



332504

LEGISLATIVE ACTION

Senate	.	House
Comm: RE	.	
05/18/2011	.	
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The Committee on Judiciary (Bogdanoff) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Sections 25.051, 26.21, 26.22, 26.23, 26.24, 26.25, 26.26, 26.27, 26.28, 26.29, 26.30, 26.31, 26.32, 26.33, 26.34, 26.35, 26.36, 26.361, 26.362, 26.363, 26.364, 26.365, 26.37, 26.38, 26.39, 26.40, 26.42, 35.10, 35.11, 907.05, and 907.055, Florida Statutes, are repealed.

Section 2. Section 26.46, Florida Statutes, is amended to read:

26.46 Jurisdiction of resident judge after assignment.—When



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13 a circuit judge is assigned to another circuit, none of the
14 circuit judges in such other circuit shall, because of such
15 assignment, be deprived of or affected in his or her
16 jurisdiction other than to the extent essential so as not to
17 conflict with the authority of the temporarily assigned circuit
18 judge as to the particular case or cases or class of cases, ~~or~~
19 ~~in presiding at the particular term or part of term named or~~
20 ~~specified in the assignment.~~

21 Section 3. Section 27.04, Florida Statutes, is amended to
22 read:

23 27.04 Summoning and examining witnesses for state.—The
24 state attorney shall have summoned all witnesses required on
25 behalf of the state; and he or she is allowed the process of his
26 or her court to summon witnesses from throughout the state to
27 appear before the state attorney ~~in or out of term time~~ at such
28 convenient places in the state attorney's judicial circuit and
29 at such convenient times as may be designated in the summons, to
30 testify before him or her as to any violation of the law upon
31 which they may be interrogated, and he or she is empowered to
32 administer oaths to all witnesses summoned to testify by the
33 process of his or her court or who may voluntarily appear before
34 the state attorney to testify as to any violation or violations
35 of the law.

36 Section 4. Section 30.12, Florida Statutes, is amended to
37 read:

38 30.12 Power to appoint sheriff.—Whenever any sheriff in the
39 state shall fail to attend, in person or by deputy, ~~any term of~~
40 the circuit court or county court of the county, from sickness,
41 death, or other cause, the judge attending said court may



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42 appoint an interim a sheriff, who shall assume all the
43 responsibilities, perform all the duties, and receive the same
44 compensation as if he or she had been duly appointed sheriff,
45 for only the said term of nonattendance ~~court~~ and no longer.

46 Section 5. Paragraph (c) of subsection (1) of section
47 30.15, Florida Statutes, is amended to read:

48 30.15 Powers, duties, and obligations.—

49 (1) Sheriffs, in their respective counties, in person or by
50 deputy, shall:

51 (c) Attend all sessions ~~terms~~ of the circuit court and
52 county court held in their counties.

53 Section 6. Subsection (2) of section 34.13, Florida
54 Statutes, is amended to read:

55 34.13 Method of prosecution.—

56 (2) Upon the finding of indictments by the grand jury for
57 crimes cognizable by the county court, the clerk of the court,
58 without any order therefor, shall docket the same on the trial
59 docket of the county court ~~on or before the first day of its~~
60 ~~next succeeding term.~~

61 Section 7. Subsection (2) of section 35.05, Florida
62 Statutes, is amended to read:

63 35.05 Headquarters.—

64 (2) A district court of appeal may designate other
65 locations within its district as branch headquarters for the
66 conduct of the business of the court ~~in special or regular term~~
67 and as the official headquarters of its officers or employees
68 pursuant to s. 112.061.

69 Section 8. Section 38.23, Florida Statutes, is amended to
70 read:



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71 38.23 Contempt ~~Contempts~~ defined.—A refusal to obey any
72 legal order, mandate or decree, made or given by any judge
73 ~~either in term time or in vacation~~ relative to any of the
74 business of said court, after due notice thereof, shall be
75 considered a contempt, and punished accordingly. ~~But nothing~~
76 ~~said or written, or published, in vacation, to or of any judge,~~
77 ~~or of any decision made by a judge, shall in any case be~~
78 ~~construed to be a contempt.~~

79 Section 9. Section 43.43, Florida Statutes, is created to
80 read:

81 43.43 Terms of courts.—The Supreme Court may establish
82 terms of court for the Supreme Court, the district courts of
83 appeal, and the circuit courts; may provide that district courts
84 and circuit courts may establish their own terms of court; or
85 may dispense with terms of court.

