

## Committee on Judiciary

### **CS/HB 95 — Controlled Substances**

by Criminal Justice and Public Safety Subcommittee and Rep. Plakon and others (CS/CS/SB 190 by Criminal Justice Committee; Judiciary Committee; and Senator Brodeur)

The bill (Chapter 2022-129, L.O.F.) amends s. 782.04, F.S., which punishes an adult for first degree murder if the adult unlawfully distributes a listed controlled substance or a mixture containing the substance, when it is proven that the substance or mixture was the proximate cause of a user's death. The bill adds methamphetamine to the list of scheduled controlled substances applicable to the offense and makes conforming changes.

The bill increases the mandatory minimum term of imprisonment for trafficking 14 grams or more, but less than 28 grams, of fentanyl or fentanyl analogues. Current law provides that the minimum mandatory term of imprisonment for the offense is 15 years, the bill increases the minimum mandatory to 20 years.

These provisions were approved by the Governor and take effect October 1, 2022.

*Vote: Senate 33-5; House 84-35*

**Committee on Judiciary**

**CS/HB 265 — Value of Motor Vehicles Exempt from Legal Process**

by Civil Justice and Property Rights Subcommittee and Reps. Gottlieb, Benjamin, and others  
(CS/SB 528 by Judiciary Committee and Senator Polsky)

The bill creates an exemption that will protect an individual debtor's interest in a single motor vehicle, up to \$5,000 in value, in actions arising under the federal Bankruptcy Code.

This provision applies to any bankruptcy action that is filed on or after July 1, 2022.

If approved by the Governor, these provisions take effect July 1, 2022.

*Vote: Senate 37-0; House 107-0*

## Committee on Judiciary

### **CS/HB 397 — Court Fiscal Administration**

by Justice Appropriations Subcommittee and Rep. Clemons and others (CS/SB 552 by Appropriations Committee and Senators Boyd, Ausley, and Wright)

The bill changes laws affecting the clerks of court by:

- Modifying the standard terms of a payment plan for an individual who owes money to a clerk to establish a \$25 minimum monthly payment and to limit the down payment to the lesser of 10 percent of the amount owed or \$100.
- Directing a clerk of court to ask the Legislature for increased funding related to increases in trial court judicial positions.
- Allowing the clerks to review property records to verify an application for civil indigent status.
- Allowing the clerks of court to ask for Legislative funding for filings related to mental health and substance abuse that the clerks must currently file at no charge.
- Requiring the Department of Highway Safety and Motor Vehicles to coordinate with the clerks of court on a system for reinstatement of driver licenses upon payment of court-related obligations.

If approved by the Governor, these provisions take effect July 1, 2022.

*Vote: Senate 38-0; House 115-0*

## Committee on Judiciary

### **CS/CS/SB 596 — Criminal Conflict and Civil Regional Councils**

by Appropriations Committee; Judiciary Committee; and Senator Baxley

The bill brings the Offices of Criminal Conflict and Civil Regional Counsel into parity with the offices of the public defenders and other governmental entities in the following areas:

- Witness coordination.
- Electronic filing of court documents.
- Security access to courthouses.
- Procedure for setting a classification and pay plan.
- Access to confidential court and state records.
- Limits of witness cost reimbursement.
- Investigator death benefits.
- Confidential motor vehicle registration.
- Criminal justice history access.

Current law requires that an existing Regional Counsel plus between two and five additional individuals be nominated for an open Regional Counsel position. The bill lowers the number of nominees in addition to the existing Regional Counsel that are required to be presented to the Governor for a position as Regional Counsel to between zero and three.

The bill also waives an 8-hour guardianship education requirement for attorneys employed by an Office of Criminal Conflict and Civil Regional Counsel; and clarifies that the court must appoint the Office of Criminal Conflict and Civil Regional Counsel if the Public Defender has a conflict of interest in a case involving involuntary treatment of sexually violent predator or involuntary mental health treatment of a prisoner.

Except as otherwise expressly provided in this act, this act shall take effect July 1, 2022.

*Vote: Senate 38-0; House 117-0*

## Committee on Judiciary

### **CS/SB 598 — Public Records/Criminal Conflict and Civil Regional Counsel Office**

by Judiciary Committee and Senator Baxley

The bill exempts certain motor vehicle registration records in order to conceal that the owner or operator of a motor vehicle or vessel is an Office of Criminal Conflict and Civil Regional Counsel. The exemption protects investigators, and it is similar to exemptions for investigators employed by state attorneys and public defenders.

The bill is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2027, unless reviewed and saved from the repeal through reenactment by the Legislature.

