

AGENDA
FLORIDA DEPARTMENT OF LAW ENFORCEMENT

June 24, 2004

- ITEM 1. Respectfully submit **rule 11C-4.009, Uniform Arrest Affidavits and Reports, for final adoption in Title 11 of the Florida Administrative Code.** Upon approval by the Governor and Cabinet, the adopted rule will take effect on or after July 20, 2004.

(See Following Pages)

RECOMMEND APPROVAL

11C-4.009, Uniform Arrest Affidavits and Reports, adopts a uniform affidavit and report for use by law enforcement agencies when making arrests under Section 316.193, F.S. (Driving Under the Influence) as required by s. 943.05(2), F.S. Provides for use of supplemental affidavits and reports. Provides that failure to use the uniform affidavit or report shall not prohibit prosecution.

Cabinet Affairs Contact
Administrator Heather Smith
410-7001

June 8, 2004

The Honorable Jeb Bush, Governor
Office of Governor
The Capitol
Tallahassee, Florida 32399-0001

Attention: Kent Perez

Hand Delivered

Re: Request to Governor and Cabinet for Final Approval of FDLE Rule 11C-4.009, F.A.C.

Dear Governor Bush:

The enclosed rule adoption package is submitted to the Governor and Cabinet, as agency head, for formal approval on June 24, 2004, pursuant to s. 120.54(3)(a)1, F.S. The Florida Department of Law Enforcement (FDLE) received no objections to initiate rulemaking during the ten (10) day objection period that expired on May 4, 2004. The approval date was May 5, 2004. There have been no substantive changes to the rules since that time.

The Notice of Proposed Rulemaking was published in the Florida Administrative Weekly on May 14, 2004. An opportunity for a public comment period and public hearings were provided. FDLE received no written requests for a public hearing. FDLE also furnished a copy of the proposed rule revisions to the Joint Administrative Procedures Committee (JAPC) for examination and comment. JAPC has filed no objection to the proposed rule amendments.

Proposed Rule 11C-4.009, F.A.C., submitted to the Governor and Cabinet for approval creates a uniform affidavit and report for use by law enforcement agencies when making arrests for a violation of Section 316.193, F.S., (Driving Under the Influence) as required by s. 943.05(2), F.S.

FDLE requests approval for adoption of the submitted rule. Upon approval by the Governor and Cabinet, the adopted rules will take effect on or after July 20, 2004.

If you have any questions concerning this package, please contact me or Cabinet Affairs Administrator Heather Smith at 410-7001.

Sincerely,

Guy M. Tunnell
Commissioner

GMT/FR/fr

Enclosures

STATE OF FLORIDA
FLORIDA DEPARTMENT OF LAW ENFORCEMENT
CHAPTER 11C-4, FLORIDA ADMINISTRATIVE CODE
NEW RULE 11C-4.009
UNIFORM ARREST AFFIDAVITS AND REPORTS

SUMMARY OF PROPOSED RULE

Adopts a uniform affidavit and report for use by law enforcement agencies when making arrests under Section 316.193, F.S. Provides for use of supplemental affidavits and reports. Provides that failure to use the uniform affidavit or report shall not prohibit prosecution.

JUSTIFICATION OF PROPOSED RULE

Adoption of the rule and forms is required by Section 943.05(2), F.S.

FEDERAL COMPARISON STATEMENT

There are no federal requirements dealing with this topic.

SUMMARY OF HEARING

The proposed rules were noticed in the Florida Administrative Weekly on May 14, 2004, for a hearing to be held if requested and deemed necessary by the agency head.

FDLE received no requests for a public hearing and no written comments were submitted.

NOTICE OF RULE MAKING

FLORIDA DEPARTMENT OF LAW ENFORCEMENT

RULE CHAPTER TITLE: RULE CHAPTER NO.

Crime Information Bureau; Criminal History Records;
Fingerprinting and Reports 11C-4

RULE TITLE: RULE NO.

Uniform Arrest Affidavits and Reports 11C-4.009

PURPOSE AND EFFECT: Creates a uniform affidavit and report for use by law enforcement agencies when making arrests for a violation of Section 316.193, F.S., as required by statute.

SUMMARY: The rule provides for a uniform affidavit and report and incorporates those forms by reference.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None

Any person who wishes to provide information regarding the statement of estimated regulatory cost, or to provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 working days of this notice.

