

Tab 1	SM 978 by Pizzo (CO-INTRODUCERS) Rodriguez; (Identical to H 00765) Juneteenth Independence Day					
Tab 2	SB 1262 by Bracy (CO-INTRODUCERS) Rodriguez; (Identical to H 01245) 1920 Ocoee Election Day Riots					
202544	A	S	RCS	JU, Bracy	Delete L.98:	01/23 11:20 AM
Tab 3	SB 1264 by Bracy (CO-INTRODUCERS) Rodriguez; (Identical to H 01247) Ocoee Election Day Riots Descendant Compensation Trust Fund/Department of Legal Affairs					
300816	A	S	RCS	JU, Bracy	Delete L.37 - 42:	01/23 11:20 AM
Tab 4	SB 1302 by Flores (CO-INTRODUCERS) Rodriguez; Sovereign Immunity					
423226	A	S	RCS	JU, Flores	Delete L.51 - 130:	01/23 12:39 PM
Tab 5	SB 1328 by Wright; (Similar to H 00903) Fines and Fees					
Tab 6	SB 1510 by Brandes; Jurisdiction of Courts					
334674	D	S	RCS	JU, Brandes	Delete everything after	01/23 11:37 AM
Tab 7	SB 1362 by Rodriguez; (Compare to H 06033) Rental Agreements					
Tab 8	SB 1298 by Simmons; Office of the Judges of Compensation Claims					
Tab 9	SB 1392 by Simmons; Official Headquarters of Judicial Officers					
668414	D	S	RCS	JU, Simmons	Delete everything after	01/23 08:39 AM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

JUDICIARY
Senator Simmons, Chair
Senator Rodriguez, Vice Chair

MEETING DATE: Tuesday, January 21, 2020
TIME: 12:00 noon—1:30 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	SM 978 Pizzo (Identical HM 765)	Juneteenth Independence Day; Urging Congress to recognize June 19, 2020, as "Juneteenth Independence Day", etc. GO 01/13/2020 Favorable JU 01/21/2020 Favorable RC	Favorable Yeas 5 Nays 0
2	SB 1262 Bracy (Identical H 1245, Compare H 1247, Linked S 1264)	1920 Ocoee Election Day Riots; Establishing the Ocoee Election Day Riots Descendant Compensation Fund Program within the Department of Legal Affairs; requiring the department to accept and process applications for payment of claims for compensation; requiring the Department of Economic Opportunity to prioritize certain applications for the Black Business Loan Program; directing the Commissioner of Education's African American History Task Force to determine ways in which the 1920 Ocoee Election Day Riots may be included in required instruction on African-American history, etc. JU 01/21/2020 Fav/CS ACJ AP	Fav/CS Yeas 4 Nays 1
3	SB 1264 Bracy (Identical H 1247, Compare H 1245, Linked S 1262)	Ocoee Election Day Riots Descendant Compensation Trust Fund/Department of Legal Affairs; Creating the Ocoee Election Day Riots Descendant Compensation Trust Fund within the Department of Legal Affairs; specifying the purpose and the funding source of the trust fund; providing for future review and termination or re-creation of the trust fund, etc. JU 01/21/2020 Fav/CS ACJ AP	Fav/CS Yeas 4 Nays 1

COMMITTEE MEETING EXPANDED AGENDA

Judiciary

Tuesday, January 21, 2020, 12:00 noon—1:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1302 Flores	Sovereign Immunity; Designating the "Florida Fair Claims Act"; providing an exception to certain liability for the state and its agencies and subdivisions; increasing the statutory limits on liability for tort claims against the state and its agencies and subdivisions; revising when a state and its agencies and subdivisions may agree to settle a claim or judgment without further action from the Legislature; requiring certain final judgment amounts to be paid without further action by the Legislature, etc. JU 01/21/2020 Fav/CS CA AP	Fav/CS Yeas 5 Nays 0
Workshop - Discussion and testimony only on the following (no vote to be taken):			
5	SB 1328 Wright (Similar H 903, Compare H 6083)	Fines and Fees; Revising specified service charges for recording documents with the clerk of the circuit court; revising the methods by which the clerk of the circuit court may accept payments for certain fees, charges, costs, and fines; requiring the Office of the State Courts Administrator to develop a uniform payment plan form by a specified date; deleting provisions specifying procedures to be used if a person fails to comply with certain court-ordered requirements; authorizing certain persons to reinstate their suspended driver licenses under certain circumstances, etc. JU 01/21/2020 Workshop-Discussed ACJ AP	Workshop-Discussed
6	SB 1510 Brandes	Jurisdiction of Courts; Revising the jurisdiction of circuit courts; revising the authority of county court judges temporarily designated to preside over circuit court cases; transferring jurisdiction for appeals of final administrative orders of local government code enforcement boards from the circuit court to the district court of appeal, etc. JU 01/21/2020 Fav/CS ACJ AP	Fav/CS Yeas 4 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Judiciary