If approved by the Governor, these provisions take effect on the same date that CS/CS/SB 596 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

*Vote: Senate 38-0; House 117-0*

## Committee on Judiciary

### **CS/SB 620 — Local Business Protection Act**

by Appropriations Committee and Senator Hutson

The bill creates the “Local Business Protection Act.” It creates a cause of action for an established business to recover loss of business damages from a county or municipality whose regulatory action has caused a significant impact on the business.

Currently, landowners have a cause of action under the Bert J. Harris Act to compensate them for the lost value of their land caused by certain local government actions; landowners have a cause of action for onerous local regulation in the form of exactions; and business landowners have a cause of action under eminent domain law for business damages related to a taking of real property. Similarly, this bill creates a cause of action for a business to sue a local government when the enactment or amendment of an ordinance or charter provision causes at least a 15 percent loss of profits to the business. The business must have been in operation for at least 3 years to qualify.

Business damages recoverable are the probable damages to such business which the application of the enactment or amendment of the ordinance or charter provision may reasonably cause. Numerous exceptions protect local governments. Notably, an ordinance or charter amendment in response to an emergency or that involves growth management, budget, or procurement matters, or one that promotes economic competition, do not lead to liability. A local government can also avoid liability by timely amending or repealing the local government actions causing business damages. A claimant must comply with a 180-day presuit notice and settlement period. Prevailing party attorney fees may be awarded.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 22-14; House 69-45*

## Committee on Judiciary

### **CS/CS/SB 634 — Judicial Notice**

by Rules Committee; Commerce and Tourism Committee; and Senator Bradley

The bill creates a process for a court to take “judicial notice” of certain information taken from mapping services, such as Google Maps. Under Florida law, judicial notice may generally be declared for certain facts “not subject to dispute because they are capable of accurate and ready determination by resort to sources whose accuracy cannot be questioned” or “because they are generally known within the territorial jurisdiction of the court.”

The bill provides a process separate from the above standards for any image, map, location, distance, calculation, or other information taken from any widely accepted web mapping service, global satellite imaging site, or Internet mapping tool so long as the information in question indicates the date that it was created.

For civil cases, the bill provides a presumption that the information sought to be judicially noticed should be judicially noticed. This presumption may be overcome if the court finds that the information does not fairly and accurately portray what it is being offered to prove, or that it otherwise should not be admitted into evidence under the Florida Evidence Code. For criminal cases, the court must instruct the jury that the jury may or may not accept this information as conclusive.

If approved by the Governor, these provisions take effect July 1, 2022.

*Vote: Senate 39-0; House 112-0*

**Committee on Judiciary**

**HB 817 — Emergency Medical Care and Treatment of Minors**

by Rep. Massullo and others (SB 1114 by Senators Bradley and Garcia)

The bill broadens an exception to the general rule that medical treatment cannot be rendered without a patient's consent. Under current law, parental consent is required for a physician to provide emergency medical care to a minor unless the care is rendered in a hospital or college health service.

The bill deletes restrictions on location, thereby allowing physicians to provide emergency medical care or treatment to a minor at any location without the consent of the minor's parent under specified conditions when parental consent cannot be immediately obtained.

The bill continues the requirements of current law that the need for care be the result of a genuine emergency and that appropriate medical personnel first attempt to identify and contact the minor's parents, guardian, or legal custodian to obtain consent before providing emergency care or treatment. The bill does not disturb the longstanding principle that children do not have the legal capacity to consent to treatment.

If approved by the Governor, these provisions take effect July 1, 2022.

*Vote: Senate 38-0; House 107-0*



## Committee on Judiciary

### **CS/HB 905 — Protective Injunctions**

by Judiciary Committee and Rep. Fetterhoff and others (CS/CS/SB 654 by Rules Committee; Judiciary Committee; and Senators Cruz, Gibson, and Jones)

The bill requires the clerk of court to electronically submit to the sheriff in the county where the respondent resides or may be found a copy of a protective injunction and any other required documents within 24 hours after the court issues an injunction for protection against:

- Domestic violence;
- Repeat violence;
- Sexual violence;
- Dating violence; and
- Stalking.

Under current law, a clerk of court may not provide electronic copies of the documents to a sheriff unless they are requested by the sheriff. By requiring a sheriff to accept electronic copies of domestic violence injunctions and similar injunctions, the bill will likely enable sheriffs to serve the injunctions on the respondents more quickly after the injunctions are issued by the court.

If approved by the Governor, these provisions take effect October 1, 2022.

