimidation;

3. Cause severe emotional or mental harm to the victim;

4. Make the victim unwilling to testify as a witness; or

5. Be inappropriate for other good cause shown.

(2) If the court, pursuant to subsection (1), declares that all court records or other information that reveals the photograph, name, or address of the victim are confidential and exempt from s. 24(a), Art. I of the State Constitution, the defendant charged with the crime described in chapter 794 or chapter 800, or with child abuse, aggravated child abuse, or sexual performance by a child as described in chapter 827, may apply to the trial court for an order of disclosure of identifying information concerning the victim in order to prepare the defense. This paragraph may not be construed to prevent the disclosure of the victim's identity to the defendant; however, the defendant may not disclose the victim's identity to any person other than the defendant's attorney or any other person directly involved in the preparation of the defense. A willful and knowing disclosure of the identity of the victim to any other person by the defendant constitutes contempt.

(3) The state may use a pseudonym instead of the victim's name to designate the victim of a crime described in chapter 794 or chapter 800, or of child abuse, aggravated child abuse, or sexual performance by a child as described in chapter 827, in all court records and records of court proceedings.

(4) The protection of this section may be waived by the victim of the alleged offense in a writing filed with the court, in which the victim consents to the use or release of identifying information during court proceedings and in the records of court proceedings.

(5) This section does not prohibit the publication or broadcast of the substance of trial testimony in a prosecution for an offense described in chapter 794 or chapter 800, or a crime of child abuse, aggravated child abuse, or sexual performance by a child, as described in chapter 827, but the publication or broadcast may not include an identifying photograph, an identifiable voice, or the name or address of the victim, unless the victim has consented in writing to the publication and filed such consent with the court or unless the court has declared such records not confidential and exempt as provided for in subsection (1).

(6) A willful and knowing violation of this section or a willful and knowing failure to obey any court order issued under this section constitutes contempt.

History.—s. 3, ch. 95-207.

92.57 Termination of employment of witness prohibited.—A person who testifies in a judicial proceeding in response to a subpoena may not be dismissed from employment because of the nature of the person's testimony or because of absences from employment resulting from compliance with the subpoena. In any civil action arising out of a violation of this section, the court may award attorney's fees and punitive damages to the person unlawfully dismissed, in addition to actual damages suffered by such person.

History.—s. 1, ch. 90-185.

92.60 Foreign records of regularly conducted business activity.—

(1) For the purposes of this section:

(a) "Foreign record of regularly conducted business activity" means a memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, maintained in a foreign country.

(b) "Foreign certification" means a written declaration made and signed in a foreign country by the custodian of a foreign record of regularly conducted business activity or another qualified person that, if falsely made, would subject the maker to criminal penalty under the laws of that country.

(c) "Business" means any business, institution, association, profession, occupation, or calling of any kind, whether or not conducted for profit.

(2) In a criminal proceeding in a court of the State of Florida, a foreign record of regularly conducted business activity, or a copy of such record, shall not be excluded as evidence by the hearsay rule if a foreign certification attests that:

(a) Such record was made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters;

(b) Such record was kept in the course of a regularly conducted business activity;

(c) The business activity made such a record as a regular practice; and

(d) If such record is not the original, it is a duplicate of the original;

unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness.

(3) A foreign certification under this section shall authenticate such record or duplicate.

(4) At the arraignment or as soon after the arraignment as practicable, a party intending to offer in evidence under this section a foreign record of regularly conducted business activity shall provide written notice of that intention to each other party. A motion opposing admission in evidence of such record shall be made by the opposing party and determined by the court before trial. Failure by a party to file such motion before trial shall constitute a waiver of objection to such record or duplicate, but the court for cause shown may grant relief from the waiver.

History.—s. 17, ch. 88-381.