

Tab 1 SB 124 by Bean (CO-INTRODUCERS) Montford, Harrell; (Similar to H 00115) Dependent Children							
451774	A	S	RCS	JU, Bean	Delete L.45 - 48:	02/05	01:45 PM

Tab 2 SB 328 by Brandes; (Compare to H 00337) Courts							
977268	A	S	RS	JU, Brandes	Delete L.369 - 379:	02/05	05:34 PM
928418	SA	S	RCS	JU, Brandes	Delete L.357 - 398:	02/05	05:34 PM

Tab 3 SJR 362 by Brandes; (Similar to H 00249) Abolishing the Constitution Revision Commission							
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

JUDICIARY
Senator Simmons, Chair
Senator Rodriguez, Vice Chair

MEETING DATE: Monday, February 4, 2019
TIME: 4:00—6:00 p.m.
PLACE: *Toni Jennings Committee Room*, 110 Senate Building

MEMBERS: Senator Simmons, Chair; Senator Rodriguez, Vice Chair; Senators Baxley, Gibson, Hutson, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 124 Bean (Similar H 115)	Dependent Children; Specifying the venue in proceedings for the appointment of a guardian for a child who has been adjudicated dependent; authorizing a court to receive and consider any information provided by the Guardian Ad Litem Program and the child's attorney ad litem if a child is under the jurisdiction of a dependency court, etc. CF 01/22/2019 Favorable JU 02/04/2019 Fav/CS RC	Fav/CS Yeas 6 Nays 0
2	SB 328 Brandes (Compare H 337, H 639)	Courts; Authorizing certain Supreme Court justices to have an appropriate facility in their district of residence designated as their official headquarters; revising the appellate jurisdiction of the circuit courts; requiring sheriffs to coordinate with the board of county commissioners and the chief judge of the circuit on a comprehensive plan for the provision of security for trial court facilities, etc. JU 02/04/2019 Fav/CS IS ACJ AP	Fav/CS Yeas 5 Nays 0
3	SJR 362 Brandes (Similar HJR 249, Compare H 251)	Abolishing the Constitution Revision Commission; Proposing amendments to the State Constitution to abolish the Constitution Revision Commission, etc. JU 02/04/2019 Favorable GO RC	Favorable Yeas 5 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: CS/SB 124

INTRODUCER: Judiciary Committee and Senator Bean and others

SUBJECT: Dependent Children

DATE: February 5, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	Favorable
2.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 124 addresses the complications that arise when a dependent child or young adult is involved in legal proceedings in multiple courts and jurisdictions.

For example, the courts of the county having jurisdiction over a child's dependency case lose jurisdiction to appoint a guardian for the child if the child is placed in a living arrangement outside of that county. Similarly, the courts of the county having jurisdiction over an incapacitated young adult's dependency case lose jurisdiction to appoint a guardian for the young adult if he or she is placed in a specialized and supportive living arrangement outside of the county. The bill addresses this issue by creating an additional guardianship venue¹ provision that permits venue in the county with jurisdiction of the dependency case.

The bill also addresses issues concerning a dependent child who is involved in juvenile justice proceedings. In addressing these issues, the bill:

- Permits the court, before making a final disposition in juvenile proceedings, to receive and consider any information provided by the Guardian Ad Litem Program and the child's attorney ad litem, if appointed, when the child is also under the jurisdiction of a dependency court;

¹ Venue refers to the proper location for a lawsuit to proceed, generally because the location has a connection to the plaintiff, defendant, or the facts of the case. BLACK'S LAW DICTIONARY (10th ed. 2014).

- Requires the Department of Juvenile Justice to notify the dependency court, the Department of Children and Families, and if appointed, the Guardian Ad Litem Program and the child's attorney ad litem before transferring a dependent child who is in the custody of the Department of Juvenile Justice from one facility or program to another;
- Permits a court, when receiving a quarterly report in juvenile proceedings, to receive and consider any information provided by the Guardian Ad Litem Program or the child's attorney ad litem, if appointed, if the child is under the jurisdiction of a dependency court; and
- Adds the Guardian Ad Litem Program to the group of entities that may serve on a community reentry team that helps a youth transition from a residential commitment facility to adulthood.

The bill takes effect upon becoming a law.

II. Present Situation:

Venue, Guardianship Proceedings, and Dependency for Children and Young Adults

Children who are dependent and have developmental disabilities or other issues are often in need of a court-appointed guardian when they turn 18 years old.² To avoid a gap in available care or protections, the guardianship proceedings must begin in advance of the child's 18th birthday.³ However, complications for guardianship proceedings arise when these children are placed in a living arrangement outside of the county of the child's dependency court. Another group adversely affected by these venue provisions are incapacitated young adults with a disability whose stay in foster care is extended up to the 22nd birthday and a guardian has not been appointed. Similarly, when the dependent young adult is living in a specialized and supportive placement outside of the county of his or her dependency court and a need for guardianship proceedings arises, venue is limited to the county of his or her foster care residence.

Due to the requirements of dependency statutes in chapter 39, F.S.,⁴ and the guardianship statutes in chapter 744, F.S.,⁵ the guardianship proceedings for a dependent child or young adult must occur in the county where the dependent child or young adult resides. When the dependent child or young adult resides outside of the county of the dependency court, the caseworkers often must locate an attorney in another circuit to handle the proceedings. Case managers must also be found in the other circuit who are willing to attend hearings.

² Without a guardianship, when the youth reaches the age of 18, he or she will be able to exercise all of the rights of adulthood but likely cannot manage those responsibilities. For example, he or she might decline a needed medical procedure because of a fear of surgery. If a guardian is appointed, the child's best interests will be better protected. Telephone interview with Tracy Ellis, General Magistrate, Dependency Division, Thirteenth Judicial Circuit, in Tampa, Fla. (Jan. 29, 2019).

³ See s. 39.701(3)(c), F.S.

⁴ Proceedings to appoint a guardian for a dependent child, which include proceedings for the determination of incapacity and proceedings for the appointment of a guardian, must be "conducted in a separate proceeding in the court division with jurisdiction over guardianship matters and pursuant to chapter 744." Section 39.701(3)(b)4., F.S.

⁵ Under the guardianship statutes in chapter 744, F.S., the proper location or venue for incapacity proceedings is the county where the alleged incapacitated person resides or is found. However, the venue for proceedings to appoint a guardian is limited to the county where the incapacitated person resides. Section 744.1097, F.S.

If a court in a county having jurisdiction over the dependency case were allowed to hear the guardianship petition, those who know the child or young adult best will be in a better position to assist with the guardianship proceedings.⁶

Juvenile Justice and Dependency and Delinquency Proceedings

Procedure

When a court determines that a child has committed a delinquent act⁷ the court may order the Department of Juvenile Justice to prepare a predisposition report concerning the child's placement, priority needs, and plan for treatment. The juvenile probation officer then meets with the child's family, the guardian ad litem staff, and possibly others to gather information about the child and make a recommendation for the child's placement. If a residential commitment is anticipated or recommended, the court must order a comprehensive evaluation of the child's overall physical and mental health and related issues.

Before making a final disposition of the case, the court must consider the child's assessment, predisposition report, and previous records of earlier juvenile delinquency proceedings. The court may also order additional evaluations, studies, and educational needs assessments that will be included in the assessment and predisposition report.

“Crossover” Children

Children who have legal matters pending simultaneously in the juvenile justice system and dependency court, or who are dually served by the Department of Juvenile Justice and the Department of Children and Families, are commonly referred to as crossover children. According to the Department of Children and Families, there were 1,003 crossover children in November 2018.⁸ Of those children, 36 percent are currently placed in a location that is outside of the county from which they were removed. Nineteen percent are currently placed outside of the judicial circuit from which they were removed, and 31 percent of children between the ages of 13 and 17 live in group care.⁹

When a child is living outside of the circuit that has dependency jurisdiction, it can be burdensome for the dependency judge to gather all of the pertinent information needed to make a decision about the child's best interests. It can also be difficult for the dependency court, guardians ad litem, and others to be aware of changes and accordingly advocate for the child's best interest. Moreover, if the dependency and delinquency case workers are not sharing their information, needed services for the child may be delayed. For example, when a child does not have an advocate and a delinquency case closes, it might be difficult to locate appropriate

⁶ Telephone interview with Tracy Ellis, General Magistrate, Dependency Division, Thirteenth Judicial Circuit, in Tampa, Fla. (January 29, 2019).

⁷ A “child who has been found to have committed a delinquent act” means a child who, under chapter 985, F.S., is found by a court to have committed a violation of law or is found to be in direct or indirect contempt of court except that it does not mean an act constituting contempt of court arising from a dependency proceeding or a proceeding concerning a child or family in need of services. Section 985.03(9), F.S.

⁸ Florida Department of Children and Families, *Child Welfare Key Indicators Monthly Report*, Dually Served Youth, 53 (December 2018), http://centerforchildwelfare.fmhi.usf.edu/qa/cwkeyindicator/KI_Monthly_Report_DEC_2018.pdf.

⁹ *Id.* at 47 and 50.

services or placement for the child which may cause the child to remain in a commitment facility longer than his or her sentence.¹⁰

Guardian Ad Litem Program

The Guardian ad Litem program consists of more than 170 lawyers and 11,000 volunteer advocates who represent a child's best interest when the child is abused, abandoned, or neglected and cannot remain at home because it is not a healthy or safe environment. In 2018, 32,396 children were removed from their homes and placed under the jurisdiction of a dependency court.¹¹

When a child is removed from the home, the legal proceedings begin in dependency court. The guardian ad litem program is then appointed by a judge to represent the child's best interest and advocate for things the child is legally entitled to receive. The program uses a team approach involving volunteers, Child Advocate Managers, and Best Interest Attorneys. Guardian ad Litem attorneys advocate for expedited permanency, compliance with time frames, stable placements in schools, healthcare, mental health services, and visitation. The guardian ad litem volunteers regularly visit the child to understand the child's needs, explain the legal process to the child, and appear in court when needed.¹²

III. Effect of Proposed Changes:

Guardianship Venue (Section 1)

Current law limits venue for guardianship proceedings for a dependent child or young adult living in foster care up to his or her 22nd birthday to the county where the child or young adult resides. Under the bill, the guardianship proceedings may be held either in the county where the child or young adult resides *or* in the county that has jurisdiction of the dependency case.

Similarly, the bill provides that the guardian does not have to transfer the guardianship case when the child or young adult moves to a different county. This is an exception to the guardianship statutes that generally require the venue of a guardianship case to be transferred to the ward's new county of residence.

These changes will allow the dependency court and case workers who know the child or young adult best to have more input and control over the guardianship process.

¹⁰ Florida Statewide Guardian Ad Litem Office, *SB 124 Bill Analysis* (Jan. 4, 2019) (on file with the Senate Committee on Judiciary).

¹¹ *I Am for the Child*, Guardian ad Litem Program 2018 Annual Report, <https://guardianadlitem.org/wp-content/uploads/2018/01/FINAL-EDITED-GAL-2018-Annual-Report-1.pdf>.

¹² *Id.*

Juvenile Justice and Children in Dependency and Delinquency Proceedings (Sections 2, 3, 4, and 5)

Predisposition Reports (Subsection 2)

The bill expressly allows a court to receive and consider information from additional sources before making a final disposition of a juvenile justice case that involves a child under the jurisdiction of a dependency court. These information sources include the Guardian Ad Litem Program and the child's attorney ad litem, if appointed.

Commitment and Transfers of a Child (Subsection 3)

Before the Department of Juvenile Justice may transfer a dependent child from one facility or program to another, the Department must provide notice to the dependency court and the Department of Children and Families, and if either one is appointed, also to the Guardian Ad Litem Program and to the child's attorney ad litem.

Other Dispositional Issues and Quarterly Reports (Subsection 4)

The statute is amended to provide that the Guardian Ad Litem Program or the child's attorney ad litem may present information to the juvenile delinquency court when other parties present quarterly report information for a child who is also under the jurisdiction of a dependency court. For example, this input could include information provided by a guardian ad litem based upon visits with the child or might include options for a future placement based upon identifying a new relative of the child.¹³ The current statute does not preclude them from offering information, but this clarifies that the two entities may provide information about the child to the court.

Transitions from a Residential Facility to Adulthood (Section 5)

This bill adds the Guardian Ad Litem Program to the list of representatives who may serve on a community reentry team. Community reentry teams develop life skills training to aid a youth's transition from residential commitment facilities to adulthood. The teams may currently include representatives from school districts, law enforcement agencies, workforce development services, community-based service providers, and the youth's family.¹⁴

Conforming Changes (Sections 6, 7, and 8)

The remaining three sections of the bill (sections 322.051(9), 322.21(1)(f), and 382.0255(3), F.S.) republish provisions of the law for the purpose of incorporating changes made in a cross-reference. These are not substantive changes made to the statutes.

Effective Date

The bill takes effect upon becoming a law.

¹³ See *supra* note 11.

¹⁴ Section 985.461(4)(b), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Office of the State Courts Administrator states that the fiscal impact of the legislation cannot be accurately known because the data is not available to determine the effects this bill will have on judicial time and workload.¹⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Florida Rules of Juvenile Procedure may need to be amended to address changes made by the bill.

¹⁵ Office of the State Courts Administrator, *Senate Bill 124 Judicial Impact Statement* (Jan. 17, 2019) (on file with the Senate Committee on Judiciary).

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 744.1097, 985.43, 985.441, 985.455, and 985.461.

This bill re-enacts the following sections of the Florida Statutes: 322.051, 322.21, and 382.0255.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Judiciary on February 4, 2019:

The committee substitute amends the venue provisions of the underlying bill to include the category of an incapacitated young adult who is under the jurisdiction of a dependency court. As such, venue for a guardianship proceeding for an incapacitated dependent young adult may be either in the county where the young adult resides or in the county having jurisdiction of the dependency case.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/05/2019	.	
	.	
	.	
	.	

The Committee on Judiciary (Bean) recommended the following:

Senate Amendment (with directory and title amendments)

Delete lines 45 - 48

and insert:

(d) If the incapacitated person is a child or young adult under the jurisdiction of a dependency court, in the county where the child resides or in the county having jurisdiction of the dependency case.

(3) When the residence of an incapacitated person is changed to another county, the guardian shall petition to have the venue of the guardianship changed to the county of the



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12 | acquired residence, except in cases where venue was established
13 | under paragraph (2)(d) or as provided in s. 744.1098.

14 |
15 | ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

16 | And the directory clause is amended as follows:

17 | Delete lines 32 - 33

18 | and insert:

19 | Section 1. Subsections (2) and (3) of section 744.1097,
20 | Florida Statutes, are amended to read:

21 |
22 | ===== T I T L E A M E N D M E N T =====

23 | And the title is amended as follows:

24 | Delete line 4

25 | and insert:

26 | for the appointment of a guardian for a child or young
27 | adult who has

By Senator Bean

4-00312A-19

2019124__

A bill to be entitled

An act relating to dependent children; amending s. 744.1097, F.S.; specifying the venue in proceedings for the appointment of a guardian for a child who has been adjudicated dependent; amending s. 985.43, F.S.; authorizing a court to receive and consider any information provided by the Guardian Ad Litem Program and the child's attorney ad litem if a child is under the jurisdiction of a dependency court; amending s. 985.441, F.S.; requiring the Department of Juvenile Justice, if a child is under the jurisdiction of a dependency court, to provide notice to the dependency court and the Department of Children and Families, and, if appointed, the Guardian Ad Litem Program and the child's attorney ad litem; amending s. 985.455, F.S.; authorizing a court to receive and consider any information provided by the Guardian Ad Litem Program or the child's attorney ad litem if a child is under the jurisdiction of a dependency court; amending s. 985.461, F.S.; adding the Guardian Ad Litem Program as an authorized entity of community reentry teams under which the Department of Juvenile Justice is authorized to provide transition-to-adulthood services to certain children; reenacting ss. 322.051(9), 322.21(1)(f), and 382.0255(3), F.S., relating to identification cards, license fees, and fees, respectively, to incorporate the amendment made to s. 985.461, F.S., in references thereto; providing an effective date.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (2) of section 744.1097, Florida Statutes, is amended to read:

744.1097 Venue.—

(2) The venue in proceedings for the appointment of a guardian shall be:

(a) If the incapacitated person is a resident of this state, in the county where the incapacitated person resides.

(b) If the incapacitated person is not a resident of this state, in any county in this state where property of the incapacitated person is located.

(c) If the incapacitated person is not a resident of this state and owns no property in this state, in the county where any debtor of the incapacitated person resides.

(d) If the incapacitated person is a child who has been adjudicated dependent pursuant to chapter 39, in the county where the child resides or in the county with jurisdiction of the dependency case.