*Vote: Senate 39-0; House 112-1*

## Committee on Judiciary

### **CS/CS/SB 1062 — Service of Process**

by Commerce and Tourism Committee; Judiciary Committee; and Senator Bradley

The bill amends laws governing service of process. The term “service of process” refers to the manner of delivery of legal notice to an individual or entity which provides notice of a pending legal action. The bill:

- Details and standardizes the manner and priority of forms of service of process as related to different forms of business and public entities as appropriate to the form and structure of the entities;
- Prioritizes service of process on the registered agent of an entity;
- Clarifies procedures for substituted service of process by delivery to the Secretary of State;
- Creates the authority of a trial court to allow any effective alternative means of service of process where an entity cannot be served with process by conventional means, including by an alternative means set by contract between the parties;
- Creates a framework for service of process on an individual or entity in a foreign country, to include any form of process recognized under that country’s laws;
- Creates procedures for service of process for removal of an unknown party in possession of real property;
- Provides that service of a medical negligence pre-suit notice may be by commercial delivery services or use of a certified process server; and
- Broadens statutes on service of process by registered or certified mail to also allow delivery by a commercial delivery service.

If approved by the Governor, the section of the bill regarding notice of intent to file an action for medical malpractice takes effect upon becoming law, the remainder of the bill takes effect January 2, 2023.

*Vote: Senate 38-0; House 112-0*

## Committee on Judiciary

### **HB 1119 — Grandparent Visitation Rights**

by Rep. Toledo and others (CS/CS/SB 1408 by Rules Committee; Judiciary Committee; and Senators Perry, Rouson, and Book)

The bill amends Florida’s “Grandparental Visitation Rights” law to include an additional situation where a grandparent may petition for reasonable visitation with his or her grandchild. Specifically, the bill creates a presumption that a court may award a grandparent reasonable visitation with a grandchild in cases where a court has found that one parent of a child is criminally liable for the death of the other parent of the child or is civilly liable for an intentional tort causing the death of the other parent of the child. This presumption would only apply to the grandparents who are the parents of the grandchild’s deceased parent. A court may decline to grant these visitation rights if visitation is not in the best interest of the child.

If approved by the Governor, these provisions take effect July 1, 2022.

*Vote: Senate 37-0; House 112-3*

## Committee on Judiciary

### **CS/CS/SB 1304 — Public Records/Trust Proceedings**

by Rules Committee; Judiciary Committee; and Senator Gruters

The bill creates a public records exemption for court records in a trust law case where a family trust company, licensed family trust company, or foreign licensed family trust company is a party. The court records of the case are not available for public inspection, but may be accessed by the settlor, a fiduciary or a beneficiary, and his or her attorney. The court may also allow access to a person who has a specific interest in the trust and who can show that there is a compelling need for access, subject to reasonable limitations on further distribution by the interested person.

If approved by the Governor, these provisions take effect July 1, 2022.

*Vote: Senate 35-3; House 92-24*

## Committee on Judiciary

### CS/SB 1368 — Trusts

by Banking and Insurance Committee and Senator Gruters

The bill amends trust law to:

- Extend the alternative perpetuities limit on the life of a trust from 360 years to 1,000 years for trusts created on or after the effective date of the bill.
- Allow family trust companies, licensed family trust companies, and foreign licensed family trust companies, to elect a simplified form of periodic accounting, provided that the accounting contains sufficient notice of trust assets, debts, and transactions during the accounting period.
- Allow, for family trust companies, licensed family trust companies, or foreign licensed family trust companies that are trustees of irrevocable trusts, the terms of such trusts to permit the accounting to the qualified beneficiaries only at the termination of the trust; upon the removal, resignation, or other event resulting in a trustee ceasing to serve as a trustee; or upon demand of a qualified beneficiary or the representative of a qualified beneficiary.
- Simplify, for family trust companies, licensed family trust companies, and foreign licensed family trust companies, service of trust notices furnished by e-mail, including waiver of the current law requirement that the recipient annually agree to electronic notice.
- Expand the scope of representation by a parent to include unborn descendants of an unborn child.
- Extend the allowable life of a noncharitable trust to 1,000 years.
- Extend the authority of a trust to reimburse the grantor for certain tax liabilities to apply to a trust formed under the laws of a foreign jurisdiction if the trust has a principal place of administration in this state.

If approved by the Governor, these provisions take effect July 1, 2022.

*Vote: Senate 39-0; House 99-19*

## Committee on Judiciary

### **CS/SB 1380 — Real Property Rights**

by Rules Committee and Senator Rodriquez

The bill amends laws regarding restrictions on the use of real property. The bill limits how certain older real estate covenants or restrictions apply in a manner that protects real property rights and honors zoning requirements and conditions of a building or development permit. The bill also allows a property owner the right to establish parking rules and rates applicable to the owner's property.