86 Section 10. Section 43.44, Florida Statutes, is created to
87 read:

88 43.44 Mandate of an appeals court.—An appellate court has
89 the jurisdiction and power, as the circumstances and justice of
90 the case may require, to reconsider, revise, reform, or modify
91 its own judgments for the purpose of making the same accord with
92 law and justice. Accordingly, an appellate court has the power
93 to recall its own mandate for the purpose of enabling it to
94 exercise such jurisdiction and power in a proper case. A mandate
95 may not be recalled more than 120 days after it is filed with
96 the lower tribunal.

97 Section 11. Paragraph (b) of subsection (1) of section
98 112.19, Florida Statutes, is amended to read:

99 112.19 Law enforcement, correctional, and correctional



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100 probation officers; death benefits.-

101 (1) Whenever used in this section, the term:

102 (b) "Law enforcement, correctional, or correctional
103 probation officer" means any officer as defined in s. 943.10(14)
104 or employee of the state or any political subdivision of the
105 state, including any law enforcement officer, correctional
106 officer, correctional probation officer, state attorney
107 investigator, or public defender investigator, whose duties
108 require such officer or employee to investigate, pursue,
109 apprehend, arrest, transport, or maintain custody of persons who
110 are charged with, suspected of committing, or convicted of a
111 crime; and the term includes any member of a bomb disposal unit
112 whose primary responsibility is the location, handling, and
113 disposal of explosive devices. The term also includes any full-
114 time officer or employee of the state or any political
115 subdivision of the state, certified pursuant to chapter 943,
116 whose duties require such officer to serve process or to attend
117 session terms ~~terms~~ of a circuit or county court as bailiff.

118 Section 12. Subsection (2) of section 206.215, Florida
119 Statutes, is amended to read:

120 206.215 Costs and expenses of proceedings.-

121 (2) The clerks of the courts performing duties under the
122 provisions aforesaid shall receive the same fees as prescribed
123 by the general law for the performance of similar duties, and
124 witnesses attending any investigation pursuant to subpoena shall
125 receive the same mileage and per diem as if attending as a
126 witness before the circuit court ~~in term time~~.

127 Section 13. Subsection (4) of section 450.121, Florida
128 Statutes, is amended to read:



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129 450.121 Enforcement of Child Labor Law.-

130 (4) Grand juries shall have inquisitorial powers to
131 investigate violations of this chapter; also, trial court judges
132 shall specially charge the grand jury, ~~at the beginning of each~~
133 ~~term of the court,~~ to investigate violations of this chapter.

134 Section 14. Section 831.10, Florida Statutes, is amended to
135 read:

136 831.10 Second conviction of uttering forged bills.-Whoever,
137 having been convicted of the offense mentioned in s. 831.09 is
138 again convicted of the like offense committed after the former
139 conviction, ~~and whoever is at the same term of the court~~
140 ~~convicted upon three distinct charges of such offense,~~ shall be
141 deemed a common utterer of counterfeit bills, and shall be
142 punished as provided in s. 775.084.

143 Section 15. Section 831.17, Florida Statutes, is amended to
144 read:

145 831.17 Violation of s. 831.16; second or subsequent
146 conviction.-Whoever having been convicted of either of the
147 offenses mentioned in s. 831.16, is again convicted of either of
148 the same offenses, committed after the former conviction, ~~and~~
149 ~~whoever is at the same term of the court convicted upon three~~
150 ~~distinct charges of said offenses,~~ commits a felony of the
151 second degree, punishable as provided in s. 775.082, s. 775.083,
152 or s. 775.084.

153 Section 16. Subsection (4) of section 877.08, Florida
154 Statutes, is amended to read:

155 877.08 Coin-operated vending machines and parking meters;
156 defined; prohibited acts, penalties.-

157 (4) Whoever violates ~~the provisions of~~ subsection (3) a



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158 second or subsequent time commits, ~~and is convicted of such~~
159 ~~second separate offense, either at the same term or a subsequent~~
160 ~~term of court, shall be guilty of a felony of the third degree,~~
161 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

162 Section 17. Subsection (1) of section 902.19, Florida
163 Statutes, is amended to read:

164 902.19 When prosecutor liable for costs.-

165 (1) When a person makes a complaint before a county court
166 judge that a crime has been committed and is recognized by the
167 county court judge to appear before ~~at the next term of the~~
168 court having jurisdiction to give evidence of the crime and
169 fails to appear, the person shall be liable for all costs
170 occasioned by his or her complaint, and the county court judge
171 may enter ~~obtain~~ a judgment and execution for the costs as in
172 other cases.