Section 2. Subsection (2) of section 985.43, Florida Statutes, is amended to read:

985.43 Predisposition reports; other evaluations.—

(2) The court shall consider the child's entire assessment and predisposition report and shall review the records of earlier judicial proceedings ~~before~~ ~~prior to~~ making a final disposition of the case. If the child is under the jurisdiction of a dependency court, the court may receive and consider any information provided by the Guardian Ad Litem Program and the child's attorney ad litem, if appointed. The court may, by

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59 order, require additional evaluations and studies to be
60 performed by the department; the county school system; or any
61 social, psychological, or psychiatric agency of the state. The
62 court shall order the educational needs assessment completed
63 under s. 985.18(2) to be included in the assessment and
64 predisposition report.

65 Section 3. Subsection (4) of section 985.441, Florida
66 Statutes, is amended to read:

67 985.441 Commitment.—

68 (4) The department may transfer a child, when necessary to
69 appropriately administer the child's commitment, from one
70 facility or program to another facility or program operated,
71 contracted, subcontracted, or designated by the department,
72 including a postcommitment nonresidential conditional release
73 program, except that the department may not transfer any child
74 adjudicated solely for a misdemeanor to a residential program
75 except as provided in subsection (2). The department shall
76 notify the court that committed the child to the department and
77 any attorney of record for the child, in writing, of its intent
78 to transfer the child from a commitment facility or program to
79 another facility or program of a higher or lower restrictiveness
80 level. If the child is under the jurisdiction of a dependency
81 court, the department shall also provide notice to the
82 dependency court and the Department of Children and Families,
83 and, if appointed, the Guardian Ad Litem Program and the child's
84 attorney ad litem. The court that committed the child may agree
85 to the transfer or may set a hearing to review the transfer. If
86 the court does not respond within 10 days after receipt of the
87 notice, the transfer of the child shall be deemed granted.

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88 Section 4. Subsection (3) of section 985.455, Florida
89 Statutes, is amended to read:

90 985.455 Other dispositional issues.—

91 (3) Any commitment of a delinquent child to the department
92 must be for an indeterminate period of time, which may include
93 periods of temporary release; however, the period of time may
94 not exceed the maximum term of imprisonment that an adult may
95 serve for the same offense, except that the duration of a
96 minimum-risk nonresidential commitment for an offense that is a
97 misdemeanor of the second degree, or is equivalent to a
98 misdemeanor of the second degree, may be for a period not to
99 exceed 6 months. The duration of the child's placement in a
100 commitment program of any restrictiveness level shall be based
101 on objective performance-based treatment planning. The child's
102 treatment plan progress and adjustment-related issues shall be
103 reported to the court quarterly, unless the court requests
104 monthly reports. If the child is under the jurisdiction of a
105 dependency court, the court may receive and consider any
106 information provided by the Guardian Ad Litem Program or the
107 child's attorney ad litem, if appointed. The child's length of
108 stay in a commitment program may be extended if the child fails
109 to comply with or participate in treatment activities. The
110 child's length of stay in the program shall not be extended for
111 purposes of sanction or punishment. Any temporary release from
112 such program must be approved by the court. Any child so
113 committed may be discharged from institutional confinement or a
114 program upon the direction of the department with the
115 concurrence of the court. The child's treatment plan progress
116 and adjustment-related issues must be communicated to the court

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117 at the time the department requests the court to consider
 118 releasing the child from the commitment program. The department
 119 shall give the court that committed the child to the department
 120 reasonable notice, in writing, of its desire to discharge the
 121 child from a commitment facility. The court that committed the
 122 child may thereafter accept or reject the request. If the court
 123 does not respond within 10 days after receipt of the notice, the
 124 request of the department shall be deemed granted. This section
 125 does not limit the department's authority to revoke a child's
 126 temporary release status and return the child to a commitment
 127 facility for any violation of the terms and conditions of the
 128 temporary release.

129 Section 5. Paragraph (b) of subsection (4) of section
 130 985.461, Florida Statutes, is amended to read:

131 985.461 Transition to adulthood.—

132 (4) As part of the child's treatment plan, the department
 133 may provide transition-to-adulthood services to children
 134 released from residential commitment. To support participation
 135 in transition-to-adulthood services and subject to
 136 appropriation, the department may:

137 (b) Use community reentry teams to assist in the
 138 development of a list of age-appropriate activities and
 139 responsibilities to be incorporated in the child's written case
 140 plan for any youth who is under the custody or supervision of
 141 the department. Community reentry teams may include
 142 representatives from school districts, law enforcement,
 143 workforce development services, community-based service
 144 providers, the Guardian Ad Litem Program, and the youth's
 145 family. Such community reentry teams must be created within

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146 existing resources provided to the department. Activities may
 147 include, but are not limited to, life skills training, including
 148 training to develop banking and budgeting skills, interviewing
 149 and career planning skills, parenting skills, personal health
 150 management, and time management or organizational skills;
 151 educational support; employment training; and counseling.

152 Section 6. For the purpose of incorporating the amendment
 153 made by this act to section 985.461, Florida Statutes, in a
 154 reference thereto, subsection (9) of section 322.051, Florida
 155 Statutes, is reenacted to read:

156 322.051 Identification cards.—

157 (9) Notwithstanding any other provision of this section or
 158 s. 322.21 to the contrary, the department shall issue or renew a
 159 card at no charge to a person who presents evidence satisfactory
 160 to the department that he or she is homeless as defined in s.
 161 414.0252(7), to a juvenile offender who is in the custody or
 162 under the supervision of the Department of Juvenile Justice and
 163 receiving services pursuant to s. 985.461, to an inmate
 164 receiving a card issued pursuant to s. 944.605(7), or, if
 165 necessary, to an inmate receiving a replacement card if the
 166 department determines that he or she has a valid state
 167 identification card. If the replacement state identification
 168 card is scheduled to expire within 6 months, the department may
 169 also issue a temporary permit valid for at least 6 months after
 170 the release date. The department's mobile issuing units shall
 171 process the identification cards for juvenile offenders and
 172 inmates at no charge, as provided by s. 944.605 (7) (a) and (b).

173 Section 7. For the purpose of incorporating the amendment
 174 made by this act to section 985.461, Florida Statutes, in a

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175 reference thereto, paragraph (f) of subsection (1) of section
 176 322.21, Florida Statutes, is reenacted to read:
 177 322.21 License fees; procedure for handling and collecting
 178 fees.—
 179 (1) Except as otherwise provided herein, the fee for:
 180 (f) An original, renewal, or replacement identification
 181 card issued pursuant to s. 322.051 is \$25, except that an
 182 applicant who presents evidence satisfactory to the department
 183 that he or she is homeless as defined in s. 414.0252(7); his or
 184 her annual income is at or below 100 percent of the federal
 185 poverty level; or he or she is a juvenile offender who is in the
 186 custody or under the supervision of the Department of Juvenile
 187 Justice, is receiving services pursuant to s. 985.461, and whose
 188 identification card is issued by the department's mobile issuing
 189 units is exempt from such fee. Funds collected from fees for
 190 original, renewal, or replacement identification cards shall be
 191 distributed as follows:
 192 1. For an original identification card issued pursuant to
 193 s. 322.051, the fee shall be deposited into the General Revenue
 194 Fund.
 195 2. For a renewal identification card issued pursuant to s.
 196 322.051, \$6 shall be deposited into the Highway Safety Operating
 197 Trust Fund, and \$19 shall be deposited into the General Revenue
 198 Fund.
 199 3. For a replacement identification card issued pursuant to
 200 s. 322.051, \$9 shall be deposited into the Highway Safety
 201 Operating Trust Fund, and \$16 shall be deposited into the
 202 General Revenue Fund. Beginning July 1, 2015, or upon completion
 203 of the transition of the driver license issuance services, if

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204 the replacement identification card is issued by the tax
 205 collector, the tax collector shall retain the \$9 that would
 206 otherwise be deposited into the Highway Safety Operating Trust
 207 Fund and the remaining revenues shall be deposited into the
 208 General Revenue Fund.
 209 Section 8. For the purpose of incorporating the amendment
 210 made by this act to section 985.461, Florida Statutes, in a
 211 reference thereto, subsection (3) of section 382.0255, Florida
 212 Statutes, is reenacted to read:
 213 382.0255 Fees.—
 214 (3) Fees shall be established by rule. However, until rules
 215 are adopted, the fees assessed pursuant to this section shall be
 216 the minimum fees cited. The fees established by rule must be
 217 sufficient to meet the cost of providing the service. All fees
 218 shall be paid by the person requesting the record, are due and
 219 payable at the time services are requested, and are
 220 nonrefundable, except that, when a search is conducted and no
 221 vital record is found, any fees paid for additional certified
 222 copies shall be refunded. The department may waive all or part
 223 of the fees required under this section for any government
 224 entity. The department shall waive all fees required under this
 225 section for a certified copy of a birth certificate issued for
 226 purposes of an inmate acquiring a state identification card
 227 before release pursuant to s. 944.605(7) and for a juvenile
 228 offender who is in the custody or under the supervision of the
 229 Department of Juvenile Justice and receiving services under s.
 230 985.461.
 231 Section 9. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator David Simmons, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: January 22, 2019

I respectfully request that **Senate Bill # 124**, relating to Dependent Children, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

Aaron Bean

Senator Aaron Bean
Florida Senate, District 4

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2.4.19

124

Meeting Date

Bill Number (if applicable)

Topic Dependent Children

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

Street

Tallahassee

FL

32308

Email barney@barneybishop.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Smart Justice Alliance

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage 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.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-4-19

Meeting Date

124

Bill Number (if applicable)

Topic Dependent children

Amendment Barcode (if applicable)

Name Bill Cervone

Job Title STATE ATT'Y - 8 CIR

Address 120 W UNIVERSITY AVE

Phone 352-374-3686

Street

Gainesville

FL

32601

City

State

Zip

Email cervonew@sao8.org

Speaking: For Against Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing Fla Prosecuting Attys Associa

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage 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.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

214 / 2019

Meeting Date

Topic _____

Bill Number 134
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage 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.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/4/19

Meeting Date

124

Bill Number (if applicable)

Topic Dependent Children

Amendment Barcode (if applicable)

Name Alan Abramowitz

Job Title Executive Director

Address 600 S. Calhoun Street

Phone 850.241.3232

Street

Tallahassee

FL

32399

Email alan.abramowitz@gal.fl.gov

City

State

Zip

Speaking: [] For [] Against [] Information

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

Representing Statewide Guardian ad Litem Program

Appearing at request of Chair: [] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [] No

While it is a Senate tradition to encourage 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.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: CS/SB 328

INTRODUCER: Judiciary Committee and Senator Brandes

SUBJECT: Courts

DATE: February 5, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tulloch	Cibula	JU	Fav/CS
2.			IS	
3.			ACJ	
4.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 328 amends or creates multiple substantive provisions relating to the court system. The bill: (1) amends multiple provisions affecting the jurisdiction of the county and circuit courts; (2) adjusts county and circuit court filing fees based on jurisdiction amounts; (3) limits when the \$1 mediation/arbitration fee may be collected by the court clerks; (4) creates a substantive provision permitting a remote office and travel expenses for individual Supreme Court justices; (5) clarifies decision-making authority regarding security in county courthouses; and (6) requires the refund of filing fees to judicial candidates running unopposed.

(1) *Jurisdiction*—The bill gradually raises the county courts’ maximum jurisdictional amount for civil cases demanding money as follows:

- For Cases filed on or after January 1, 2020:
 - From \$15,000 to \$30,000 for all cases except insurance cases.
 - From \$15,000 to \$25,000 for insurance cases.
- For cases filed on or after January 1, 2022:
 - From \$30,000 to \$50,000 for all cases except insurance cases.
 - Insurance cases remain set at \$25,000.

The bill also requires that these jurisdictional amounts be adjusted for inflation or deflation every 10 years after January 1, 2022, and rounded to the nearest \$5,000.

The bill effectively raises the circuit courts' original jurisdiction to amounts exceeding the county court's new jurisdictional amounts. The bill also explicitly clarifies that the circuit courts have appellate jurisdiction over county court decisions involving the county court's new jurisdictional amounts.

Additionally, the bill requires the State Courts Administrator to submit recommendations for adjustments resulting from the changes to the jurisdictional amounts by March 1, 2021.

(2) *Filing Fees*—The bill adjusts the filing fees in sections 28.241 and 34.041, F.S. to maintain the current applicable filing fees, and statutory distribution of those fees to various funds, based on the case's monetary value. Specifically, effective January 1, 2020, although the county courts will now have jurisdiction over cases demanding between \$15,000 and \$30,000 (and insurance cases up to \$25,000), the current circuit court level filing fee of \$395 will still apply based on the amount demanded. Likewise, although circuit courts will now have appellate jurisdiction over cases demanding between \$15,000 and \$30,000 (and insurance cases up to \$25,000), the current district court of appeal level filing fee of \$400 will still apply based on the amount demanded. These applicable case values will be adjusted January 1, 2022.

(3) *Mediation/Arbitration Fee*—The bill provides that the \$1 filing fee levied on all county and civil court cases to fund mediation and arbitration may not be levied on appeals from the county to the circuit court for claims exceeding \$15,000.

(4) *Remote Office for Supreme Court Justices*—The bill creates s. 25.025, F.S., which provides that the Chief Justice of the Florida Supreme Court shall, at the request of a justice:

- Coordinate and designate a courthouse or other appropriate facility in the justice's district as his or her official headquarters and private chambers; and
- Reimburse the justice for travel and subsistence while in Tallahassee to the extent funding is available.

(5) *Court Security*—The bill clarifies the decision-making authority for courthouse security and provides that:

- The sheriff, county commissioners, and chief judge of the circuit must develop a comprehensive plan for courthouse security.
- The sheriff retains operational control in accord with the comprehensive security plan.
- The chief judge retains decision-making authority to protect due process rights in accord with the comprehensive plan.

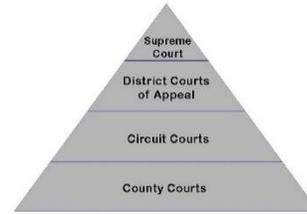
(6) *Candidate Filing Fee Refunds*—The bill requires the refund of filing fees to judicial candidates running unopposed within 20 days after the close of the qualifying period.

II. Present Situation:

Florida's Court System

The Florida Constitution vests all judicial power in:

- The supreme court;
- The district courts of appeal;
- The circuit courts; and
- The county courts.¹



The Constitution provides that “[n]o other courts may be established by the state, any political subdivision or any municipality.”² Additionally, the Constitution vests the Florida Supreme Court with broad authority to administer the state courts system and establish court rules of procedure.³

Legislative Powers Concerning Court Jurisdiction

The Constitution confers some authority over the jurisdiction of the courts to the Legislature. Although the territorial and subject matter jurisdiction of the Florida Supreme Court is primarily defined by the Constitution, the Legislature has constitutional authority to provide for the territorial jurisdiction and the subject matter jurisdiction of the courts.⁴

Territorial Jurisdiction

The Legislature is constitutionally required to establish the territorial or geographic jurisdiction of the appellate court districts and the judicial circuits “following county lines.”⁵ Currently, there are five district courts of appeal,⁶ 20 judicial circuits, and 67 county courts, one in each of Florida’s 67 counties⁷ as constitutionally required.⁸

The following maps illustrate the territorial jurisdictions of these courts:⁹

¹ FLA. CONST. art. V., s. 1.

² *Id.* (although the Constitution permits the Legislature to establish quasi-judicial, administrative courts and a civil traffic infraction hearing officer system).

³ FLA. CONST. art. V, s. 2.

⁴ “Jurisdiction” is defined as “[a] government’s general power to exercise authority over all persons and things within its territory; esp., a state’s power to create interests that will be recognized under common-law principles as valid in other states <New Jersey’s jurisdiction>.” BLACK’S LAW DICTIONARY (10th ed. 2014). For courts, jurisdiction is defined as “[a] court’s power to decide a case or issue a decree <the constitutional grant of federal-question jurisdiction>.” *Id.* Additionally, jurisdiction is defined geographically: “A geographic area within which political or judicial authority may be exercised <the accused fled to another jurisdiction>.” *Id.*

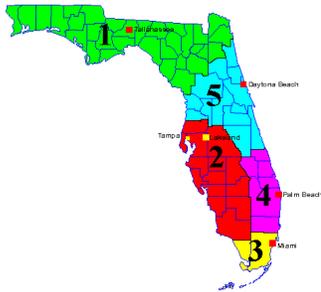
⁵ FLA. CONST. art. V, s. 1.

⁶ Florida Courts, *Court System Organization & Structure*, <http://www.flcourts.org/florida-courts/> (last visited Jan. 29, 2019). The First District sits in Tallahassee; the Second District sits in Lakeland; the Third District sits in Miami; the Fourth District sits in West Palm Beach; and the Fifth District sits in Daytona Beach. Florida Courts, *District Courts of Appeal*, <https://www.flcourts.org/Florida-Courts/District-Courts-of-Appeal> (last visited Jan. 29, 2019).