Tuesday, January 21, 2020, 12:00 noon—1:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	SB 1362 Rodriguez (Compare H 6033)	Rental Agreements; Repealing a provision relating to the termination of a rental agreement upon foreclosure; creating the "Protecting Tenants at Foreclosure Act"; providing for the assumption of interest in certain foreclosures on dwellings or residential real property; requiring the director of the Division of Consumer Services of the Department of Agriculture and Consumer Services to notify the Division of Law Revision of the repeal of the Protecting Tenants at Foreclosure Act of 2009 within a specified timeframe, etc. JU 01/21/2020 Favorable CM RC	Favorable Yeas 4 Nays 1
8	SB 1298 Simmons	Office of the Judges of Compensation Claims; Providing an appropriation to the Division of Administrative Hearings for adjustments to salaries of the judges of compensation claims; requiring the Deputy Chief Judge to recommend such salary adjustments within the appropriated amount; requiring that such salary adjustments be paid out of a specified trust fund, etc. JU 01/21/2020 Favorable AEG AP	Favorable Yeas 5 Nays 0
9	SB 1392 Simmons	Official Headquarters of Judicial Officers; Revising provisions governing the payment of subsistence and travel reimbursement for Supreme Court justices who designate an official headquarters other than the headquarters of the Supreme Court; authorizing district court of appeal judges who meet certain criteria to have an appropriate facility in their county of residence designated as their official headquarters; specifying eligibility for subsistence and travel reimbursement, subject to the availability of funds; providing that a county is not required to provide space for a judge in a county courthouse, etc. JU 01/21/2020 Fav/CS ACJ AP	Fav/CS 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: SM 978

INTRODUCER: Senator Pizzo

SUBJECT: Juneteenth Independence Day

DATE: January 17, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ponder	McVaney	GO	Favorable
2.	Davis	Cibula	JU	Favorable
3.			RC	

I. Summary:

SM 978 is a memorial to the Congress of the United States urging Congress to recognize June 19, 2020, as “Juneteenth Independence Day.” This day commemorates the day in 1865 when many slaves in Texas were informed that the Civil War had ended and that slavery was defeated. The term “Juneteenth” is a blending of the words “June” and “nineteenth.”

II. Present Situation:

Juneteenth

Union Army Major-General Gordon Granger arrived in Galveston, Texas, on June 19, 1865, and officially declared that slavery had ended.¹ He read General Order No. 3 aloud to the people of Texas informing them that,

[I]n accordance with a proclamation from the Executive of the United States, all slaves are free. This involves an absolute equality of personal rights and rights of property between former masters and slaves, and the connection heretofore existing between them becomes that between employer and hired labor.²

The announcement produced “joyful displays by Texas freedmen.”³ The following year, on June 19, 1866, annual commemorative celebrations began and have continued, somewhat

¹ James Alex Baggett, Texas State Historical Association, *Gordon Granger*, <https://tshaonline.org/handbook/online/articles/fgr10>.

² Texas State Library and Archives Commission, *Texas Remembers: Juneteenth*, <https://www.tsl.texas.gov/ref/abouttx/juneteenth.html>.

³ Baggett, *supra*, note 1.

sporadically, throughout the years. The early Juneteenth celebrations often involved prayer services, inspirational messages, readings of President Lincoln's Emancipation Proclamation, stories told by former slaves, food, and dances. The celebrations in Texas soon spread to neighboring states.⁴

The Emancipation Proclamation, which was issued on January 1, 1863, declared that "all persons held as slaves within any State or designated part of a State . . . in rebellion against the United States, shall be then, thenceforward, and forever free."⁵