173 Section 18. Subsection (2) of section 903.32, Florida
174 Statutes, is amended to read:

175 903.32 Defects in bond.-

176 (2) If no day, or an impossible day, is stated in a bond
177 for the defendant's appearance before a trial court judge for a
178 hearing or trial, the defendant shall be bound to appear 10 days
179 after receipt of notice to appear by the defendant, the
180 defendant's counsel, or any surety on the undertaking. ~~If no~~
181 ~~day, or an impossible day, is stated in a bond for the~~
182 ~~defendant's appearance for trial, the defendant shall be bound~~
183 ~~to appear on the first day of the next term of court that will~~
184 ~~commence more than 3 days after the undertaking is given.~~

185 Section 19. Section 905.01, Florida Statutes, is amended to
186 read:



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187 905.01 Number and procurement of grand jury; replacement of
188 member; term of grand jury.—

189 (1) The grand jury shall consist of not fewer than 15 nor
190 more than 21 persons. The provisions of law governing the
191 qualifications, disqualifications, excusals, drawing, summoning,
192 supplying deficiencies, compensation, and procurement of petit
193 jurors apply to grand jurors. In addition, an elected public
194 official is not eligible for service on a grand jury.

195 (2) The chief judge of any circuit court may provide for
196 the replacement of any grand juror who, for good cause, is
197 unable to complete the term of the grand jury. Such replacement
198 shall be made by appropriate order of the chief judge from the
199 list of prospective jurors from which the grand juror to be
200 replaced was selected.

201 (3) The chief judge of each ~~any~~ circuit court shall
202 regularly order ~~may dispense with~~ the convening of the grand
203 jury for a at any term of 6 months ~~court by filing a written~~
204 ~~order with the clerk of court directing that a grand jury not be~~
205 ~~summoned.~~

206 Section 20. Section 905.09, Florida Statutes, is amended to
207 read:

208 905.09 Discharge and recall of grand jury.—A grand jury
209 that has been dismissed may be recalled at any time during the
210 ~~same~~ term of the grand jury ~~court~~.

211 Section 21. Section 905.095, Florida Statutes, is amended
212 to read:

213 905.095 Extension of grand jury term.—Upon petition of the
214 state attorney or the foreperson of the grand jury acting on
215 behalf of a majority of the grand jurors, the circuit court may



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216 extend the term of a grand jury impaneled under this chapter
217 beyond the term ~~of court~~ in which it was originally impaneled. A
218 grand jury whose term has been extended as provided herein shall
219 have the same composition and the same powers and duties it had
220 during its original term. In the event the term of the grand
221 jury is extended under this section, it shall be extended for a
222 time certain, not to exceed a total of 90 days, and only for the
223 purpose of concluding one or more specified investigative
224 matters initiated during its original term.

225 Section 22. Section 914.03, Florida Statutes, is amended to
226 read:

227 914.03 Attendance of witnesses.—A witness summoned by a
228 grand jury ~~or in a criminal case~~ shall remain in attendance
229 until excused by the grand jury. A witness summoned in a
230 criminal case shall remain in attendance until excused by the
231 court. A witness who departs without permission of the court
232 shall be in criminal contempt of court. ~~A witness shall attend~~
233 ~~each succeeding term of court until the case is terminated.~~

234 Section 23. Subsection (2) of section 924.065, Florida
235 Statutes, is amended to read:

236 924.065 Denial of motion for new trial or arrest of
237 judgment; appeal bond; supersedeas.—

238 (2) An appeal shall not be a supersedeas to the execution
239 of the judgment, sentence, or order until the appellant has
240 entered into a bond with at least two sureties to secure the
241 payment of the judgment, fine, and any future costs that may be
242 adjudged by the appellate court. The bond shall be conditioned
243 on the appellant's personally answering and abiding by the final
244 order, sentence, or judgment of the appellate court and, if the



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245 action is remanded, on the appellant's appearing before ~~at the~~
246 ~~next term of~~ the court in which the case was originally
247 determined and not departing without leave of court.