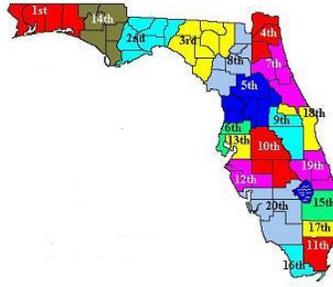
⁷ Florida Courts, *Court System Organization & Structure*, <http://www.flcourts.org/florida-courts/> (last visited Jan. 29, 2019).

⁸ FLA. CONST. art. V, s. 6(a) (“There shall be a county court in each county.”).

⁹ Ron DeSantis, 46th Governor of Florida, Judicial and Judicial Nominating Commission Information, *The Florida Court System*, <https://www.flgov.com/judicial-and-judicial-nominating-commission-information/> (last visited Jan. 29, 2019).



Five District Courts of Appeal



Twenty Judicial Circuits



Sixty-Seven Counties

Subject Matter Jurisdiction

The Legislature’s authority over the subject matter jurisdiction of the Florida Supreme Court and district courts of appeal is fairly limited. With a few exceptions,¹⁰ the Constitution sets out the subject matter jurisdiction of the Supreme Court and the appellate courts.

On the other hand, under the Constitution, the Legislature is granted broad authority to define the jurisdiction¹¹ of the county courts: “The county courts shall exercise the jurisdiction *prescribed by general law*. Such jurisdiction shall be uniform throughout the state.”¹²

Because the jurisdiction of the circuit court is limited by the jurisdiction of the county courts under the Constitution, the Legislature’s authority to define the jurisdiction of the circuit courts is also fairly broad:

The circuit courts shall have original jurisdiction not vested in the county courts, and jurisdiction of appeals *when provided by general law*. They shall have the power to issue writs of mandamus, quo warranto, certiorari, prohibition and habeas corpus, and all writs necessary or proper to the complete exercise of their jurisdiction. Jurisdiction of the circuit court shall be uniform throughout the state. They shall have the power of direct review of administrative action *prescribed by general law*.¹³

¹⁰ See Art. V, s. 3(b)(2), FLA. CONST. (“When provided by *general law*, [the supreme court] shall hear appeals from final judgments entered in proceedings for the validation of bonds or certificates of indebtedness and shall review action of statewide agencies relating to rates or service of utilities providing electric, gas, or telephone service.”) (emphasis added); FLA. CONST. art. V, s. 4(b)(2) (“District courts of appeal shall have the power of direct review of administrative action, *as prescribed by general law*.”) (emphasis added).

¹¹ See *Alexdex Corp. v. Nachon Enterprises, Inc.*, 641 So. 2d 858, 861 (Fla. 1994) (“The jurisdiction of the courts of the state is broadly defined by our State Constitution; however, the legislature may further define a court’s jurisdiction so long as the jurisdiction, as redefined, is not in conflict with the Constitution. . . . Absent a constitutional prohibition or restriction, the legislature is free to vest courts with exclusive, concurrent, original, appellate, or final jurisdiction.”) (citing *State v. Sullivan*, 95 Fla. 191, 116 So. 255 (1928)).

¹² FLA. CONST. art. V, s. 6(b) (emphasis added). Additionally, the Legislature establishes the number of judges to serve in each county. *Id.* at s. 6(a).

¹³ FLA. CONST. art. V, s. 5(b) (emphasis added).

County Court Jurisdiction

As provided by the Legislature in s. 34.01, F.S., the county court is a trial court that has jurisdiction over the following types of cases within its jurisdictional (monetary) amount of \$15,000:

- All criminal misdemeanor cases not cognizable by the circuit courts;
- All violations of municipal and county ordinances;
- All actions at law involving damages up to \$15,000, not including interest, costs, and attorney’s fees, unless the cause of action is within the exclusive jurisdiction of the circuit courts;
- Concurrent jurisdiction with the circuit courts over disputes between homeowners’ associations and parcel owners;
- Concurrent jurisdiction with circuit courts to hear uncontested dissolution of marriage petitions under the simplified dissolution procedures;
- Any subject matter jurisdiction previously exercised by the county courts prior to the adoption of the 1968 Constitution, including that of the small claims courts; and
- Any matter in equity (such as an eviction)¹⁴ that is within the jurisdictional amount of the county court.

The effective date of the last increase to the monetary limit on the jurisdiction of the county courts was July 1, 1992.¹⁵ If adjusted for inflation, the \$15,000 jurisdictional limit would be \$26,822.03 in today’s dollars (as of December 2018).¹⁶

The county court is also the small claims court. Small claims courts are not separate, constitutionally recognized courts;¹⁷ rather, they are the county courts functioning under the Florida Small Claims Rules of procedure adopted by Supreme Court.¹⁸ The goal of the Small Claims Rules is to “reach a ‘simple, speedy, and inexpensive’ resolution of [small claims] cases” in which the parties often represent themselves.¹⁹ The court rules apply to civil actions in county courts where money is demanded,²⁰ and set the jurisdictional limit of small claims demands at

¹⁴ Section 34.011, F.S. (providing that county and circuit courts generally have concurrent jurisdiction over landlord tenant cases, although county court will have exclusive jurisdiction over proceedings relating to the right of possession so long as matter is under \$15,000.).

¹⁵ Chapter 90-269, Laws of Fla.

¹⁶ The inflation adjusted figure was determined by the Bureau of Labor Statistics, United States Department of Labor, CPI Inflation Calculator, which is available at https://www.bls.gov/data/inflation_calculator.htm.

¹⁷ *LaSalla v. Pools by George of Pinellas County, Inc.*, 125 So. 3d 1016, 1016 (Fla. 2d DCA 2013) (“[F]or purposes of the concept of subject matter jurisdiction, a county court that applies the Florida Small Claims Rules in a particular proceeding is not a separate court from a county court that applies the Florida Rules of Civil Procedure. This is true even if a county court has elected to create a ‘small claims division’ to handle cases under the Florida Small Claims Rules. To the extent that *Tax Certificate Redemption’s, Inc. v. Meitz*, 705 So. 2d 64 (Fla. 4th DCA 1997), discusses the ‘jurisdiction’ of a small claims court as distinct from the jurisdiction of county court, we believe that discussion is incorrect.”).

¹⁸ *Id.* at 1017 (The Small Claims Rules “do not create a ‘small claims court.’ They simply create rules of procedure for use in county court when the amount in controversy is small.”). When the amount in controversy exceeds the jurisdictional limits of the Small Claims Rules, the more complex requirements of the Rules of Civil Procedure apply. *See Hilton v. Florio*, 317 So. 2d 83 (Fla. 3d DCA 1975).

¹⁹ *In re Amendments to Florida Small Claims Rule 7.090*, 64 So. 3d 1196 (Fla. 2011); Fla. Sm. Cl. R. 7.010(a).

²⁰ *In re Amendments to Florida Small Claims Rules*, 123 So. 3d 41, 43 (Fla. 2013) (amending Fla. Sm. Cl. R. 7.010).

\$5,000,²¹ where it has remained since January 1, 1997.²² If adjusted for inflation to December 2018, the jurisdictional limit of the Small Claims Rules would be \$7,895.44.²³

Circuit Court Jurisdiction

Because the circuit courts have exclusive jurisdiction over “all actions at law not cognizable by the county courts,” the circuit court’s current jurisdictional amount is \$15,000 or above for cases demanding money judgments.²⁴

Additionally, with two exceptions, the circuit court has appellate jurisdiction over county court cases. Under the two exceptions, the district court of appeal has appellate jurisdiction when a county court either (1) declares a statute or constitutional provision invalid or (2) certifies a question of great public importance.²⁵ Additionally, if the law applied by the circuit court sitting in its appellate capacity is in question, a party may seek review by the appropriate district court of appeal by filing a petition for writ of certiorari.²⁶

Notably, foreclosure cases, which are cases in equity, are not one of the subject areas statutorily defined as being within the exclusive jurisdiction of the circuit court.²⁷ Rather, in resolving a conflict between the statutes setting forth the county court’s and the circuit court’s equity jurisdiction in foreclosure cases, the Florida Supreme court concluded in *Alexdex Corp. v. Nachon Enterprises, Inc.* that “the legislature intended to provide concurrent equity jurisdiction in circuit and county courts, except that equity cases filed in county courts must fall within the county court’s monetary jurisdiction, as set by statute.”²⁸

Filing Fees

Filing fees are constitutionally required to fund the clerks of the circuit and county courts,²⁹ and vary depending on the court. In **county court**, the filing fee for civil actions at law demanding money judgments vary based on the amount:

- For all claims less than \$100..... \$50.
- For all claims of \$100 or more but not more than \$500..... \$75.
- For all claims of more than \$500 but not more than \$2,500..... \$170.
- For all claims of more than \$2,500..... \$295.³⁰

²¹ Fla. Sm. Cl. R. 7.010(b).

²² *In re Amendments to the Florida Small Claims Rules*, 682 So. 2d 1075, 1076 (Fla. 1996) (raising amount from \$2,500 to \$5,000).

²³ The inflation adjusted figure was determined by the Bureau of Labor Statistics, United States Department of Labor, CPI Inflation Calculator, which is available at https://www.bls.gov/data/inflation_calculator.htm.

²⁴ Section 26.012(2)(a), F.S.

²⁵ Section 26.012(1), F.S.

²⁶ FLA. CONST. art. V, s. 4(b)(3) (authorizing district courts of appeal to issue writs of certiorari among others). Philip J. Padovano, *Appellate Practice*, 2 Fla. Prac., § 30:5 (2017 ed.) (“A party may file a petition for writ of certiorari to review . . . an appellate decision of a lower court[.]”). On petition for writ of certiorari, the district court reviews for whether the circuit court departed from the essential requirements of the law; or, put another way, whether the circuit court “(1) afforded the parties due process of law[,] and (2) applied the correct law.” *Id.*

²⁷ Section 26.012(2), F.S.

²⁸ 641 So. 2d 858, 862 (Fla. 1994).

²⁹ FLA. CONST. art. V, s. 14(b) (requiring that all funding for clerks of circuit and county courts come from adequate filing fees).

³⁰ Section 34.041(1)(a), F.S.

The clerk of court also collects an additional \$4 filing fee.³¹

When the clerk of court collects the \$295 filing fee, the fee is allocated as follows:

- The first \$15 of the filing fee is deposited in the State Courts Revenue Trust Fund.
- \$3.50 is transferred to the Department of Revenue (DOR) for deposit in the Court Education Trust Fund.
- Another \$0.50 is transferred to the DOR for deposit into the Administrative Trust Fund within the Department of Financial Services to fund clerk education provided by the Florida Clerks of Court Operations Corporation.³²

Additionally, when any portion of the fees for court functions collected in the prior month exceeds one-twelfth of the clerk's total budget, the overage is transferred to the DOR for deposit into the Clerks of the Court Trust Fund.³³

In **circuit court**, the filing fee for civil actions at law demanding money judgments vary based on the type of action filed³⁴ and the number of defendants, but is generally \$395 for the first five defendants.³⁵ Additionally, there are graduated filing fees for real property and mortgage foreclosure cases which can reach as high as \$1,900 for claims valued at \$250,000 and higher.³⁶

The filing fee collected by the clerk of court is allocated as follows:

- Of the first \$200 in filing fees, \$195 must be remitted to the DOR for deposit into the State Courts Revenue Trust Fund.
- \$4 must be remitted to the DOR for deposit into the Administrative Trust Fund within the Department of Financial Services and used to fund the contract with the Florida Clerks of Court Operations Corporation.
- \$1 must be remitted to the DOR for deposit into the Administrative Trust Fund within the Department of Financial Services to fund audits of individual clerks' court-related expenditures conducted by the Department of Financial Services.³⁷

Additionally, as in county court, when any portion of the circuit court fees collected in the prior month exceeds one-twelfth of the clerk's total budget, the overage is transferred to the DOR for deposit into the Clerks of the Court Trust Fund.³⁸

The clerk of court also collects an additional \$4 fee. Of that \$4 fee, \$3.50 is transferred to the DOR for deposit into the Court Education Trust Fund. The other \$0.50 is also transferred to the

³¹ Section 34.041(1)(b), F.S.

³² *Id.*

³³ *Id.*

³⁴ Section 28.241(1)(a)1.a., F.S. The filing fee is only \$295 for civil suits filed under chapters 39 (dependency), 61 (family law), 741 (domestic violence), 742 (determination of parentage), 747 (conservatorship), 752 (grandparental visitation rights), or 753 (supervised visitation). Section 28.241(1)(a)1.b., F.S. Additionally, there are graduated filing fees for real property and mortgage foreclosure cases which can reach as high as \$1,900 for claims valued at \$250,000 and higher. Section 28.241(1)(a)2, F.S.

³⁵ *Id.* It is \$2.50 per defendant in excess of five. *Id.*

³⁶ *Id.*

³⁷ Section 28.241(1)(a)1.a., F.S.

³⁸ *Id.*

DOR for deposit into the Administrative Trust Fund within the Department of Financial Services to fund clerk education provided by the Florida Clerks of Court Operations Corporation.³⁹

Effective January 1, 2019, \$50 of the \$100 fee collected by the clerk of the circuit court from each attorney appearing *pro hac vice* (an attorney licensed in another state permitted to specially appear in a case by court order) will be deposited into the State Courts Revenue Trust Fund.⁴⁰

Additionally, the clerks of court collect a \$1 filing fee in all proceedings, whether filed in circuit or county court, to fund **mediation and arbitration services**. The fee is deposited in the State Courts Revenue Trust Fund⁴¹ to be used to provide access to mediation and arbitration for all parties “regardless of financial status.”⁴² This fee goes toward the state-funded mediation program, which is available to parties in county civil cases (under \$15,000) for free or reduced costs but not circuit civil cases.⁴³ This fee is not levied in appellate proceedings filed in the District Courts of Appeal or the Florida Supreme Court.

For **appeals** from the **county to the circuit court**, the clerk of the circuit court may collect up to \$280.⁴⁴

For appeals to the **district court of appeal**, the circuit court charges a \$100 fee for filing a notice of appeal,⁴⁵ and the clerk of the district court of appeal collects a filing fee of \$300 for civil cases.⁴⁶ Of the district court filing fee, \$50 is deposited into the State Courts Revenue Trust Fund and the remainder is deposited into the State Treasury to be credited to the General Revenue Fund.⁴⁷

Supreme Court Headquarters

Article II, section 2 of the Florida Constitution designates Tallahassee as the seat of state government “where the *offices* of the governor, lieutenant governor, cabinet members and *the supreme court shall be maintained* and the sessions of the legislature shall be held[.]”⁴⁸ Article V, section 3 of the Florida Constitution provides that the Supreme Court will consist of seven justices, and that each of the five appellate districts “shall have at least one justice elected or appointed from the district at the time of the original appointment or election.” The chambers of

³⁹ Section 28.241(1)(a)1.c., F.S.

⁴⁰ Section 28.241(6), F.S. All \$100 was deposited into the general revenue fund prior to January 1, 2019. *Id.*

⁴¹ Section 44.108(1), F.S.

⁴² *Id.*; see also Fla. Att’y Gen. Op. 2002-09 (2002) (“Funds generated from filing fees designated solely for mediation or alternative dispute resolutions may be used only for those purposes”).

⁴³ Section 44.108(1), F.S.; Office of the State Courts Administrator, *Senate Bill 328 Judicial Impact Statement* (Jan. 31, 2019)(on filed with the Senate Judiciary Committee).

⁴⁴ Section 28.241(2), F.S.

⁴⁵ *Id.*

⁴⁶ Section 35.22(2)(a), F.S.

⁴⁷ Section 35.22(5), F.S. The clerk of the district court of appeal also collects \$295 for cross-appeals or additional parties, and this fee is remitted entirely to the DOR for deposit into the General Revenue fund. Section 35.255(2)(b), F.S.