The broader Juneteenth celebrations initially served as political rallies and were used to teach African Americans about voting rights.⁶ Unfortunately, during the period of Jim Crow laws, Juneteenth celebrations decreased. However, during the civil rights movement, the Poor People's March in Washington, D.C., was specifically scheduled for June 19, 1968.⁷ The march brought Juneteenth back to the public's attention and the holiday was essentially reborn.⁸

Legislation

Although Juneteenth is recognized in some capacity by most states, it is not a national holiday. In 1980, Texas became the first state to declare Juneteenth a state holiday.⁹ It is estimated that 46 states and the District of Columbia officially recognize Juneteenth as a holiday or day of observance.¹⁰ In 1991, the Florida Legislature designated June 19th of each year as "Juneteenth Day" to commemorate the traditional observance of the day the slaves in Florida were notified of the Emancipation Proclamation.¹¹

Observances and Ceremonies

National and Patriotic Observances and Ceremonies are contained in Title 36 of the United States Code. There are approximately forty-five patriotic and national observances specified by the United States Code, ranging from American Heart Month to Veterans Day.¹² These observances designate a certain day or time period for observation and request that the president issue a proclamation calling for appropriate observance and ceremony.¹³

⁴ Texas State Library and Archives Commission, *supra*, note 2.

⁵ National Archives, Transcript of the Proclamation, January 1, 1863, A Transcription, <https://www.archives.gov/exhibits/featured-documents/emancipation-proclamation/transcript.html>.

⁶ Teresa Palomo Acosta, *Juneteenth*, <https://tshaonline.org/handbook/online/articles/lkj01>.

⁷ Encyclopaedia Britannica, *Poor People's Campaign*, <https://www.britannica.com/topic/Poor-Peoples-March>.

⁸ Stacy Conratt, *12 Things You Might Not Know About Juneteenth*, <https://www.mentalfloss.com/article/501680/12-things-you-might-not-know-about-juneteenth>.

⁹ *Id.*

¹⁰ Doug Criss, CNN, *All But Four US States Celebrate Juneteenth as a Holiday*, (June 19, 2019) <https://www.cnn.com/2019/06/19/us/juneteenth-state-holidays-trnd/index.html>.

¹¹ Ch. 1991-252, s. 1, Laws of Fla. and s. 683.21, F.S.

¹² See 36 U.S.C. ss. 101-145 (2019).

¹³ See, e.g., 36 U.S.C. s 109 Father's Day (2019).

Senate Memorial

A memorial is an official legislative document addressed to Congress, the President of the United States, or some other governmental entity that expresses the will of the Legislature on a matter within the jurisdiction of the recipient. A memorial requires passage by both legislative houses but does not require the Governor's approval nor is it subject to a veto. Memorials often express the Legislature's desire that Congress take action on a certain matter or request that Congress propose an amendment to the United States Constitution.¹⁴

III. Effect of Proposed Changes:

The Senate Memorial urges Congress to recognize June 19, 2020, as "Juneteenth Independence Day." The memorial directs the Secretary of State to dispatch copies to the Majority Leader of the United States Senate, the Speaker of the House of Representatives, and each member of the Florida delegation to the United States Congress.

The memorial recounts that on June 19, 1865, federal authorities arrived in Galveston, Texas, and informed slaves that the Civil War had ended and that enslaved people were free. Following emancipation, former slaves and their descendants commemorated each June 19 as the day that slaves became aware of their emancipation and celebrated their new freedom. The memorial notes that in 1991, Florida officially designated June 19 of each year as "Juneteenth Day" to commemorate the freeing of slaves within the state.

The memorial urges Congress to recognize June 19, 2020, as "Juneteenth Independence Day." Senate Resolution 253, House Resolution 448, and House Resolution 450 have been filed for the 2019-2020 session by members of the Texas Congressional Delegation expressing similar support.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce the counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁴Office of Bill Drafting Services, *Manual for Drafting Legislation*, The Florida Senate, at 137-138. (2009), available at <http://intranet.flsenate.gov/Document?filePath=/Publications%20and%20Forms/Publications/&fileName=Bill%20Drafting%20Manual.pdf>.

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Pizzo

38-01064-20

2020978__

Senate Memorial

A memorial to the Congress of the United States,
urging Congress to recognize June 19, 2020, as
"Juneteenth Independence Day."