The Marketable Record Title Act (MRTA) simplifies property transactions and modernizes land use by eliminating property rights that are more than 30 years old and predate the root of the title of the property in question. There are, however, numerous exceptions to MRTA whereby a property right is not extinguished by MRTA. The bill amends MRTA to:

- Modify an exception to extinguishment to require that a general reference to a prior right must include an affirmative statement of intent to preserve such property right.
- Specify that MRTA may extinguish a covenant or restriction related to a zoning requirement, building permit, or development permit. However, this will not extinguish the underlying zoning or building codes or ordinances; nor will it extinguish a covenant or restriction that says on its first page that it was required by local codes.
- Allow revitalization of a covenant or restriction that had been required by a government agency as a condition of a development permit.

A person who wishes to protect a property interest potentially extinguished by the change to MRTA has until July 1, 2023 to file a Statement of Marketable Title Action in the public records in order to preserve the property interest.

The bill provides that the owner or operator of a private property used for motor vehicle parking may establish rules, rates, and fines that govern private persons parking motor vehicles on such private property. A county or municipality may not enact an ordinance or a regulation restricting or prohibiting a right of a private property owner or operator to establish rules, rates, and fines governing parking on the private property. The bill requires a specific notation on any invoice.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 37-0; House 113-0*

## Committee on Judiciary

### **CS/HB 1571 — Residential Picketing**

by Criminal Justice and Public Safety Subcommittee and Rep. Maggard and others  
(CS/CS/SB 1664 by Rules Committee; Judiciary Committee; and Senators Perry and Boyd)

The bill addresses unlawful assemblies that specifically target residences to harass or disturb people inside their homes. Specifically, the bill makes it a criminal offense to picket or protest before or about another person's home in order to harass or disturb the person in his or her home. A person who engages in the prohibited conduct commits a second degree misdemeanor.

The bill provides that before a person may be arrested for this criminal offense, a law enforcement officer must command the person to disperse from the unlawful assembly. If the person does not immediately and peaceably disperse, only then may he or she be arrested for unlawful residential picketing.

If approved by the Governor, these provisions take effect October 1, 2022.  
*Vote: Senate 28-3; House 76-41*

## Committee on Judiciary

### CS/CS/SB 1796 — Dissolution of Marriage

by Rules Committee; Judiciary Committee; and Senators Gruters, Rodriquez, Hooper, and Diaz

The bills amends laws related to dissolution of marriage. Changes to alimony applicable to any final judgment entered on or after July 1, 2022 include:

- Permanent (lifetime) alimony is eliminated, leaving bridge-the-gap, rehabilitative, and durational forms of alimony.
- Rehabilitative alimony is limited to 5 years.
- Durational alimony may not be awarded for a marriage of less than 3 years, is scaled based on duration of marriage, with an exception if the obligee is disabled or is a full-time caretaker of a totally disabled child of both spouses, and alimony awarded may not exceed the lesser of the obligee's reasonable need or 35 percent of the difference between the parties' net incomes.
- A presumption that both parties will have a lower standard of living after dissolution of the marriage.
- A prohibition against the award of alimony to a party whose net income exceeds the net income of the other party.
- A prohibition against requirements for an obligor to purchase life insurance to secure the award of alimony.
- Expansion of the concept of a supportive relationship to allow consideration of a supportive relationship when first setting alimony in the dissolution of marriage case. The criteria defining a supportive relationship at the time of dissolution is the same as for a later modification.

Current case law allows for modification or termination of alimony upon "reasonable retirement," a loosely-defined court-created concept. The bill codifies standards and procedures related to retirement of a party to a dissolution of marriage case:

- A proposed obligor who is retired at the time of the dissolution of marriage may not be required to pay any form of alimony unless one of the safeguards applies, and the party seeking alimony does not qualify for any Social Security benefits.
- If the obligor seeks to retire in the future (final judgment after July 1, 2022), the obligor must give 1-years' prior notice of the planned retirement. The retirement will be effective and durational alimony will end when the obligor reaches the Social Security full retirement age unless the obligee timely objects by showing any of the following:
  - A safeguard applies; or
  - The obligor continues to work beyond the planned retirement and earns active gross income of more than 50 percent of the past 3-year average.
- If the obligor seeks to retire in the future after reaching age 65 or older (modification of a final judgment entered before July 1, 2022), the obligor must give 1-years' prior notice of the planned retirement. The retirement will be effective and the alimony will phase out (25 percent a year) starting no sooner than age 65, unless the obligee timely objects by showing any of the following:



- A safeguard applies; or
- The obligor continues to work beyond the planned retirement and earns active gross income of more than 50 percent of the past 3-year average.
- Alternatively, there will be no phase-out and alimony may be modified or terminated based on a reasonable retirement, but no sooner than age 65.
- Current law provides that a court should not modify alimony for a payor’s retirement where the effect of modification would be to leave the recipient “in peril of poverty.” The bill codifies peril of poverty in the form of safeguards that allow a court to extend the term of alimony, in part or in whole, beyond the obligor’s planned retirement, if:
  - The party receiving alimony is full-time caregiver to a disabled common child;
  - The party receiving alimony would have an income of less than 130 percent of the federal poverty level; or
  - The party receiving alimony would be unable to meet the basic needs of life.