⁴⁸ FLA. CONST. art. II, s. 2 (emphasis added).

all seven justices are on the fourth floor of the Florida Supreme Court building,⁴⁹ and all official Supreme Court business is conducted in Tallahassee.⁵⁰

Headquarters for Purposes of Travel Reimbursement

Section 112.061, F.S., concerns the reimbursement of travel expenses to public employees and officers. To that end, s. 112.061(4), F.S. provides that while “[t]he official headquarters of an officer or employee assigned to an office shall be the city or town in which the office is located,” there are some exceptions:

- (a) The official headquarters of a person located in the field shall be the city or town nearest to the area where the majority of the person’s work is performed, or such other city, town, or area as may be designated by the agency head provided that in all cases such designation must be in the best interests of the agency and not for the convenience of the person.
- (b) When any state employee is stationed in any city or town for a period of over 30 continuous workdays, such city or town shall be deemed to be the employee’s official headquarters, and he or she shall not be allowed per diem or subsistence, as provided in this section, after the said period of 30 continuous workdays has elapsed, unless this period of time is extended by the express approval of the agency head or his or her designee.
- (c) A traveler may leave his or her assigned post to return home overnight, over a weekend, or during a holiday, but any time lost from regular duties shall be taken as annual leave and authorized in the usual manner. The traveler shall not be reimbursed for travel expenses in excess of the established rate for per diem allowable had he or she remained at his or her assigned post. However, when a traveler has been temporarily assigned away from his or her official headquarters for an approved period extending beyond 30 days, he or she shall be entitled to reimbursement for travel expenses at the established rate of one round trip for each 30-day period actually taken to his or her home in addition to pay and allowances otherwise provided.⁵¹

⁴⁹ Florida Supreme Court, Manual of Internal Operating Procedures, *Section 1. Court Structure*, p. 1 (Rev. Sept. 21, 2016), http://www.floridasupremecourt.org/pub_info/documents/IOPs.pdf (last visited Jan. 31, 2019). *But see In re: Designation of Official Headquarters*, AOSC18-37 (Fla. July 2, 2018) (administrative order issued by Florida Supreme Court designating remote headquarters pursuant to Ch. 18-10, s. 46, Laws of Fla., the 2018 appropriations law), available at <https://www.floridasupremecourt.org/content/download/421872/4557988/AOSC18-37.pdf>.

⁵⁰ “[T]he Florida Supreme Court, comprised of its Justices, has only one “office” — the Supreme Court Building, located in the Northern District.” *Castro v. Labarga*, 16-22297-CIV, 2016 WL 6565946, at *5 (S.D. Fla. Nov. 3, 2016) (citing FLA. CONST. art. II, s. 2). “In my view, the mere fact that a Florida Supreme Court justice may periodically travel outside of the Northern District of Florida to attend bar functions or educational seminars and obtains travel reimbursements does not translate the trip into an ‘official duty’ trip sufficient to generate venue in the other districts.” *Id.* “If the Florida Supreme Court maintained major offices, courtrooms or staff in other districts, then the result about venue and venue discovery might be different. But those significant facts, which Castro relies on when citing other cases, are absent here.” *Id.* (holding the proper venue of a disgruntled bar candidate suing the Florida Supreme Court is the northern district of Florida). *See also Uberoi v. Labarga*, 8:16-CV-1821-T-33JSS, 2016 WL 5914922, at *2 (M.D. Fla. Oct. 11, 2016) (transferring another disgruntled bar candidate’s case to the Northern District based a motion to dismiss filed by Justice Labarga noting that official acts by the Florida Supreme Court concerning the candidate’s admission to the bar are done in Tallahassee; citing FLA. CONST. art. II, s. 2, noting that Tallahassee “is where the offices of the Florida Supreme Court shall be maintained.”).

⁵¹ Section 112.061(4)(a)-(c), F.S.

Additionally, s. 112.061(1)(b)1., F.S., seems to assert a legislative policy that exceptions to the restrictions on reimbursements of travel and subsistence expenses should be limited, and that any such exception or exemption should be explicitly acknowledged:

To preserve the standardization established by this law . . . The provisions of this section shall prevail over any conflicting provisions in a general law, present or future, to the extent of the conflict; but if any such general law contains a specific exemption from this section, including a specific reference to this section, such general law shall prevail, but only to the extent of the exemption.

Section 112.061, F.S. applies to the court system. In particular, a district court of appeal—the headquarters of which is defined by the Legislature, not the Constitution⁵²—is authorized by the current version of s. 35.05(2), F.S. to “designate other locations within its district as branch headquarters for the conduct of the business of the court and as the official headquarters of its officers or employees pursuant to s. 112.061.”⁵³ However, a prior version of s. 35.05, F.S., contained no such authorization and, similar to the Florida Supreme Court’s constitutionally designated headquarters in Tallahassee, designated one city as the headquarters for each district court of appeal.⁵⁴ On the other hand, prior versions of s. 112.061(4), in particular the 1973 version, is substantially similar if not identical to the current version of the statute.⁵⁵

The reason the prior versions of these two statutes matter is that the 1973 version of s. 112.061(4) was interpreted by the Attorney General’s office to mean that a district court of appeal judge could *not* designate the city of his or her residence as his or her official headquarters for purposes of travel expenses.⁵⁶ Notably, the AG Opinion relied on the fact that s. 35.05, F.S., designated the official headquarters of each district court of appeal in specific cities.⁵⁷ While s. 35.05, F.S., has since been amended to permit a district court of appeal to “designate other locations within its district as branch headquarters for the conduct of the business of the court and as the official headquarters of its officers or employees pursuant to s. 112.061,”⁵⁸ Article II, section 2 of the Florida Constitution has not been amended to permit the Florida Supreme Court to designate any city outside Tallahassee as a location where it may maintain its offices.⁵⁹

⁵² Section 35.05(1), F.S. (designating the city in which the headquarters for each appellate district must be located).

⁵³ Section 35.05(2), F.S.

⁵⁴ See s. 35.05, F.S., <http://fall.law.fsu.edu/FlStatutes/docs/1973/1973TVC35.pdf> (last visited Jan. 31, 2019).

⁵⁵ See s. 112.061, F.S., <http://fall.law.fsu.edu/FlStatutes/docs/1973/1973TXC112.pdf> (last visited Jan. 31, 2019).

⁵⁶ Op. Att’y Gen. Fla. 74-132 (1974).

⁵⁷ *Id.* (“Section 112.061, F.S., has been uniformly interpreted by this office as authorizing reimbursement for travel expense only from the official headquarters of the public officer or employee; and, as defined in subsection 112.061(4), the official headquarters “of an officer or employee assigned to an office shall be the city or town in which the office is located” (The provisions of paragraphs (4)(a), (b), and (c), relating to public officers or employees “located in the field” or “stationed” in another city or town, are not applicable her for obvious reasons.) The official headquarters of each district court of appeal is designated by statute, s. 35.05, F.S., and that is where the majority of the work of the court is performed.”).

⁵⁸ Section 35.05(2), F.S. Currently, it appears that only the Second District Court of Appeal has designated a second branch office, in Tampa on the Stetson University campus. However, the Second District’s clerk’s office is at the official headquarters in Lakeland. See Florida Second District Court of Appeal, <http://www.2dca.org/Directions/tampa.shtml> (last visited Jan. 31, 2019).

⁵⁹ FLA. CONST. art. II, s. 2.

However, in 2018, the general appropriations act authorized the funding of travel and subsistence expenses to justices residing outside Tallahassee/Leon County who elected to designate a remote “headquarters” to use as their private chambers.⁶⁰ This funding expires on July 1, 2019.⁶¹ Prior to 2018, neither the justices of the Florida Supreme Court nor the judges for the district courts of appeal residing outside the city where their respective courts are headquartered received travel and subsistence reimbursement.⁶²

Qualifying for Judicial Elections; Fees

A person seeking to become a candidate for a judicial office must qualify with the Division of Elections of the Department of State between noon of the 120th day and noon of the 116th day before the primary election.⁶³ To qualify as a candidate, the person must file the required paperwork⁶⁴ and submit a check for the qualifying fee. This fee consists of a filing fee in the amount of 3 percent of the annual salary for the office sought and an election assessment in the amount of 1 percent of the annual salary for the office sought. The qualifying fees are deposited into the Elections Commission Trust Fund which are used by the Florida Elections Commission to investigate violations of the Election Code and campaign financing laws,⁶⁵ as required by the Florida Constitution.⁶⁶

County Responsibilities for Funding Court-Related Functions

Under Article V, s. 14 of the Florida Constitution, the state is responsible for most of the costs of the state courts system. However, the Constitution requires counties to:

[F]und the cost of communications services, existing radio systems, existing multi-agency criminal justice information systems, and the cost of construction or lease, maintenance, utilities, and security of facilities for the trial courts, public defenders’ offices, state attorneys’ offices, and the offices of the clerks of the circuit and county courts performing court-related functions.

⁶⁰ See Ch. 18-10, s. 46, Laws of Fla.; *In re: Designation of Official Headquarters*, Fla. Admin. Order. No. AOSC18-37 (July 2, 2018) (administrative order issued by Florida Supreme Court designating remote headquarters), available at <https://www.floridasupremecourt.org/content/download/421872/4557988/AOSC18-37.pdf>.

⁶¹ *Id.*

⁶² SB 2506 (2015 Reg. Session) (proposing creation of s. 25.025, F.S.; died on calendar).

⁶³ Section 105.031, F.S.

⁶⁴ The required paperwork includes: the candidate’s oath, which states that the candidate meets the constitutional and statutory requirements for the judicial office and that he or she will support the Constitution of the United States and the Constitution of the State of Florida; a loyalty oath; forms related to the appointment of a campaign treasurer and the designation of a campaign depository, including a statement that the candidate has read and understands the Florida Code of Judicial Conduct; and a full and public disclosure of financial interests.

⁶⁵ Sections 106.24(6) and 106.25(1), F.S.

⁶⁶ FLA. CONST. art. II, ss. 8(f), (“There shall be an independent commission to conduct investigations and made public reports on all complaints concerning breach of public trust by public officers or employees not within the jurisdiction of the judicial qualifications commission.”); (i)(3) (“The independent commission provided for in subsection (f) shall mean the Florida Commission on Ethics.”).

The constitutional responsibility for counties to fund court-related functions is implemented in s. 29.008, F.S., which also defines many of the key terms from the constitutional provision above.

A recent appellate court opinion relied on the definitions of “facility” and “security” in s. 29.008, F.S., as the basis for allowing the chief judge of a circuit court to order the sheriff to secure a building used by the court.⁶⁷ This building did not include courtrooms. The Sheriff objected to the amount of control that the chief judge exerted over the Sheriff and potential funding issues caused by the security requirements in the judge’s order.

III. Effect of Proposed Changes:

Raised Jurisdictional Amounts of the County and Circuit Courts: Section 2 and Section 5 of the bill gradually raise the maximum jurisdictional amount of the county courts in a two-step process:

1. **Effective January 1, 2020:** county court jurisdiction increases from \$15,000 to \$30,000 in all cases demanding money judgments, *except* insurance cases relating to coverage for damages and losses. For insurance cases demanding money judgements relating to coverage for damages and losses, county court jurisdiction increases from \$15,000 to \$25,000.
2. **Effective January 1, 2022:** county court jurisdiction increases from \$30,000 to \$50,000 in all cases demanding money judgments, *except* insurance cases relating to coverage for damages and losses which will remain at \$25,000.

Section 5 also requires that the jurisdictional amounts be adjusted for inflation or deflation based on the Consumer Price Index every 10 years after January 1, 2022, rounded to the nearest \$5,000. The bill also directs the Office of State Court Administrator (OSCA) to make recommendations regarding the need for additional adjustments by March 1, 2021. OSCA must also report the fiscal impact to the state caused by the increased county court jurisdiction and how the increase in the county court jurisdiction impacted the court system.

Because the circuit courts have exclusive jurisdiction over “all actions at law not cognizable by the county courts,” the bill also effectively raises the jurisdictional amount of the circuit courts to cases demanding money judgments over \$50,000, except in insurances cases demanding money judgments over \$25,000. However, section 1 of the bill expressly notes the change of the circuit court’s appellate jurisdiction over county court decisions based on the county court’s adjusted jurisdictional amounts.

Filing Fees: Sections 6 and 7 of the bill adjust the filing fees based on the new jurisdictional amounts of the circuit and county courts in order to maintain the current level of funding for the courts system and the county clerks’ offices. Section 6 adjusts the appellate filing fees collected by the clerks’ offices and subsequently distributed to various funds based on the new jurisdiction

⁶⁷ *Knight v. Chief Judge of Florida’s Twelfth Judicial Circuit*, 235 So. 3d 996 (Fla. 2d DCA 2017) (denying the sheriff’s writ for petition of certiorari for failure to meet the burden of showing the chief judge had exceeded his authority by issuing an administrative order directing the sheriff to provide security in portions of the court facilities where no court proceedings are held).

of circuit courts over county court appeals valued over \$15,000 (up to \$25,000 for insurance cases, up to \$30,000 for money judgements effective January 1, 2020, and up to \$50,000 effective January 1, 2022). The circuit court's appellate filing fees for county court appeals over \$15,000 are now aligned with the district court of appeals' fees and the statutory distribution of those fees.

Likewise, section 7 adjusts the case filing fees collected by the clerks' offices and subsequently distributed to various funds based on the new jurisdiction of county courts over cases exceeding \$15,000 (up to \$25,000 for insurance cases, up to \$30,000 for money judgements effective January 1, 2020, and up to \$50,000 effective January 1, 2022). The county court's filing fees for cases valued over \$15,000 are now aligned with the circuit court fees and the statutory distribution of those fees.

Mediation and Arbitration Fee: Section 8 of the bill amends s. 44.108, F.S., to limit the \$1 filing fee levied and collected by the clerk of court in all county and civil proceedings. The bill provides that the \$1 filing fee will not be levied on appeals in cases involving \$15,000 or more from the county court to circuit court. This limitation appears to make appellate filing fees in the circuit court consistent with those of the district courts of appeal and the Florida Supreme Court, neither of which levy the \$1 fee on appellate filings.

Headquarters of Supreme Court Justices: Section 1 of the bill creates s. 25.025, F.S., requiring that, upon the request of any justice residing outside of Leon County, the Chief Justice of the Florida Supreme Court shall:

- Coordinate and designate a district court of appeal courthouse, a county courthouse, or other appropriate facility in the justice's district as his or her official headquarters to serve as the justice's private chambers; and
- Reimburse the justice for travel and subsistence while in Tallahassee on court business, to the extent funding is available.

The Supreme Court and a county courthouse may enter into an agreement to establish private chambers at the county courthouse for a justice, but the courthouse is under no obligation to provide space for the justice. Additionally, the Supreme Court may *not* use state funds to lease space in a county courthouse for use as a private chamber.

Funding of Court-Related Functions by Counties: Section 3 of the bill provides that the definitions of the terms used in s. 29.008, F.S., which are used to implement and define county responsibilities for funding court-related functions, do not apply in other contexts. The definitions "may not be construed to enhance, limit, or define the authority of any court."

Counties under the Florida Constitution are required to fund the costs of security for courts. Section 4 of the bill amends s. 30.15, F.S. to require that the sheriff, county commissioners, and chief judge of the circuit court develop a comprehensive security plan. Section 4 clarifies that sheriffs are responsible for providing security for trial court facilities in accordance with the plan, but the sheriff remains in operational control over the manner in which security is provided. It also clarifies that the chief judge retains decisionmaking authority as it concerns the protection of due process rights and the conduct of trials and other court proceedings.

Refunds of Qualifying Fees of Unopposed Judicial Candidates: Section 9 of the bill provides that the qualifying fees of unopposed candidates for judicial office must be refunded to them within 20 days after the close of the qualifying period for the election. This section takes effect upon becoming a law.

Effective Date: Section 10 provides that it is effective upon becoming a law, and, unless stated otherwise, all other sections are effective October 1, 2019. Of those sections specifying a different effective date, section 2 provides that the jurisdictional amounts will be raised effective January 1, 2020, and Section 5 notes this date. Section 9 provides that the refund of unopposed judicial candidate filing fees will be effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Under the 2018 amendment to the Florida Constitution, Article VII, Section 19 requires “a supermajority vote” of 2/3 of the membership of each house to pass legislation which will “raise” or increase a state tax or fee.⁶⁸ A “fee” is defined as “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”⁶⁹ The term “raise” means, in pertinent part, “[t]o increase or authorize an increase in the amount of a state tax or fee imposed on a flat or fixed amount basis[.]”⁷⁰

It does not appear that the adjustment to the court filing fees is a “raise” in these fees for purposes of requiring a supermajority vote. The adjustment to the fees is intended to maintain the status quo in terms of how those fees are distributed to fund the state courts system and the county clerks of court. The adjustment is a stop gap measure that pins the fees and statutory fee distribution to the monetary value of the case rather than to the court where it is filed. In other words, although the court with jurisdiction to hear a case worth over \$15,000 will change, the filing fee charged for cases worth over \$15,000 will remain the same, as will the current distribution of that fee to various funds.⁷¹

⁶⁸ FLA. CONST. art. VII, s. 19(b).

⁶⁹ FLA. CONST. art. VII, s. 19(d)(1).

⁷⁰ FLA. CONST. art. VII, s. 19(d)(2)b.

⁷¹ Email from Sarah Naf Biehl, Chief of Legislative Affairs, Office of the State Courts Administrator, on February 4, 2019 (“We took the approach of keeping the filing fees exactly as they are today, thereby avoiding any negative impact to the courts and others who are funded by a portion of the existing fees. The amendment would not raise fees - it would maintain

E. Other Constitutional Issues:

Headquarters of the Florida Supreme Court Justices

It is not clear that the Legislature can require the Chief Justice of the Florida Supreme Court to establish “headquarters” under s. 112.061, F.S., for any justice outside of Tallahassee, even if it is within the justice’s district.