248 Section 24. Section 932.47, Florida Statutes, is amended to
249 read:

250 932.47 Informations filed by prosecuting attorneys.—
251 Informations may be filed by the prosecuting attorney of the
252 circuit court with the clerk of the circuit court ~~in vacation or~~
253 ~~in term~~ without leave of the court first being obtained.

254 Section 25. This act shall take effect January 1, 2012.
255

256 ===== T I T L E A M E N D M E N T =====

257 And the title is amended as follows:

258 Delete everything before the enacting clause
259 and insert:

260 A bill to be entitled
261 An act relating to the judiciary; repealing s. 25.051,
262 F.S., relating to regular terms of the Supreme Court;
263 repealing s. 26.21, F.S., relating to terms of the
264 circuit courts; repealing s. 26.22, F.S., relating to
265 terms of the First Judicial Circuit; repealing s.
266 26.23, F.S., relating to terms of the Second Judicial
267 Circuit; repealing s. 26.24, F.S., relating to terms
268 of the Third Judicial Circuit; repealing s. 26.25,
269 F.S., relating to terms of the Fourth Judicial
270 Circuit; repealing s. 26.26, F.S., relating to terms
271 of the Fifth Judicial Circuit; repealing s. 26.27,
272 F.S., relating to terms of the Sixth Judicial Circuit;
273 repealing s. 26.28, F.S., relating to terms of the



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274 Seventh Judicial Circuit; repealing s. 26.29, F.S.,
275 relating to terms of the Eighth Judicial Circuit;
276 repealing s. 26.30, F.S., relating to terms of the
277 Ninth Judicial Circuit; repealing s. 26.31, F.S.,
278 relating to terms of the Tenth Judicial Circuit;
279 repealing s. 26.32, F.S., relating to terms of the
280 Eleventh Judicial Circuit; repealing s. 26.33, F.S.,
281 relating to terms of the Twelfth Judicial Circuit;
282 repealing s. 26.34, F.S., relating to terms of the
283 Thirteenth Judicial Circuit; repealing s. 26.35, F.S.,
284 relating to terms of the Fourteenth Judicial Circuit;
285 repealing s. 26.36, F.S., relating to terms of the
286 Fifteenth Judicial Circuit; repealing s. 26.361, F.S.,
287 relating to terms of the Sixteenth Judicial Circuit;
288 repealing s. 26.362, F.S., relating to terms of the
289 Seventeenth Judicial Circuit; repealing s. 26.363,
290 F.S., relating to terms of the Eighteenth Judicial
291 Circuit; repealing s. 26.364, F.S., relating to terms
292 of the Nineteenth Judicial Circuit; repealing s.
293 26.365, F.S., relating to terms of the Twentieth
294 Judicial Circuit; repealing s. 26.37, F.S., relating
295 to requiring a judge to attend the first day of each
296 term of the circuit court; repealing s. 26.38, F.S.,
297 relating to a requirement for a judge to state a
298 reason for nonattendance; repealing s. 26.39, F.S.,
299 relating to penalty for nonattendance of judge;
300 repealing s. 26.40, F.S., relating to adjournment of
301 the circuit court upon nonattendance of the judge;
302 repealing s. 26.42, F.S., relating to calling all



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303 cases on the docket at the end of each term; repealing
304 s. 35.10, F.S., relating to regular terms of the
305 district courts of appeal; repealing s. 35.11, F.S.,
306 relating to special terms of the district courts of
307 appeal; repealing s. 907.05, F.S., relating to a
308 requirement that criminal trials be heard in the term
309 of court prior to civil cases; repealing s. 907.055,
310 F.S., relating to a requirement that persons in
311 custody be arraigned and tried in the term of court
312 unless good cause is shown; amending ss. 26.46, 27.04,
313 30.12, 30.15, 34.13, 35.05, and 38.23, F.S.;
314 conforming provisions to changes made by the act;
315 creating s. 43.43, F.S.; allowing the Supreme Court to
316 set terms of court for the Supreme Court, district
317 courts of appeal, and circuit courts; creating s.
318 43.44, F.S.; providing that appellate courts may
319 withdraw a mandate within 120 days after its issuance;
320 amending ss. 112.19, 206.215, 450.121, 831.10, 831.17,
321 877.08, 902.19, 903.32, 905.01, 905.09, 905.095,
322 914.03, 924.065, and 932.47, F.S.; conforming
323 provisions to changes made by the act; providing an
324 effective date.