The bill recognizes situations where the marital settlement agreement, if one was entered into, prohibits modification by exempting such cases from the retirement provisions of the bill.

The bill also creates a rebuttable presumption that equal time-sharing with minor children is in the best interests of a child, and provides that a parent moving to a residence within 50 miles of the primary residence of a child from a residence more than 50 miles away is a substantial change in circumstances.

Bifurcation refers to the process where the court dissolves the marriage, reserving other matters such as property distribution, alimony, time-sharing, and child support for future court action. The bill gives either party to a dissolution of marriage the right to bifurcation if the case has been pending for longer than 2 years from the date the respondent received the summons, effective for petitions filed on or after July 1, 2022.

If approved by the Governor, these provisions take effect July 1, 2022.

*Vote: Senate 21-16; House 74-42*

## Committee on Judiciary

### **CS/SB 1808 — Immigration Enforcement**

by Appropriations Committee and Senators Bean and Rodriques

The bill amends ch. 908, F.S., relating to federal immigration enforcement, which was enacted in 2019. Chapter 908, F.S., prohibits sanctuary policies and seeks to ensure that state and local entities and law enforcement agencies cooperate with federal government officials to enforce, and not obstruct, federal immigration laws.

The bill amends three areas of the existing ch. 908, F.S. Specifically, the bill:

- Expands the definition of “sanctuary policy” to include any law, policy, practice, procedure, or custom of any state or local governmental entity which prohibits a law enforcement agency from providing to any state entity information on the immigration status of a person in the custody of the law enforcement agency.
- Requires each law enforcement agency that operates a county detention facility to enter into a “287(g) Agreement” with United States Immigration and Customs Enforcement (ICE) by January 1, 2023. The bill does not specify which type of agreement the law enforcement agency must choose.
- Prohibits state and local governmental entities from contracting with common carriers or contracted carriers that willfully transport a person into the state knowing the person is an unauthorized alien, except to facilitate the detention, removal, or departure of the person from the state or the United States. The bill also specifies that contracts, including a grant agreement or economic incentive program payment agreement, must include certain provisions requiring the common carrier or contracted carrier to attest that it is not, and will not transport an unauthorized alien into this state.

Additionally, the bill amends the criminal justice data collection statutes. The bill requires state entities to collect and report immigration status data to the Florida Department of Law Enforcement each month. The clerks of courts must collect and report the immigration status of each defendant in a criminal case; the administrator of a county detention facility must collect information on the immigration status of each inmate; and the Department of Corrections must collect and report the immigration status of each inmate and each person supervised by the department on probation or community control.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 24-15; House 77-42*

**Committee on Judiciary**

**CS/HB 6513 — Relief of Kareem Hawari/Osceola County School Board**

by Civil Justice and Property Rights Subcommittee and Rep. Plasencia (SB 82 by Senators Torres and Book)

Kareem Hawari was a 13-year-old student when he was injured while participating in a wrestling match on behalf of his school due to the negligence of employees of the Osceola County School Board. Mr. Hawari, now an adult, settled the claim with the school board for \$3.6 million, of which \$100,000 has been paid in accordance with the state's sovereign immunity waiver. The bill authorizes and directs the Osceola County School Board to pay the remaining \$3.5 million.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 37-2; House 117-0*

**Committee on Judiciary**

**SB 7014 — COVID-19-related Claims Against Health Care Providers**

by Judiciary Committee

The bill (Chapter 2022-10, L.O.F.) extends the length of time that health care providers receive certain liability protections from COVID-19-related claims. According to legislation passed during the 2021 Legislative Session, liability protections from COVID-19-related claims apply to claims accruing within one year after the effective date of the act, which was March 29, 2022.

The bill extends the application period of the liability protections, making them applicable to claims accruing before June 1, 2023. The net result of the bill is to extend the liability protections for about 14 months, from March 29, 2022, to June 1, 2023.

These provisions became law upon approval of the Governor on February 24, 2022.

*Vote: Senate 22-13; House 87-31*