Article II, s. 2 of the Florida Constitution designates Tallahassee as the seat of state government “where the *offices* of the governor, lieutenant governor, cabinet members and *the supreme court shall be maintained* and the sessions of the legislature shall be held[.]”⁷² Under the rule of construction, “*expressio unius est exclusio alterius*” (the expression of one thing is the exclusion of the other), it appears by excluding the word “offices” for the Legislature and only requiring that session be held in Tallahassee, the drafters of Art. II, s. 2 understood that legislators must have offices within their districts around the state. However, the word “offices” is specifically used in reference to the governor, lieutenant governor, cabinet members, and the Florida Supreme Court in Article II, s. 2, and specifically requires that those offices be located at the seat of government in Tallahassee.

While permitting a justice to work remotely or establish a private chamber in another courthouse in the state does not appear to be problematic, it appears that designating another “headquarters” outside of Tallahassee for purposes of reimbursing the justices for travel and subsistence may be constitutionally problematic.

Refund of Unopposed Judicial Candidate Qualifying Fees

The refund of qualifying fees to judicial candidates running unopposed may be constitutionally problematic if it effectively defunds the Florida Ethics Commission.⁷³ The Florida Ethics Commission is the commission constitutionally required to investigate public reports of ethical violations and breaches of the public trust,⁷⁴ and it is funded largely by qualifying fees.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will likely result in an increase in the jurisdictional limit of the Small Claims Courts, which will permit more cases to be expeditiously resolved in the county courts

the same filing fee amount for each case value as currently required. The only change would be by which judge affected cases are heard. However, the judicial branch has not taken an official position on this issue.”).

⁷² FLA. CONST. art. II, s. 2 (emphasis added).

⁷³ See, V. Fiscal Impact Statement, C. Government Sector Impact, *Elections Commission Trust Fund*, *infra*.

⁷⁴ FLA. CONST. art. II, s. 2

under the simplified Small Claims Rules. Based on a similar proposed bill last session, the Florida Supreme Court formed the Work Group on County Court Jurisdiction and directed the Work Group to study and make recommendations on, among other issues, how the Small Claims jurisdictional amount should be adjusted.⁷⁵ The Work Group recommended that the jurisdiction of the Small Claims Court be raised from \$5,000 to \$8,000, assuming the jurisdiction of the county court was raised to \$25,000.⁷⁶

The Florida Supreme Court supports the Work Group's recommendation.⁷⁷

C. Government Sector Impact:

County and Circuit Court Jurisdictional Adjustments

Work Group on County Court Jurisdiction Recommendations and Reports—Based on proposed legislation in 2018,⁷⁸ the Florida Supreme Court created the Work Group on County Court Jurisdiction to evaluate the impact of raising the jurisdictional amount of the county courts.⁷⁹ The full impacts could not be determined but the Work Group noted that the distribution of filing fees could result in a loss of funding for the judiciary, while positively impacting the clerk's offices.⁸⁰

In one of the Work Group's preliminary reports explaining its recommendation that the county courts' jurisdiction should increase to \$25,000, the Work Group noted that county courts are not as well equipped currently as the circuit courts to carry out long, complex trials. The Work Group noted that certain types of complex cases which frequently go to trial, such as insurance cases (especially those with water damage claims), should not exceed \$25,000 so as to minimize the impact on county court resources.⁸¹

OSCA Recommendation on Maintaining Current Funding—The Office of the State Court Administrator (OSCA) reports that, if the jurisdictional limits for the county court are raised but the filing fees are not adjusted, the clerks of courts will receive an approximate increase of \$1,080,665, but losses will be sustained by the State Courts Revenue Trust Fund (-\$2,179,510), DFS Administrative Trust Fund (-\$60,085), and General Revenue (-\$82,250). To eliminate this fiscal impact, OSCA proposes that filing fees for cases between \$15,000 and \$50,000 remain the same. In other words, although the cases will be

⁷⁵ *In re: Work Group on County Court Jurisdiction*, Fla. Admin. Order No. AOSC18-39 (Aug. 1, 2018), available at <https://www.floridasupremecourt.org/content/download/421915/4558246/AOSC18-39.pdf>. See also *In re: Certification of Need for Additional Judges*, 44 Fla. L. Weekly S53 (Fla. Dec. 28, 2018) (noting Legislature's interest in increasing county court jurisdiction may be a factor in determining the need for additional judges)(citing AOSC18-39)., 44 Fla. L. Weekly S53 (Fla. Dec. 28, 2018).

⁷⁶ Florida Supreme Court, *Recommendations from the Judicial Management Council's Work Group on County Court Jurisdictions*, pp. 4-6, 18-21 (Interim Report)(Nov. 30, 2019) (updated to reflect Supreme Court actions in December 2018)(on file with the Senate Judiciary Committee).

⁷⁷ *Id.*

⁷⁸ See SB 1384, SB 1396.

⁷⁹ See n. 71, *supra*.

⁸⁰ See n. 72, *supra*.

⁸¹ Florida Courts, Trial Court Budget Commission, *Agenda Item 1: Work Group on County Court Jurisdiction- Provision of Comments*, p. 5, *Types of Cases Impacted* (Nov. 15, 2018), available at <https://www.flcourts.org/content/download/411958/3703779/11.15.18-tcbc-final-meeting-packet.pdf>.

filed in county court if the bill becomes law, the statute currently governing circuit civil filing fees and their distribution should still govern cases demanding money amounts between \$15,000 and \$50,000. OSCA also proposes that the appellate filing fees collected by the district courts of appeals remain the same for appeals from these cases, notwithstanding that these appeals will now be heard by the circuit courts.⁸²

These recommendations by OSCA have been incorporated in the current committee substitute.

Travel and Subsistence Costs

OSCA reports that \$209,930 was appropriated to support travel and subsistence for those justices residing outside of Tallahassee as part of the 2018 General Appropriates Act. However, OSCA reports the fiscal impact of enacting a permanent authorization for travel and subsistence costs to justices for traveling to Tallahassee cannot be determined given the adjustments associated with raising the jurisdictional amount of the county courts.

The precedent of permitting the Florida Supreme Court justices to live outside the seat of government in Tallahassee and receive travel and subsistence costs when traveling to Tallahassee may encourage requests of such funding from other officials residing outside of but traveling to Tallahassee for commission meetings. Additionally, district court of appeal judges authorized to reside outside the location of the primary district court headquarters do not currently receive travel and subsistence expenses and may also seek such funding.

Elections Commission Trust Fund

The operations of the Florida Elections Commission are funded by the Elections Commission Trust Fund, which is funded by qualifying fees (see sections 99.092, 99.093, and 105.031, F.S.) The commission's revenue streams mirror the election cycle; in off years, revenue is relatively low, but the overall trust fund balance is maintained by the increased revenue generated during election years. The agency is self-sustaining—the trust fund covers the commission's approximately \$1.5 million appropriation (15 FTEs) each fiscal year and the commission deposits fines into the General Revenue Fund.

According to the Florida Elections Commission, in 2018, 170 circuit and 89 county judicial candidates ran unopposed. The filing fee for circuit judges was \$5,843.20 and for county judges was \$5,520.80. The Commission notes that had this bill been enacted in 2018, the resulting loss in revenue, less the 8% General Revenue surcharge, would have been \$1,365,919. The Commission notes that if there are similar proportions of unopposed judicial elections in the future, the refunds of qualifying fees required by the bill will make the funds in the Elections Commission Trust Fund insufficient for the Elections Commission to conduct its work.⁸³

⁸² Office of the State Courts Administrator, *Senate Bill 328 Judicial Impact Statement* (Jan. 31, 2019)(on filed with the Senate Judiciary Committee). See also "Filing Fees" discussion and citations, *supra*.

⁸³ Email from Timothy Vaccaro, Executive Director, Florida Elections Commission on January 30, 2019.

VI. Technical Deficiencies:

The directory clause for section 1 should be amended to provide that the section takes effect July 1, 2019, which is the date funding remote headquarters for Supreme Court Justices will expire under the General Appropriations Act of 2018. Based on the language of section 10 of the bill, section 1 will be effective October 1, 2019, which might result in a gap in the funding authorization.

Additionally, for clarity, effective date language could be added to the new filing fee adjustment language in sections 6 and 7 noting that the adjustments are effective January 1, 2020.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 26.012, 28.241, 29.008, 30.15, 34.01, 34.041, 44.108, and 105.031.

The bill creates section 25.025, Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Judiciary on February 4, 2019:

The Committee Substitute:

- Corrects a technical problem in the new jurisdictional language in 34.01, F.S.
- Further amends the new jurisdictional language of section 34.01, F.S., to provide for a two-step increase in the county courts' jurisdictional amount (to only \$30,000 by 2020; then to \$50,000 by 2022).
- Adds two additional sections to the bill, sections 6 and 7, amending sections 28.241 and 34.041, F.S. to adjust the case filing fee amounts and the statutory distribution of those fees to align with the current fee structure for cases worth more than \$15,000.

- B. **Amendments:**

None.



977268

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
02/05/2019	.	
	.	
	.	
	.	

The Committee on Judiciary (Brandes) recommended the following:

Senate Amendment (with directory amendment)

Delete lines 369 - 379
and insert:

2. Of all actions at law filed on or after January 1, 2020,
in which the matter in controversy does not exceed the sum of
\$50,000, exclusive of interest, costs, and attorney fees,
except:

a. Actions within the exclusive jurisdiction of the circuit
courts; and

b. Actions relating to damages or losses covered by an



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12 insurance policy, including coverage disputes, in which the
13 matter in controversy exceeds the sum of \$25,000, exclusive of
14 interest, costs, and attorney fees.

15

16 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

17 And the directory clause is amended as follows:

18 Delete lines 57 - 58

19 and insert:

20 Section 1. Effective July 1, 2019, section 25.025, Florida
21 Statutes, is created to read:



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/05/2019	.	
	.	
	.	
	.	

The Committee on Judiciary (Brandes) recommended the following:

1 **Senate Substitute for Amendment (977268) (with title**
2 **amendment)**

3
4 Delete lines 357 - 398

5 and insert:

6 Section 5. Subsection (1) of section 34.01, Florida
7 Statutes, is amended to read:

8 34.01 Jurisdiction of county court.—

9 (1) County courts shall have original jurisdiction:

10 (a) In all misdemeanor cases not cognizable by the circuit
11 courts.†



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12 (b) Of all violations of municipal and county ordinances.~~†~~
13 (c)1. Of all actions at law filed on or before December 31,
14 2019, in which the matter in controversy does not exceed the sum
15 of \$15,000, exclusive of interest, costs, and attorney
16 attorney's fees, except those within the exclusive jurisdiction
17 of the circuit courts.~~†~~ and
18 2. Of all actions at law filed on or after January 1, 2020,
19 in which the matter in controversy does not exceed the sum of
20 \$30,000, exclusive of interest, costs, and attorney fees,
21 except:
22 a. Actions within the exclusive jurisdiction of the circuit
23 courts; and
24 b. Actions relating to damages or losses covered by an
25 insurance policy, including coverage disputes, in which the
26 matter in controversy exceeds the sum of \$25,000, exclusive of
27 interest, costs, and attorney fees.
28 3. Of all actions at law filed on or after January 1, 2022,
29 in which the matter in controversy does not exceed the sum of
30 \$50,000, exclusive of interest, costs, and attorney fees,
31 except:
32 a. Actions within the exclusive jurisdiction of the circuit
33 courts; and
34 b. Actions relating to damages or losses covered by an
35 insurance policy, including coverage disputes, in which the
36 matter in controversy exceeds the sum of \$25,000, exclusive of
37 interest, costs, and attorney fees.
38
39 The limits in subparagraph 3. must be adjusted every 10 years
40 after January 1, 2022, to reflect the rate of inflation or



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41 deflation as indicated in the Consumer Price Index for All Urban
42 Consumers, U.S. City Average, All Items, or successor reports as
43 reported by the United States Department of Labor, Bureau of
44 Labor Statistics, or its successor. Such adjustments must be
45 rounded to the nearest \$5,000.

46 (d) Of disputes occurring in the homeowners' associations
47 as described in s. 720.311(2)(a), which shall be concurrent with
48 jurisdiction of the circuit courts.

49
50 By March 1, 2021, the State Courts Administrator shall make
51 recommendations regarding the adjustment of county court
52 jurisdiction to the Governor, the President of the Senate, and
53 the Speaker of the House of Representatives. The recommendation
54 must include an analysis of workflow, timely access to court by
55 litigants, and any resulting fiscal impact to the state as a
56 result of adjusted jurisdictional limits.

57 Section 6. Subsection (2) of section 28.241, Florida
58 Statutes, is amended to read:

59 28.241 Filing fees for trial and appellate proceedings.—

60 (2) (a) Upon the institution of any appellate proceeding
61 from any lower court to the circuit court of any such county,
62 including appeals filed by a county or municipality as provided
63 in s. 34.041(5), or from the circuit court to an appellate court
64 of the state, the clerk shall charge and collect from the party
65 or parties instituting such appellate proceedings:

66 1. A filing fee not to exceed \$280 for filing a notice of
67 appeal from the county court to the circuit court, excluding a
68 civil case where the matter in controversy was more than
69 \$15,000. and,



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70 2. A filing fee not to exceed \$400 for filing a notice of
71 appeal from the county court to the circuit court for a civil
72 case where the matter in controversy was more than \$15,000. The
73 clerk shall remit \$250 of each filing fee collected under this
74 subparagraph to the Department of Revenue for deposit into the
75 General Revenue Fund, and the clerk shall remit \$50 of each
76 filing fee to the Department of Revenue for deposit into the
77 State Courts Revenue Trust Fund to fund court operations as
78 authorized in the General Appropriations Act. The clerk shall
79 retain an accounting of each such remittance.

80 3. In addition to the filing fee required under s. 25.241
81 or s. 35.22, \$100 for filing a notice of appeal from the circuit
82 court to the district court of appeal or to the Supreme Court.

83 (b) If the party is determined to be indigent, the clerk
84 shall defer payment of the fee required by this subsection.

85 Section 7. Subsection (1) of section 34.041, Florida
86 Statutes, is amended to read:

87 34.041 Filing fees.—

88 (1) (a) Filing fees are due at the time a party files a
89 pleading to initiate a proceeding or files a pleading for
90 relief. Reopen fees are due at the time a party files a pleading
91 to reopen a proceeding if at least 90 days have elapsed since
92 the filing of a final order or final judgment with the clerk. If
93 a fee is not paid upon the filing of the pleading as required
94 under this section, the clerk shall pursue collection of the fee
95 pursuant to s. 28.246. Upon the institution of any civil action,
96 suit, or proceeding in county court, the party shall pay the
97 following filing fee, not to exceed:

98 1. For all claims less than \$100.....\$50.



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99 2. For all claims of \$100 or more but not more than
100 \$500.....\$75.
101 3. For all claims of more than \$500 but not more than
102 \$2,500.....\$170.
103 4. For all claims of more than \$2,500 but not more than
104 \$15,000.....\$295.
105 5. For all claims more than \$15,000.....\$395.
106 ~~6.5.~~ In addition, for all proceedings of garnishment,
107 attachment, replevin, and distress.....\$85.
108 ~~7.6.~~ Notwithstanding subparagraphs 3. and ~~6.5.~~, for all
109 claims of not more than \$1,000 filed simultaneously with an
110 action for replevin of property that is the subject of the
111 claim.....\$125.
112 ~~8.7.~~ For removal of tenant action.....\$180.
113
114 The filing fee in subparagraph ~~7.6.~~ is the total fee due under
115 this paragraph for that type of filing, and no other filing fee
116 under this paragraph may be assessed against such a filing.
117 (b) The first \$15 of the filing fee collected under
118 subparagraph (a)4. and the first \$10 of the filing fee collected
119 under subparagraph (a)8.~~(a)7.~~ shall be deposited in the State
120 Courts Revenue Trust Fund. By the 10th day of each month, the
121 clerk shall submit that portion of the fees collected in the
122 previous month which is in excess of one-twelfth of the clerk's
123 total budget for the performance of court-related functions to
124 the Department of Revenue for deposit into the Clerks of the
125 Court Trust Fund. An additional filing fee of \$4 shall be paid
126 to the clerk. The clerk shall transfer \$3.50 to the Department
127 of Revenue for deposit into the Court Education Trust Fund and



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128 shall transfer 50 cents to the Department of Revenue for deposit
129 into the Administrative Trust Fund within the Department of
130 Financial Services to fund clerk education provided by the
131 Florida Clerks of Court Operations Corporation. Postal charges
132 incurred by the clerk of the county court in making service by
133 mail on defendants or other parties shall be paid by the party
134 at whose instance service is made. Except as provided in this
135 section, filing fees and service charges for performing duties
136 of the clerk relating to the county court shall be as provided
137 in ss. 28.24 and 28.241. Except as otherwise provided in this
138 section, all filing fees shall be retained as fee income of the
139 office of the clerk of the circuit court. Filing fees imposed by
140 this section may not be added to any penalty imposed by chapter
141 316 or chapter 318.