SPECIFIC AUTHORITY: 943.05(2)(d), F.S.

LAW IMPLEMENTED: 316.193, 943.05(2), F.S.

IF REQUESTED, IN WRITING, WITHIN 21 DAYS OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 10:00 a.m., Monday, June 7, 2004

PLACE: 2331 Phillips Road, Elevator Conference Room, Quad A, 3rd Floor, Tallahassee, Florida
32308-1489

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE MAKING IS:

Rafael E. Madrigal, Assistant General Counsel, Florida Department of Law Enforcement, P.O.

Box 1489, Tallahassee, Florida, 32302.

Telephone Number: 850-410-7676.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT

Pursuant with the provisions of the Americans with Disabilities Act, persons requiring special accommodations to participate in this program are requested to please advise the Department at least five days prior to the workshop by calling: 850-410-7900, (voice) or 850-656-9597, (TDD).

STATE OF FLORIDA
FLORIDA DEPARTMENT OF LAW ENFORCEMENT
Chapter 11C-4, FLORIDA ADMINISTRATIVE CODE
CRIME INFORMATION BUREAU; CRIMINAL HISTORY RECORDS; FINGERPRINTING
AND REPORTS

11C-4.009 Uniform Arrest Affidavits and Reports.

(1) A Uniform Probable Cause Affidavit, FDLE Form PCA 1 - March 2004, is adopted for use by all law enforcement agencies in the State of Florida when making DUI arrests pursuant to section 316.193, Florida Statutes.

(2) A Uniform Alcohol Influence Report, FDLE Form AIR 1 - March 2004, is adopted for use by all law enforcement agencies in the State of Florida when making DUI arrests pursuant to section 316.193, Florida Statutes.

(3) This rule shall not preclude the use of other probable cause affidavits or alcohol influence reports, and law enforcement agencies are authorized to supplement the Uniform Probable Cause Affidavit or the Uniform Alcohol Influence Report with additional affidavits and reports.

(4) Failure to use the Uniform Probable Cause Affidavit or the Uniform Alcohol Influence Report shall not prohibit prosecution of a person arrested for a violation of section 316.193, Florida Statutes, and shall have no effect on the legality or validity of such arrest.

(5) The above referenced forms may be obtained by contacting the Florida Department of Law Enforcement, Alcohol Testing Program, P.O. Box 1489, Tallahassee, Florida 32302.

Specific Authority 943.05(2)(d), FS. Law Implemented 316.193, 943.05(2), FS.

History—New _____.

NAME OF PERSON ORIGINATING THE PROPOSED RULE:

Rafael E. Madrigal, Assistant General Counsel, Florida Department of Law Enforcement, P.O. Box 1489, Tallahassee, Florida, 32302. Telephone Number: 850-410-7810.

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael

Ramage, Florida Department of Law Enforcement, Office of General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 5, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN THE FLORIDA

ADMINISTRATIVE WEEKLY: April 16, 2004

Florida Department of Law Enforcement

UNIFORM PROBABLE CAUSE AFFIDAVIT

DATE OF ARREST _____

THE FOLLOWING PERSON WAS ARRESTED FOR A VIOLATION OF s.316.193, F.S.:

Name: _____

Date of Birth: _____

Driver License No. _____

Case No. _____

UTC No. _____

BASED ON THE FOLLOWING, I ESTABLISHED PROBABLE CAUSE TO BELIEVE THAT THE ABOVE PERSON WAS IN VIOLATION OF s.316.193, F.S. (____ See Attachments)

Signature of L.E.O./Affiant _____ I.D. No. _____

Sworn to or affirmed and subscribed before me this _____ day of _____, _____.

By _____

_____ who is personally known or _____ who produced the following identification _____

Signature _____ Print Name _____

____ L.E.O. ID # _____

____ Notary

Florida Department of Law Enforcement

UNIFORM ALCOHOL INFLUENCE REPORT

DATE OF ARREST _____ CASE No. _____ UTC No. _____

THE FOLLOWING PERSON WAS ARRESTED FOR A VIOLATION OF s.316.193, F.S.:

Name: _____

DRIVING AND/OR CRASH SCENE OBSERVATIONS:

(See Attachments _____)

OBSERVATIONS OF THE DRIVER:

(See Attachments _____)

FIELD SOBRIETY EXERCISES:

(See Attachments _____)