WHEREAS, on January 1, 1863, President Abraham Lincoln
issued the Emancipation Proclamation, which ended slavery, and

WHEREAS, despite the issuance of the Emancipation
Proclamation, news of the end of slavery did not travel to
certain regions of the United States for more than 2 years
afterwards, and

WHEREAS, on or about June 19, 1865, federal authorities had
arrived in Galveston, Texas, to inform slaves that the Civil War
had ended and that the enslaved were now free, and

WHEREAS, following emancipation, former slaves and their
descendants continued to commemorate each June 19 in recognizing
the emancipation of all slaves in the United States and
celebrating freedom, and

WHEREAS, in 1991, Florida officially designated June 19 of
each year as "Juneteenth Day" to commemorate the freeing of
slaves within the state, and

WHEREAS, Congress has previously demonstrated strong
bipartisan support in recognizing "Juneteenth Independence Day,"
evidenced by the introduction of Senate Resolution 253, House
Resolution 448, and House Resolution 450 in June 2019, NOW,
THEREFORE,

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

Page 1 of 2

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

38-01064-20

2020978__

That the Congress of the United States is urged to
recognize June 19, 2020, as "Juneteenth Independence Day."

BE IT FURTHER RESOLVED that the Secretary of State dispatch
copies of this memorial to the Majority Leader of the United
States Senate, the Speaker of the House of Representatives, and
each member of the Florida delegation to the United States
Congress.

Page 2 of 2

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The Florida Senate

Committee Agenda Request

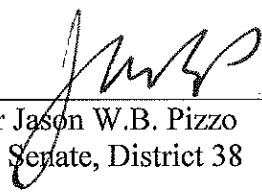
To: Senator David Simmons, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: January 14, 2020

I respectfully request that **SM 978**, relating to Juneteenth Independence Day, be placed on the:

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



Senator Jason W.B. Pizzo
Florida Senate, District 38

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 1262

INTRODUCER: Judiciary Committee and Senator Bracy

SUBJECT: 1920 Ocoee Election Day Riots

DATE: January 23, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Elseesser	Cibula	JU	Fav/CS
2. _____	_____	ACJ	_____
3. _____	_____	AP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 1262 creates the Ocoee Election Day Riots Descendant Compensation Fund Program to compensate descendants of individuals who were killed, injured, or otherwise victimized in the November 1920 Ocoee violence, up to \$150,000 per victim.

The bill also gives qualified businesses in areas affected by the Ocoee riots priority in receiving funds under the Black Business Loan Program.

The bill further directs State officials to take steps to publicize the history of the riots.

II. Present Situation:

The November 1920 Ocoee Violence

“Racial violence in the United States during the early 1900’s was high, with the number of lynchings of African Americans increasing from 38 in 1917 to 58 in 1918.”¹ Before the Presidential election in November 1920, the Ku Klux Klan Grand Master of Florida sent a letter to a politician who had been working to register African-American voters, who tended to vote

¹ Office of Program Policy Analysis and Governmental Accountability, *Ocoee Election Day Violence – November 1920*, Report No. 19-15 at 2 (<http://www.oppga.state.fl.us/MonitorDocs/Reports/pdf/1915rpt.pdf>).

Republican.² In the letter, the Ku Klux Klan Grand Master threatened that, if the politician continued his efforts to register African Americans, “there would be serious trouble.”³

“The 1920 Census reported 255 African-American residents and 560 white residents of Ocoee.”⁴ Mose Norman, an African-American resident who was not allowed to vote in the general election for failure to pay a poll tax, recorded names of others who had not been permitted to vote in his precinct.⁵ After an altercation with either the local constable or a group of white residents, Norman went to the home of July Perry, another African-American resident, before fleeing Ocoee.⁶

“Later in the day, some white Ocoee residents formed a posse and were deputized” by the Orange County Sheriff and were charged with arresting Norman and Perry.⁷ The posse went to Perry’s house, wounding Perry and his 19-year-old daughter, Caretha, with gunfire; Norman had already fled Ocoee.⁸

After retreating and requesting assistance from other areas of Orange County, the posse returned to the house, capturing Caretha Perry therein.⁹ July Perry was captured in a sugarcane patch near his house and taken to a hospital to treat his gunshot wounds, after which he was placed in the custody of the Orange County Sheriff and was lynched, hanged, and shot by a mob.¹⁰

A mob then set fire to all African-American-owned buildings in northern Ocoee, destroying more than 20 houses, two churches, and one fraternal lodge.¹¹ Based on differing reports, between three and 60 African Americans died resulting from the violence on November 2-3, 1920.¹² In the days following this violence, the remaining African-American residents fled Ocoee, leaving their homes and property.¹³