142 (c) A party in addition to a party described in paragraph
143 (a) who files a pleading in an original civil action in the
144 county court for affirmative relief by cross-claim,
145 counterclaim, counterpetition, or third-party complaint, or who
146 files a notice of cross-appeal or notice of joinder or motion to
147 intervene as an appellant, cross-appellant, or petitioner, shall
148 pay the clerk of court a fee of \$295 if the relief sought by the
149 party under this paragraph exceeds \$2,500. The clerk shall remit
150 the fee to the Department of Revenue for deposit into the
151 General Revenue Fund. This fee does not apply if the cross-
152 claim, counterclaim, counterpetition, or third-party complaint
153 requires transfer of the case from county to circuit court.
154 However, the party shall pay to the clerk the standard filing
155 fee for the court to which the case is to be transferred.

156 (d) The clerk of court shall collect a service charge of



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157 \$10 for issuing a summons or an electronic certified copy of a
158 summons. The clerk shall assess the fee against the party
159 seeking to have the summons issued.

160 (e) Of the first \$200 in filing fees payable under
161 subparagraph (a)5., \$195 must be remitted to the Department of
162 Revenue for deposit into the State Courts Revenue Trust Fund, \$4
163 must be remitted to the Department of Revenue for deposit into
164 the Administrative Trust Fund within the Department of Financial
165 Services and used to fund the contract with the Florida Clerks
166 of Court Operations Corporation created in s. 28.35, and \$1 must
167 be remitted to the Department of Revenue for deposit into the
168 Administrative Trust Fund within the Department of Financial
169 Services to fund audits of individual clerks' court-related
170 expenditures conducted by the Department of Financial Services.
171 By the 10th day of each month, the clerk shall submit that
172 portion of the filing fees collected pursuant to this subsection
173 in the previous month which is in excess of one-twelfth of the
174 clerk's total budget to the Department of Revenue for deposit
175 into the Clerks of the Court Trust Fund.

176
177 ===== T I T L E A M E N D M E N T =====

178 And the title is amended as follows:

179 Delete line 46

180 and insert:

181 Legislature by a specified date; amending s. 28.241,
182 F.S.; adjusting filing fees for appeals of certain
183 county court cases; amending s. 34.041, F.S.;

184 adjusting county court civil filing fees based on
185 claim values; providing for distribution of the fees;



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186

amending s. 44.108,

By Senator Brandes

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1 A bill to be entitled
 2 An act relating to courts; creating s. 25.025, F.S.;
 3 authorizing certain Supreme Court justices to have an
 4 appropriate facility in their district of residence
 5 designated as their official headquarters; providing
 6 that an official headquarters may serve only as a
 7 justice's private chambers; providing that such
 8 justices are eligible for a certain subsistence
 9 allowance and reimbursement for certain transportation
 10 expenses; requiring that such allowance and
 11 reimbursement be made to the extent appropriated funds
 12 are available, as determined by the Chief Justice;
 13 requiring the Chief Justice to coordinate with certain
 14 persons in designating official headquarters;
 15 providing that a county is not required to provide
 16 space for a justice in a county courthouse;
 17 authorizing counties to enter into agreements with the
 18 Supreme Court for the use of county courthouse space;
 19 prohibiting the Supreme Court from using state funds
 20 to lease space in specified facilities to allow a
 21 justice to establish an official headquarters;
 22 amending s. 26.012, F.S.; revising the appellate
 23 jurisdiction of the circuit courts; amending s.
 24 29.008, F.S.; providing applicability and
 25 construction; amending s. 30.15, F.S.; requiring
 26 sheriffs to coordinate with the board of county
 27 commissioners and the chief judge of the circuit on a
 28 comprehensive plan for the provision of security for
 29 trial court facilities; requiring sheriffs to retain

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30 operational control over how they provide security for
 31 such facilities; specifying that the chief judge
 32 retains certain decisionmaking authority; specifying
 33 that sheriffs and their deputies, employees, and
 34 contractors are officers of the court when providing
 35 security for trial court facilities; amending s.
 36 34.01, F.S.; increasing the limit on the amount in
 37 controversy in certain actions at law under which the
 38 county court has original jurisdiction, beginning on a
 39 specified date; specifying that certain actions
 40 relating to damages or losses covered by insurance
 41 policies are not within the jurisdiction of the county
 42 court; providing for adjustments to limits at
 43 specified intervals due to inflation or deflation;
 44 requiring the State Courts Administrator to make
 45 certain recommendations to the Governor and the
 46 Legislature by a specified date; amending s. 44.108,
 47 F.S.; prohibiting a filing fee from being levied on an
 48 appeal from the county court to the circuit court for
 49 a claim for more than a specified amount; amending s.
 50 105.031, F.S.; requiring the Department of State or
 51 the supervisor of elections to refund the full amount
 52 of certain qualifying fees; conforming a cross-
 53 reference; providing effective dates.

55 Be It Enacted by the Legislature of the State of Florida:

56
 57 Section 1. Section 25.025, Florida Statutes, is created to
 58 read:

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25.025 Headquarters.-

(1) (a) A Supreme Court justice who permanently resides outside Leon County shall, if he or she so requests, have a district court of appeal courthouse, a county courthouse, or other appropriate facility in his or her district of residence designated as his or her official headquarters pursuant to s. 112.061. This official headquarters may serve only as the justice's private chambers.

(b) A justice for whom an official headquarters is designated in his or her district of residence under this subsection is eligible for subsistence at a rate to be established by the Chief Justice for each day or partial day that the justice is at the Supreme Court Building for the conduct of the business of the court. In addition to the subsistence allowance, a justice is eligible for reimbursement for transportation expenses as provided in s. 112.061(7) for travel between the justice's official headquarters and the Supreme Court Building for the conduct of the business of the court.

(c) Payment of subsistence and reimbursement for transportation expenses relating to travel between a justice's official headquarters and the Supreme Court Building must be made to the extent that appropriated funds are available, as determined by the Chief Justice.

(2) The Chief Justice shall coordinate with each affected justice and other state and local officials as necessary to implement paragraph (1) (a).

(3) (a) This section does not require a county to provide space in a county courthouse for a justice. A county may enter

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into an agreement with the Supreme Court governing the use of space in a county courthouse.

(b) The Supreme Court may not use state funds to lease space in a district court of appeal courthouse, county courthouse, or other facility to allow a justice to establish an official headquarters pursuant to subsection (1).

Section 2. Effective January 1, 2020, subsections (1), (2), and (4) of section 26.012, Florida Statutes, are amended to read:

26.012 Jurisdiction of circuit court.-

(1) (a) The appellate jurisdiction of the circuit courts includes: ~~Circuit courts shall have jurisdiction of~~

1. Appeals from county court orders or judgments in actions at law within the jurisdiction of the county court under s. 34.01(1) (c).

2. Appeals from county court orders or judgments in misdemeanor cases.

3. Appeals from county court orders or judgments relating to family law matters and other matters within the jurisdiction of the county court under s. 34.01(2).

4. Appeals from final administrative orders of local government code enforcement boards.

(b) The appellate jurisdiction of the circuit courts does not include ~~courts except~~ appeals of county court orders or judgments that:

1. Declare ~~declaring~~ invalid a state statute or a provision of the State Constitution, and ~~except orders or judgments of a county court which~~

2. Are certified by the county court to the district court

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117 of appeal to be of great public importance and that which are
 118 accepted by the district court of appeal for review. ~~Circuit~~
 119 ~~courts shall have jurisdiction of appeals from final~~
 120 ~~administrative orders of local government code enforcement~~
 121 ~~boards.~~

122 (2) Circuit courts ~~They shall~~ have exclusive original
 123 jurisdiction:

124 (a) In all actions at law not cognizable by the county
 125 courts;

126 (b) Of proceedings relating to the settlement of the
 127 estates of decedents and minors, the granting of letters
 128 testamentary, guardianship, involuntary hospitalization, the
 129 determination of incompetency, and other jurisdiction usually
 130 pertaining to courts of probate;

131 (c) In all cases in equity including all cases relating to
 132 juveniles except traffic offenses as provided in chapters 316
 133 and 985;

134 (d) Of all felonies and of all misdemeanors arising out of
 135 the same circumstances as a felony which is also charged;

136 (e) In all cases involving legality of any tax assessment
 137 or toll or denial of refund, except as provided in s. 72.011;

138 (f) In actions of ejectment; and

139 (g) In all actions involving the title and boundaries of
 140 real property.

141 (4) The chief judge of a circuit may authorize a county
 142 court judge to order emergency hospitalizations pursuant to part
 143 I of chapter 394 in the absence from the county of the circuit
 144 judge; and the county court judge has ~~shall have~~ the power to
 145 issue all temporary orders and temporary injunctions necessary

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146 or proper to the complete exercise of such jurisdiction.

147 Section 3. Subsection (1) of section 29.008, Florida
 148 Statutes, is amended to read:

149 29.008 County funding of court-related functions.—

150 (1) Counties are required by s. 14, Art. V of the State
 151 Constitution to fund the cost of communications services,
 152 existing radio systems, existing multiagency criminal justice
 153 information systems, and the cost of construction or lease,
 154 maintenance, utilities, and security of facilities for the
 155 circuit and county courts, public defenders' offices, state
 156 attorneys' offices, guardian ad litem offices, and the offices
 157 of the clerks of the circuit and county courts performing court-
 158 related functions. For purposes of this section, the term
 159 "circuit and county courts" includes the offices and staffing of
 160 the guardian ad litem programs, and the term "public defenders'
 161 offices" includes the offices of criminal conflict and civil
 162 regional counsel. The county designated under s. 35.05(1) as the
 163 headquarters for each appellate district shall fund these costs
 164 for the appellate division of the public defender's office in
 165 that county. For purposes of implementing these requirements,
 166 the term:

167 (a) "Facility" means reasonable and necessary buildings and
 168 office space and appurtenant equipment and furnishings,
 169 structures, real estate, easements, and related interests in
 170 real estate, including, but not limited to, those for the
 171 purpose of housing legal materials for use by the general public
 172 and personnel, equipment, or functions of the circuit or county
 173 courts, public defenders' offices, state attorneys' offices, and
 174 court-related functions of the office of the clerks of the

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175 circuit and county courts and all storage. The term "facility"
 176 includes all wiring necessary for court reporting services. The
 177 term also includes access to parking for such facilities in
 178 connection with such court-related functions that may be
 179 available free or from a private provider or a local government
 180 for a fee. The office space provided by a county may not be less
 181 than the standards for space allotment adopted by the Department
 182 of Management Services, except this requirement applies only to
 183 facilities that are leased, or on which construction commences,
 184 after June 30, 2003. County funding must include physical
 185 modifications and improvements to all facilities as are required
 186 for compliance with the Americans with Disabilities Act. Upon
 187 mutual agreement of a county and the affected entity in this
 188 paragraph, the office space provided by the county may vary from
 189 the standards for space allotment adopted by the Department of
 190 Management Services.

191 1. As of July 1, 2005, equipment and furnishings shall be
 192 limited to that appropriate and customary for courtrooms,
 193 hearing rooms, jury facilities, and other public areas in
 194 courthouses and any other facility occupied by the courts, state
 195 attorneys, public defenders, guardians ad litem, and criminal
 196 conflict and civil regional counsel. Court reporting equipment
 197 in these areas or facilities is not a responsibility of the
 198 county.

199 2. Equipment and furnishings under this paragraph in
 200 existence and owned by counties on July 1, 2005, except for that
 201 in the possession of the clerks, for areas other than
 202 courtrooms, hearing rooms, jury facilities, and other public
 203 areas in courthouses and any other facility occupied by the

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204 courts, state attorneys, and public defenders, shall be
 205 transferred to the state at no charge. This provision does not
 206 apply to any communications services as defined in paragraph
 207 (f).

208 (b) "Construction or lease" includes, but is not limited
 209 to, all reasonable and necessary costs of the acquisition or
 210 lease of facilities for all judicial officers, staff, jurors,
 211 volunteers of a tenant agency, and the public for the circuit
 212 and county courts, the public defenders' offices, state
 213 attorneys' offices, and for performing the court-related
 214 functions of the offices of the clerks of the circuit and county
 215 courts. This includes expenses related to financing such
 216 facilities and the existing and future cost and bonded
 217 indebtedness associated with placing the facilities in use.

218 (c) "Maintenance" includes, but is not limited to, all
 219 reasonable and necessary costs of custodial and groundskeeping
 220 services and renovation and reconstruction as needed to
 221 accommodate functions for the circuit and county courts, the
 222 public defenders' offices, and state attorneys' offices and for
 223 performing the court-related functions of the offices of the
 224 clerks of the circuit and county court and for maintaining the
 225 facilities in a condition appropriate and safe for the use
 226 intended.

227 (d) "Utilities" means all electricity services for light,
 228 heat, and power; natural or manufactured gas services for light,
 229 heat, and power; water and wastewater services and systems,
 230 stormwater or runoff services and systems, sewer services and
 231 systems, all costs or fees associated with these services and
 232 systems, and any costs or fees associated with the mitigation of

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233 environmental impacts directly related to the facility.

234 (e) "Security" includes but is not limited to, all
 235 reasonable and necessary costs of services of law enforcement
 236 officers or licensed security guards and all electronic,
 237 cellular, or digital monitoring and screening devices necessary
 238 to ensure the safety and security of all persons visiting or
 239 working in a facility; to provide for security of the facility,
 240 including protection of property owned by the county or the
 241 state; and for security of prisoners brought to any facility.
 242 This includes bailiffs while providing courtroom and other
 243 security for each judge and other quasi-judicial officers.

244 (f) "Communications services" are defined as any reasonable
 245 and necessary transmission, emission, and reception of signs,
 246 signals, writings, images, and sounds of intelligence of any
 247 nature by wire, radio, optical, audio equipment, or other
 248 electromagnetic systems and includes all facilities and
 249 equipment owned, leased, or used by judges, clerks, public
 250 defenders, state attorneys, guardians ad litem, criminal
 251 conflict and civil regional counsel, and all staff of the state
 252 courts system, state attorneys' offices, public defenders'
 253 offices, and clerks of the circuit and county courts performing
 254 court-related functions. Such system or services shall include,
 255 but not be limited to:

256 1. Telephone system infrastructure, including computer
 257 lines, telephone switching equipment, and maintenance, and
 258 facsimile equipment, wireless communications, cellular
 259 telephones, pagers, and video teleconferencing equipment and
 260 line charges. Each county shall continue to provide access to a
 261 local carrier for local and long distance service and shall pay

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262 toll charges for local and long distance service.

263 2. All computer networks, systems and equipment, including
 264 computer hardware and software, modems, printers, wiring,
 265 network connections, maintenance, support staff or services
 266 including any county-funded support staff located in the offices
 267 of the circuit court, county courts, state attorneys, public
 268 defenders, guardians ad litem, and criminal conflict and civil
 269 regional counsel; training, supplies, and line charges necessary
 270 for an integrated computer system to support the operations and
 271 management of the state courts system, the offices of the public
 272 defenders, the offices of the state attorneys, the guardian ad
 273 litem offices, the offices of criminal conflict and civil
 274 regional counsel, and the offices of the clerks of the circuit
 275 and county courts; and the capability to connect those entities
 276 and reporting data to the state as required for the transmission
 277 of revenue, performance accountability, case management, data
 278 collection, budgeting, and auditing purposes. The integrated
 279 computer system shall be operational by July 1, 2006, and, at a
 280 minimum, permit the exchange of financial, performance
 281 accountability, case management, case disposition, and other
 282 data across multiple state and county information systems
 283 involving multiple users at both the state level and within each
 284 judicial circuit and be able to electronically exchange judicial
 285 case background data, sentencing scoresheets, and video evidence
 286 information stored in integrated case management systems over
 287 secure networks. Once the integrated system becomes operational,
 288 counties may reject requests to purchase communications services
 289 included in this subparagraph not in compliance with standards,
 290 protocols, or processes adopted by the board established

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291 pursuant to former s. 29.0086.

292 3. Courier messenger and subpoena services.

293 4. Auxiliary aids and services for qualified individuals
294 with a disability which are necessary to ensure access to the
295 courts. Such auxiliary aids and services include, but are not
296 limited to, sign language interpretation services required under
297 the federal Americans with Disabilities Act other than services
298 required to satisfy due-process requirements and identified as a
299 state funding responsibility pursuant to ss. 29.004, 29.005,
300 29.006, and 29.007, real-time transcription services for
301 individuals who are hearing impaired, and assistive listening
302 devices and the equipment necessary to implement such
303 accommodations.

304 (g) "Existing radio systems" includes, but is not limited
305 to, law enforcement radio systems that are used by the circuit
306 and county courts, the offices of the public defenders, the
307 offices of the state attorneys, and for court-related functions
308 of the offices of the clerks of the circuit and county courts.
309 This includes radio systems that were operational or under
310 contract at the time Revision No. 7, 1998, to Art. V of the
311 State Constitution was adopted and any enhancements made
312 thereafter, the maintenance of those systems, and the personnel
313 and supplies necessary for operation.

314 (h) "Existing multiagency criminal justice information
315 systems" includes, but is not limited to, those components of
316 the multiagency criminal justice information system as defined
317 in s. 943.045, supporting the offices of the circuit or county
318 courts, the public defenders' offices, the state attorneys'
319 offices, or those portions of the offices of the clerks of the

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320 circuit and county courts performing court-related functions
321 that are used to carry out the court-related activities of those
322 entities. This includes upgrades and maintenance of the current
323 equipment, maintenance and upgrades of supporting technology
324 infrastructure and associated staff, and services and expenses
325 to assure continued information sharing and reporting of
326 information to the state. The counties shall also provide
327 additional information technology services, hardware, and
328 software as needed for new judges and staff of the state courts
329 system, state attorneys' offices, public defenders' offices,
330 guardian ad litem offices, and the offices of the clerks of the
331 circuit and county courts performing court-related functions.

332
333 This subsection applies only to matters relating to court
334 funding and may not be construed to enhance, limit, or define
335 the authority of any court.

336 Section 4. Subsection (4) is added to section 30.15,
337 Florida Statutes, to read:

338 30.15 Powers, duties, and obligations.—

339 (4) (a) In accordance with each county's obligation under s.
340 14, Art. V of the State Constitution and s. 29.008 to fund
341 security for trial court facilities, the sheriff of each county
342 shall coordinate with the board of county commissioners of that
343 county and the chief judge of the circuit in which that county
344 is located on the development of a comprehensive plan for the
345 provision of security for trial court facilities. Each sheriff
346 shall retain authority over the operational control and
347 provision of law enforcement services associated with the plan.
348 The chief judge of the circuit shall retain decisionmaking

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349 authority to ensure the protection of due process rights,
 350 including, but not limited to, the scheduling and conduct of
 351 trial and other judicial proceedings, as part of his or her
 352 responsibility for the administrative supervision of trial
 353 courts under s. 43.26.

354 (b) Sheriffs and their deputies, employees, and contractors
 355 are officers of the court when providing security for trial
 356 court facilities under this subsection.

357 Section 5. Subsection (1) of section 34.01, Florida
 358 Statutes, is amended to read:

359 34.01 Jurisdiction of county court.-

360 (1) County courts shall have original jurisdiction:

361 (a) In all misdemeanor cases not cognizable by the circuit
 362 courts, ~~+~~

363 (b) Of all violations of municipal and county ordinances. ~~+~~

364 (c) 1. Of all actions at law filed on or before December 31,
 365 2019, in which the matter in controversy does not exceed the sum
 366 of \$15,000, exclusive of interest, costs, and attorney
 367 attorney's fees, except those within the exclusive jurisdiction
 368 of the circuit courts, ~~+~~ and

369 2. Of all actions at law filed on or after January 1, 2020,
 370 in which the matter in controversy does not exceed the sum of
 371 \$50,000, exclusive of interest, costs, and attorney fees,
 372 except:

373 a. Actions within the exclusive jurisdiction of the circuit
 374 courts; and

375 b. Actions relating to damages or losses covered by an
 376 insurance policy, including coverage disputes, which are filed
 377 on or after January 1, 2020, and in which the matter in

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378 controversy does not exceed the sum of \$25,000, exclusive of
 379 interest, costs, and attorney fees.

380
 381 The limits in subparagraph 2. must be adjusted every 10 years
 382 after January 1, 2020, to reflect the rate of inflation or
 383 deflation as indicated in the Consumer Price Index for All Urban
 384 Consumers, U.S. City Average, All Items, or successor reports as
 385 reported by the United States Department of Labor, Bureau of
 386 Labor Statistics, or its successor. Such adjustments must be
 387 rounded to the nearest \$5,000.

388 (d) Of disputes occurring in the homeowners' associations
 389 as described in s. 720.311(2)(a), which shall be concurrent with
 390 jurisdiction of the circuit courts.

391
 392 By March 1, 2021, the State Courts Administrator shall make
 393 recommendations regarding the adjustment of county court
 394 jurisdiction to the Governor, the President of the Senate, and
 395 the Speaker of the House of Representatives. The recommendation
 396 must include an analysis of workflow, timely access to court by
 397 litigants, and any resulting fiscal impact to the state as a
 398 result of adjusted jurisdictional limits.

399 Section 6. Subsection (1) of section 44.108, Florida
 400 Statutes, is amended to read:

401 44.108 Funding of mediation and arbitration.-

402 (1) Mediation and arbitration should be accessible to all
 403 parties regardless of financial status. A filing fee of \$1 is
 404 levied on all proceedings in the circuit or county courts to
 405 fund mediation and arbitration services which are the
 406 responsibility of the Supreme Court pursuant to ~~the provisions~~

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 407 ~~of~~ s. 44.106. However, the filing fee may not be levied on an
 408 appeal from the county court to the circuit court for a claim of
 409 more than \$15,000. The clerk of the court shall forward the
 410 moneys collected to the Department of Revenue for deposit in the
 411 State Courts Revenue Trust Fund.

Section 7. Effective upon this act becoming a law,
 412 subsections (3) and (5) of section 105.031, Florida Statutes,
 413 are amended to read:

105.031 Qualification; filing fee; candidate's oath; items
 414 required to be filed.—

(3) QUALIFYING FEE.—

(a) Each candidate qualifying for election to a judicial
 418 office or the office of school board member, except write-in
 419 judicial or school board candidates, shall, during the time for
 420 qualifying, pay to the officer with whom he or she qualifies a
 421 qualifying fee, which shall consist of a filing fee and an
 422 election assessment, or qualify by the petition process. The
 423 amount of the filing fee is 3 percent of the annual salary of
 424 the office sought. The amount of the election assessment is 1
 425 percent of the annual salary of the office sought. Except as
 426 otherwise required by paragraph (b), the Department of State
 427 shall transfer all filing fees to the Department of Legal
 428 Affairs for deposit in the Elections Commission Trust Fund and
 429 the supervisor of elections shall forward all filing fees to the
 430 Elections Commission Trust Fund. The election assessment shall
 431 be deposited into the Elections Commission Trust Fund. The
 432 annual salary of the office for purposes of computing the
 433 qualifying fee shall be computed by multiplying 12 times the
 434 monthly salary authorized for such office as of July 1
 435

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 436 immediately preceding the first day of qualifying. This
 437 ~~paragraph subsection~~ does not apply to candidates qualifying for
 438 retention to judicial office.

(b) Not later than 20 days after the close of qualifying,
 440 the Department of State or the supervisor of elections, as
 441 appropriate, shall refund the full amount of the qualifying fee
 442 to a candidate for the office of circuit court judge or county
 443 court judge who is unopposed at the time the qualifying period
 444 closes.

(5) ITEMS REQUIRED TO BE FILED.—

(a) In order for a candidate for judicial office or the
 446 office of school board member to be qualified, the following
 447 items must be received by the filing officer by the end of the
 448 qualifying period:
 449

1. Except for candidates for retention to judicial office,
 450 a properly executed check drawn upon the candidate's campaign
 451 account in an amount not less than the fee required by paragraph
 452 (3) (a) subsection (3) or, in lieu thereof, the copy of the
 453 notice of obtaining ballot position pursuant to s. 105.035. If a
 454 candidate's check is returned by the bank for any reason, the
 455 filing officer shall immediately notify the candidate and the
 456 candidate shall, the end of qualifying notwithstanding, have 48
 457 hours from the time such notification is received, excluding
 458 Saturdays, Sundays, and legal holidays, to pay the fee with a
 459 cashier's check purchased from funds of the campaign account.
 460 Failure to pay the fee as provided in this subparagraph shall
 461 disqualify the candidate.

2. The candidate's oath required by subsection (4), which
 462 must contain the name of the candidate as it is to appear on the
 463
 464

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465 ballot; the office sought, including the district or group
466 number if applicable; and the signature of the candidate, duly
467 acknowledged.

468 3. The loyalty oath required by s. 876.05, signed by the
469 candidate and duly acknowledged.

470 4. The completed form for the appointment of campaign
471 treasurer and designation of campaign depository, as required by
472 s. 106.021. In addition, each candidate for judicial office,
473 including an incumbent judge, shall file a statement with the
474 qualifying officer, within 10 days after filing the appointment
475 of campaign treasurer and designation of campaign depository,
476 stating that the candidate has read and understands the
477 requirements of the Florida Code of Judicial Conduct. Such
478 statement shall be in substantially the following form:

479

480 Statement of Candidate for Judicial Office

481

482 I, ...(name of candidate)..., a judicial candidate, have
483 received, read, and understand the requirements of the Florida
484 Code of Judicial Conduct.

485 ... (Signature of candidate) ...

486 ... (Date) ...

487

488 5. The full and public disclosure of financial interests
489 required by s. 8, Art. II of the State Constitution or the
490 statement of financial interests required by s. 112.3145,
491 whichever is applicable. A public officer who has filed the full
492 and public disclosure or statement of financial interests with
493 the Commission on Ethics or the supervisor of elections prior to

Page 17 of 18

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

24-00423A-19

2019328__

494 qualifying for office may file a copy of that disclosure at the
495 time of qualifying.

496 Section 8. Except as otherwise expressly provided in this
497 act and except for this section, which shall take effect upon
498 becoming a law, this act shall take effect October 1, 2019.

Page 18 of 18

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



The Florida Senate

Committee Agenda Request

To: Senator David Simmons
Committee on Judiciary

Subject: Committee Agenda Request

Date: January 28, 2019

I respectfully request that **Senate Bill #328**, relating to **Courts**, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

Senator Jeff Brandes
Florida Senate, District 24

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

02.04.19

Meeting Date

328

Bill Number (if applicable)

928418

Amendment Barcode (if applicable)

Topic Courts

Name William W. Large

Job Title President

Address 210 South Monroe Street

Street

Tallahassee

City

FL

State

32301

Zip

Phone 850-222-0170

Email William@fljustice.org

Speaking: For Against Information

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

Representing Florida Justice Reform Institute

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage 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.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/4/19
Meeting Date

328
Bill Number (if applicable)

928418
Amendment Barcode (if applicable)

Topic Courts

Name Judge Mark Mahon

Job Title Chief Judge of 4th Circuit; Vice Chair of Trial Court Budget Com'n

Address 501 West Adams St. Phone 904-255-1000
Street

Jacksonville FL 32202 Email _____
City State Zip

Speaking: For Against Information

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

Representing State Courts System

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage 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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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/4/19

Meeting Date

328

Bill Number (if applicable)

Topic Courts

Amendment Barcode (if applicable)

Name Judge Robert Morris

Job Title Judge, Second District Ct of Appeal

Address P.O. Box 327

Phone 863-940-6050

Street

Lakeland

FL

33802

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing State Courts System

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage 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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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

02.04.19

Meeting Date

328

Bill Number (if applicable)

928418

Amendment Barcode (if applicable)

Topic Courts

Name Dale Paleschic

Job Title

Address 6265 Old Water Oak Road, Suite 201

Street

Phone 850-385-9901

Tallahassee

FL

32312

Email DPaleschic@Insurancerefense.net

City

State

Zip

Speaking: For Against Information

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

Representing Florida Defense Lawyers Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage 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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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2.4.19

328

Meeting Date

Bill Number (if applicable)

Topic Courts

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

Street

Tallahassee

FL

32308

Email barney@barneybishop.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Smart Justice Alliance

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage 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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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/4/19
Meeting Date

328
Bill Number (if applicable)

Topic Courts

Amendment Barcode (if applicable)

Name Judge Jonathan Sjostrom

Job Title Chief Judge, 2nd Judicial Circuit

Address 301 S. Monroe St.
Street

Phone 850-606-4422

Tallahassee FL 32301
City State Zip

Email _____

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage 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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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2 14 2019
Meeting Date

Topic _____ Bill Number 328
(if applicable)

Name BRIAN PITTS Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291

Street
SAINT PETERSBURG FLORIDA 33705
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage 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.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: SJR 362

INTRODUCER: Senator Brandes

SUBJECT: Abolishing the Constitution Revision Commission

DATE: February 1, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stallard	Cibula	JU	Favorable
2.			GO	
3.			RC	

I. Summary:

SJR 362 abolishes the Constitution Revision Commission by repealing provisions establishing it in the Florida Constitution. Currently, the Constitution requires that a Constitution Revision Commission be convened once every 20 years to examine the Constitution and propose any amendments that it deems appropriate.

As a joint resolution, this legislation must be agreed to by three-fifths of the membership of each house of the Legislature. Then, the constitutional amendment proposed in the resolution will be placed on the 2020 General Election ballot, and will take effect if approved by at least 60 percent of the votes cast on the measure.

II. Present Situation:

Overview

The Florida Constitution requires that a Constitution Revision Commission be established every 20 years and that it have the authority to propose to voters a revision of all or any part of the Florida Constitution. The most recent Commission convened in 2017-2018, and proposed seven amendments to the Florida Constitution, which appeared on the 2018 General Election ballot.

Context – Multi-Subject Amendments on the 2018 General Election Ballot

At least two of the seven Commission-proposed amendments that appeared on the 2018 General Election ballot were regarded by many voters as containing at least two unrelated subjects.¹ This

¹ See, e.g., The News Service of Florida, *Constitutional Amendments? One subject only, please*, THE GAINESVILLE SUN (Nov. 23, 2018), <https://www.gainesville.com/news/20181123/constitutional-amendments-one-subject-only-please>; see generally, The News Service of Florida, *There's now a push to repeal the Florida Constitution Revision Commission*,

frustrated those voters, including some lawmakers, who had to choose whether to vote for an amendment that combined changes they liked with unrelated changes that they did not like.²

Examples of Commission-proposed amendments that many regarded as multi-subject were amendment 9 and amendment 6. Amendment 9 combined a ban on oil-drilling in state seawaters with a ban on “vaping” in indoor workplaces. Amendment 6 combined what many regarded as three different subjects: a crime-victim-rights proposal, a prohibition on judges deferring to agencies’ interpretation of statutes or rules, and a 5-year increase in the mandatory retirement age for judges.

Constitution Revision Commission

Origin and History

The Florida Constitution was revised extensively in 1968 by way of three joint resolutions proposed by the Legislature and approved by the voters. The revisions included the establishment of the Constitution Revision Commission as a means of proposing constitutional revisions to the voters, and the requirement that it convene once every 20 years, beginning in 1977. Accordingly, three Commissions have convened: in 1977-1978, 1997-1998, and most recently in 2017-2018.³

Members

The Constitution requires that the Commission be comprised of 37 members, and it provides guidelines for the selection of these members. The Attorney General must serve on the Commission, and the rest of the members must be chosen by the Governor (15), Speaker of the House (9), President of the Senate (9), and the Chief Justice of the Florida Supreme Court (3). Additionally, the Governor must appoint a chair from among the 37 members.⁴

Task, Procedures, and Authority

The Commission’s task is to examine the Constitution and decide which, if any, amendments to propose to the voters. The amendments must be submitted to the Secretary of State at least 180 days before the next general election.⁵ In turn, the amendments must be submitted to the voters at the next general election held more than 90 days after submission to the Secretary of State. To

ORLANDO WEEKLY (Jan. 18, 2019), <https://www.orlandoweekly.com/Blogs/archives/2019/01/18/theres-now-a-push-to-repeal-the-florida-constitution-revision-commission>.

² See Brendan Rivers and News Service of Florida Staff, *Bill Filed to Ban Bundled Amendments from Constitution Revision Commission*, WJCT FIRST COAST CONNECT (Nov. 26, 2018), <http://news.wjct.org/post/bill-filed-ban-bundled-amendments-constitution-revision-commission>; see generally, Editorial Board, *Florida’s constitutional amendments: Vote ‘yes’ on 4 and 11, ‘no’ on rest*, TALLAHASSEE DEMOCRAT (Oct. 7, 2018), <https://www.tallahassee.com/story/opinion/editorials/2018/10/07/floridas-amendments-yes-4-and-11-no-rest-our-opinion/1494375002/> (arguing that amendment 6 and amendment 9 each included a proposal worthy of approval, but should be voted against on account of at least one unworthy proposal in each); Kelley H. Armitage, *Constitution Revision Commissions Avoid Logrolling, Don’t They?*, 72 FLA. B.J. 62 (Nov. 1998) (arguing that the Constitution Revision Commission does not have sufficient safeguards against logrolling).

³ Constitution Revision Commission, *History*, <http://flcrc.gov/about/history.html> (last visited Jan. 29, 2019).

⁴ FLA. CONST. art. XI, s. 2.

⁵ FLA. CONST. art. XI, s. 2.

become effective, an amendment must be approved by at least 60 percent of the votes cast on the measure.⁶

The constitutional provision giving rise to the Commission does little to prescribe how a Commission must go about its task. Indeed, it says only that the Commission must convene at the call of its chair, adopt rules of procedure, and “hold [an unspecified number of] public hearings.”⁷

The Constitution May Be Amended Only through the Processes it Prescribes

The Constitution provides that it may be amended if the voters approve an amendment originating from one of five sources: the Legislature, the Constitution Revision Commission, a citizen initiative, a constitutional convention, or the Taxation and Budget Reform Commission.⁸

And the Supreme Court has stated that these processes are the *only* ways by which it may be amended:

The Constitution is the charter of our liberties. It cannot be changed, modified or amended by [governmental] fiat. It provides within itself the only method for its amendment, and . . . When a constitution directs how a thing shall be done, that is in effect a prohibition to its being done in any other way.⁹

Joint Resolution

A joint resolution by the Legislature is one of the ways in which an amendment to the Florida Constitution may originate.¹⁰ Like a bill, it may begin in either house of the Legislature.

To pass out of the Legislature and be submitted to the voters, a joint resolution must be agreed to by three-fifths of the membership of each house.¹¹ Unless expedited by the Legislature, the joint resolution is then submitted to the voters at the next general election. If the amendment proposed in the resolution is approved by at least 60 percent of the votes cast on the measure, it becomes effective in the January following the election unless otherwise specified in the amendment or in the Constitution.¹²

⁶ FLA. CONST. art. XI, s. 5.

⁷ FLA. CONST. art. XI, s. 2.

⁸ FLA. CONST. art. XI.

⁹ *Browning v. Florida Hometown Democracy, Inc., PAC*, 29 So. 3d 1053, 1064 (Fla. 2010) (internal citations and quotations omitted); *accord State v. Florida State Imp. Com'n*, 60 So. 2d 747, 754 (Fla. 1952) (Terrell, J., and Adams, C.J., concurring) *abrogated on other grounds by Boschen v. City of Clearwater*, 777 So. 2d 958 (Fla. 2001).

¹⁰ FLA. CONST. art. XI. An amendment or revision may originate as a proposal by the Legislature, the Constitution Revision Commission, a Constitutional Convention, the Taxation and Budget Reform Commission, or the people directly, by way of an initiative.

¹¹ FLA. CONST. art. XI, s. 1.

¹² FLA. CONST. art XI, s. 5.

III. Effect of Proposed Changes:

SJR 362 abolishes the Constitution Revision Commission by repealing the provisions establishing it in the Florida Constitution.

If another “Constitution Revision Commission” were created, such as by general law or executive order, that Commission could have the authority to make recommendations, but it would not have authority to propose constitutional amendments to be placed on the ballot for approval by the voters.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of State, Division of Elections, provided the following information regarding the cost of advertising the proposed amendment contained in the resolution:

The Division of Elections is required to advertise the full text of proposed constitutional amendments in English and Spanish[] twice in a newspaper

of general circulation in each county before the election in which the amendment shall be submitted to the electors. The Division is also required to provide each Supervisor of Elections with English and Spanish booklets or posters displaying the full text of proposed amendments, for each polling room or early voting area in each county. The Division is also responsible for translating the amendments into Spanish. The statewide average cost to advertise constitutional amendments, in English and Spanish, in newspapers for the 2018 election cycle was \$92.93 per English word of the originating document.

Using 2018 election cycle rates, the cost to advertise this amendment in newspapers and produce booklets for the 2020 general election could be \$62,448.96, at a minimum. Accurate cost estimates cannot be determined until the total number of amendments to be advertised is known. At this time, no amendments have achieved ballot position for the 2020 election by either joint resolution of the Florida Legislature or by the initiative petition process.¹³

VI. Technical Deficiencies:

None.

VII. Related Issues:

Considering that the Taxation and Budget Reform Commission is substantially similar to the Constitution Revision Commission, the Legislature may wish to consider abolishing the TBRC. The TBRC, created by Article VI, s. 6 of the Florida Constitution, is comprised of appointees who have the power to propose constitutional amendments directly to the electors. These amendments may include a “revision of this constitution or any part of it dealing with taxation or the state budgetary process.”¹⁴ The narrower focus of the TBRC, however, does not preclude it from proposing multi-subject amendments.

VIII. Statutes Affected:

This resolution amends the following sections of the Florida Constitution: Article II, section 5, Article XI, section 2, and Article XI, section 5.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

¹³ Email from Brittany Dover, Director of Legislative Affairs, Florida Department of State (Feb. 1, 2019) (on file with the Senate Committee on Judiciary).

¹⁴ FLA. CONST. art. XI, s. 6(e).

B. Amendments:

None.

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

By Senator Brandes

24-00636-19

2019362__

Senate Joint Resolution

A joint resolution proposing amendments to Section 5 of Article II and Section 5 of Article XI and the repeal of Section 2 of Article XI of the State Constitution to abolish the Constitution Revision Commission.

Be It Resolved by the Legislature of the State of Florida:

That the following amendments to Section 5 of Article II and Section 5 of Article XI and the repeal of Section 2 of Article XI of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE II

GENERAL PROVISIONS

SECTION 5. Public officers.—

(a) No person holding any office of emolument under any foreign government, or civil office of emolument under the United States or any other state, shall hold any office of honor or of emolument under the government of this state. No person shall hold at the same time more than one office under the government of the state and the counties and municipalities therein, except that a notary public or military officer may hold another office, and any officer may be a member of the a ~~constitution revision commission~~, taxation and budget reform commission, a constitutional convention, or a statutory body having only advisory powers.

Page 1 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

24-00636-19

2019362__

(b) Each state and county officer, before entering upon the duties of the office, shall give bond as required by law, and shall swear or affirm:

"I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the state; and that I will well and faithfully perform the duties of ... (title of office)... on which I am now about to enter. So help me God.",

and thereafter shall devote personal attention to the duties of the office, and continue in office until a successor qualifies.

(c) The powers, duties, compensation and method of payment of state and county officers shall be fixed by law.

ARTICLE XI

AMENDMENTS

SECTION 5. Amendment or revision election.—

(a) A proposed amendment to or revision of this constitution, or any part of it, shall be submitted to the electors at the next general election held more than ninety days after the joint resolution or report of a ~~revision commission~~, constitutional convention or the taxation and budget reform commission proposing it is filed with the custodian of state records, unless, pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the legislature and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety

Page 2 of 4

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24-00636-19

2019362__

59 days after such filing.

60 (b) A proposed amendment or revision of this constitution,
61 or any part of it, by initiative shall be submitted to the
62 electors at the general election provided the initiative
63 petition is filed with the custodian of state records no later
64 than February 1 of the year in which the general election is
65 held.

66 (c) The legislature shall provide by general law, prior to
67 the holding of an election pursuant to this section, for the
68 provision of a statement to the public regarding the probable
69 financial impact of any amendment proposed by initiative
70 pursuant to section 3.

71 (d) Once in the tenth week, and once in the sixth week
72 immediately preceding the week in which the election is held,
73 the proposed amendment or revision, with notice of the date of
74 election at which it will be submitted to the electors, shall be
75 published in one newspaper of general circulation in each county
76 in which a newspaper is published.

77 (e) Unless otherwise specifically provided for elsewhere in
78 this constitution, if the proposed amendment or revision is
79 approved by vote of at least sixty percent of the electors
80 voting on the measure, it shall be effective as an amendment to
81 or revision of the constitution of the state on the first
82 Tuesday after the first Monday in January following the
83 election, or on such other date as may be specified in the
84 amendment or revision.

85 BE IT FURTHER RESOLVED that the following statement be
86 placed on the ballot:

87 CONSTITUTIONAL AMENDMENT

Page 3 of 4

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24-00636-19

2019362__

88 ARTICLE II, SECTION 5

89 ARTICLE XI, SECTIONS 2 AND 5

90 ABOLISHING THE CONSTITUTION REVISION COMMISSION.—Proposing
91 an amendment to the State Constitution to abolish the
92 Constitution Revision Commission, which meets at 20-year
93 intervals and is scheduled to next convene in 2037, as a method
94 of submitting proposed amendments or revisions to the State
95 Constitution to electors of the state for approval. This
96 amendment does not affect the ability to revise or amend the
97 State Constitution through citizen initiative, constitutional
98 convention, the Taxation and Budget Reform Commission, or
99 legislative joint resolution.

Page 4 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



The Florida Senate

Committee Agenda Request

To: Senator David Simmons
Committee on Judiciary

Subject: Committee Agenda Request

Date: January 28, 2019

I respectfully request that **Senate Bill #362**, relating to **Abolishing the Constitutional Revision Commission**, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

Senator Jeff Brandes
Florida Senate, District 24

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/4/19
Meeting Date

362
Bill Number (if applicable)

Topic CRC Repeal

Amendment Barcode (if applicable)

Name Tim Nungesser

Job Title Legislative Director

Address 110 East Jefferson Street

Phone 850-445-5367

Street

Tallahassee

FL

32301

Email tim.nungesser@nfib.org

City

State

Zip

Speaking: For Against Information

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

Representing NFIB (National Federation of Independent Business)

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage 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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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 362
Bill Number (if applicable)

Meeting Date _____

Topic CRC

Amendment Barcode (if applicable) _____

Name JACK CORY

Job Title _____

Address 730 East Park Ave

Phone 850 893 0995

Tallahassee FL 32301
City State Zip

Email JACK.CORY@PA.OCRSU.VT

Speaking: For Against Information

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

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage 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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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2 14 2019
Meeting Date

Topic _____ Bill Number 362
(if applicable)

Name BRIAN PITTS Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291

Street
SAINT PETERSBURG FLORIDA 33705
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage 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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THE FLORIDA SENATE

APPEARANCE RECORD

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2/4/19

Meeting Date

362

Bill Number (if applicable)

Topic CRC

Amendment Barcode (if applicable)

Name Dr. Rich Templin

Job Title

Address 135 S. Monroe

Phone 850-224-6926

Street

Tallahassee

32301

City

State

Zip

Email

Speaking: [X] For [] Against [] Information

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

Representing Florida AFL-CIO

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage 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.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/4/2019

Meeting Date

362

Bill Number (if applicable)

Topic SJR 362 Abolishing Constitution Rev Comm

Amendment Barcode (if applicable)

Name Trish Neely

Job Title consultant

Address 2024 Shangri La Lane

Phone 850 322 3317

Street

Tallahassee FL 32303

City

State

Zip

Email neely.trame@gmail.com

Speaking: For Against Information

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

Representing League of Women Voters

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage 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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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-4-19
Meeting Date

362
Bill Number (if applicable)

Topic CRC - Abolish

Amendment Barcode (if applicable)

Name Barbara A. DeVane

Job Title Ms.

Address 1025 E. Brevard St.

Phone 850-251-4280

Tallahassee FL 32308
City State Zip

Email barbadevane1@yahm.com

Speaking: For Against Information

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

Representing FL NOW

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage 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.

This form is part of the public record for this meeting.

CourtSmart Tag Report

Room: EL 110

Case No.:

Type:

Caption: Senate Judiciary Committee Judge:

Started: 2/4/2019 4:03:13 PM

Ends: 2/4/2019 5:03:19 PM Length: 01:00:07

4:03:12 PM Meeting called to order by Chair Simmons
4:03:19 PM Roll call by Administrative Assistant, Joyce Butler
4:03:32 PM Quorum present
4:03:41 PM Comments from Chair Simmons
4:04:13 PM Introduction of Tab 1, SB 124 by Chair Simmons
4:04:43 PM Explanation of SB 124 by Senator Bean
4:05:48 PM Comments from Chair Simmons regarding Late-filed Amendment No. 451774
4:06:22 PM Explanation of Late-filed Amendment No. 451774 by Senator Bean
4:06:44 PM Comments from Chair Simmons
4:07:12 PM Closure waived on Amendment by Senator Bean
4:07:20 PM Late-filed Amendment No. 451774 adopted
4:07:41 PM Comments from Chair Simmons
4:07:53 PM Barney Bishop III, President & CEO, Florida Smart Justice Alliance waives in support
4:08:17 PM Bill Cervane, State Attorney, Florida Prosecuting Attorneys Association waives in support
4:08:34 PM Brian Pitts, Justice-2-Jesus waives in support
4:08:47 PM Alan Abramowitz, Executive Director, Statewide Guardian Ad Litem Program waives in support
4:08:59 PM Comments from Chair Simmons
4:09:06 PM Closure waived on bill as amended by Senator Bean
4:09:16 PM Roll call on CS/SB 124 by Administrative Assistant Joyce Butler
4:09:37 PM CS/SB 124 reported favorably
4:09:43 PM Introduction of Tab 2, SB 328 by Chair Simmons
4:10:05 PM Explanation of SB 328 by Senator Brandes
4:10:31 PM Comments from Chair Simmons
4:10:35 PM Explanation of Strike-all Amendment No. 928418 by Senator Brandes
4:11:22 PM Question from Vice Chair Rodriguez
4:11:31 PM Response from Senator Brandes
4:12:45 PM Follow-up question from Vice Chair Rodriguez
4:12:57 PM Response from Senator Brandes
4:14:15 PM Additional question from Vice Chair Rodriguez
4:14:28 PM Response from Senator Brandes
4:15:34 PM Question from Senator Gibson
4:15:42 PM Response from Senator Brandes
4:16:58 PM Follow-up question from Senator Gibson
4:17:18 PM Response from Senator Brandes
4:18:17 PM Additional question from Senator Gibson
4:18:25 PM Response from Senator Brandes
4:19:50 PM Comments from Chair Simmons
4:20:14 PM Speaker William Large, President, Florida Justice Reform Institute in opposition of Bill
4:23:56 PM Comments from Chair Simmons
4:24:15 PM Speaker Judge Mark Mahon, Chief Judge of 4th Circuit, Vice Chair of Trial Courts

Budget Committee

- 4:25:22 PM** Question from Chair Simmons
- 4:25:30 PM** Comments from Judge Mahon
- 4:26:28 PM** Response from Judge Robert Morris, Second District Court of Appeals, State Courts System
- 4:29:41 PM** Comments from Chair Simmons
- 4:30:24 PM** Question from Chair Simmons
- 4:30:30 PM** Response from Senator Brandes
- 4:31:31 PM** Comments from Mr. Dale Paleschic, Florida Defense Lawyers Association
- 4:33:33 PM** Comments from Chair Simmons
- 4:34:39 PM** Substitute Amendment No. 928418 adopted
- 4:35:07 PM** Question from Senator Gibson
- 4:35:15 PM** Response from Senator Brandes
- 4:37:40 PM** Question from Vice Chair Rodriguez
- 4:37:54 PM** Response from Senator Brandes
- 4:39:19 PM** Comments from Chair Simmons
- 4:39:30 PM** Barney Bishop waives in support
- 4:39:46 PM** Speaker Judge Jonathan Syostrom, Chief Judge, 2nd Judicial Circuit
- 4:41:57 PM** Question from Senator Simmons
- 4:42:04 PM** Response from Judge Syostrom
- 4:42:32 PM** Speaker Brian Pitts, Justice-2-Jesus
- 4:45:34 PM** Comments from Chair Simmons
- 4:45:39 PM** Debate by Senator Gibson
- 4:46:50 PM** Debate from Vice Chair Rodriguez
- 4:49:50 PM** Debate from Senator Stargel
- 4:50:28 PM** Comments from Chair Simmons
- 4:50:37 PM** Closure on the Bill by Senator Brandes
- 4:50:58 PM** Roll call on CS/SB 328 by Administrative Assistant, Joyce Butler
- 4:51:34 PM** CS/SB 328 reported favorably
- 4:51:46 PM** Introduction of SJR 362 by Chair Simmons
- 4:52:14 PM** Explanation of SJR 362, Abolishing the Constitution Revision Commission by Senator Brandes
- 4:54:23 PM** Comments from Chair Simmons
- 4:54:40 PM** Barbara Devane, FL NOW waives in support
- 4:54:55 PM** Trish Neely, Consultant, League of Women Voters waives in support
- 4:55:10 PM** Dr. Rich Templin, Florida AFL-CIO waives in support
- 4:55:30 PM** Speaker Brian Pitts, Justice-2-Jesus
- 4:58:23 PM** Jack Cory waives in support
- 4:58:37 PM** Tim Nungesser, Legislative Director, National Federation of Independent Business waives in support
- 4:58:50 PM** Comments from Chair Simmons
- 4:59:00 PM** Debate from Vice Chair Rodriguez
- 4:59:44 PM** Debate from Senator Stargel
- 5:00:19 PM** Debate from Senator Gibson
- 5:00:40 PM** Comments from Chair Simmons
- 5:00:48 PM** Closure by Senator Brandes
- 5:00:54 PM** Roll call on SJR 362 by Administrative Assistant, Joyce Butler
- 5:01:42 PM** SJR 362 reported favorably
- 5:01:56 PM** Comments from Chair Simmons
- 5:02:51 PM** Senator Hutson moves to adjourn, meeting adjourned