Compensation for Rosewood Massacre

In 1994, the Legislature and Governor approved the compensation of African-American families who suffered real and personal property damage resulting from the Rosewood Massacre in 1923.¹⁴ That act provided that African-American residents of Rosewood who were present and affected by the violence and who evacuated thereafter were eligible for compensation of up to \$150,000.¹⁵ That act appropriated \$1.5 million from the General revenue Fund for the act’s implementation.¹⁶ The act also created the Rosewood Family Scholarship Fund, which awarded

² *Id.*

³ *Id.*

⁴ *Id.* at 3.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 4.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ Ch. 94-359, 1994 Laws of Fla. 3297.

¹⁵ *Id.*

¹⁶ *Id.*

up to \$4,000 for tuition to eligible Florida students, with preference given to direct descendants of Rosewood families.¹⁷

The Black Business Loan Program

Section 288.7102, F.S., requires the Department of Economic Opportunity to disburse funds to eligible black business enterprises that cannot obtain capital through conventional lending institutions. Under that section, the Department must establish an application and annual certification process for entities “seeking funds to participate in providing loans, loan guarantees, or investments in black business enterprises” pursuant to that section.

Section 1003.42(2)(h), F.S.

Section 1003.42(20)(h), F.S., requires members of the instructional staff of Florida public schools to teach about “[t]he history of African Americans, including the history of African peoples before the political conflicts that led to the development of slavery, the passage to America, the enslavement experience, abolition, and the contributions of African Americans to society.”

III. Effect of Proposed Changes:

The bill creates the Ocoee Election Day Riots Descendant Compensation Fund Program to compensate descendants of individuals who were killed, injured, or otherwise victimized in the November 1920 Ocoee violence, up to \$150,000 per victim. If a victim has multiple descendants, the compensation amount is to be prorated among eligible claimants.

The bill describes the requirements of an application for compensation, which include proof of relation to an Ocoee Violence victim and an agreement not to seek a claim bill from the Legislature regarding the violence. The bill requires the Department of Legal Affairs to accept and process these applications.

The bill amends the Black Business Loan Program to state that businesses eligible for funds under that program shall receive priority if they are located in areas directly impacted by the Ocoee violence.

The bill directs the Commissioner of Education’s African American History Task Force to examine ways in which the history of the Ocoee violence can be taught pursuant to s. 1003.42(2)(h), F.S. The bill also directs the Secretary of State to determine ways in which Museum of Florida History and other state museums can propagate the history of the Ocoee violence and to seek such history’s inclusion in the National Museum of African American History and Culture of the Smithsonian Institution. The bill directs the Secretary of Environmental Protection to assess if any State park may be named in recognition of any victim of the Ocoee violence. The bill encourages district school boards to consider naming facilities in recognition of victims of the Ocoee violence.

The bill takes effect July 1, 2020 and is repealed July 1, 2024 unless the trust fund created by SB 1264 is reenacted.

¹⁷ *Id.* at 3298.

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:

The bill authorizes compensation payments of \$150,000 per victim of the Ocoee violence.

C. Government Sector Impact:

The bill authorizes compensation payments of \$150,000 per victim of the Ocoee violence. The Department of Legal Affairs states that the genealogical research required to assess validity of individual claims may require OPS funding or the creation of a position.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends s. 288.7102, F.S.

This bill creates s. 16.63, F.S.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

CS by Judiciary on January 21, 2020:

The Committee Substitute differs from the underlying bill by identifying the bill number for the linked bill creating the trust fund described in SB 1264.

B. Amendments:

None.



202544

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Bracy) recommended the following:

Senate Amendment

Delete line 98
and insert:
Section 1. If SB 1264 or similar legislation establishing

By Senator Bracy

11-01689-20

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1 A bill to be entitled
 2 An act relating to the 1920 Ocoee Election Day Riots;
 3 creating s. 16.63, F.S.; establishing the Ocoee
 4 Election Day Riots Descendant Compensation Fund
 5 Program within the Department of Legal Affairs;
 6 specifying the purpose of the program; requiring the
 7 department to accept and process applications for
 8 payment of claims for compensation; requiring the
 9 department to provide certain notice of the program;
 10 specifying procedures and requirements regarding
 11 applications for compensation; requiring the
 12 department to approve applications for payment if
 13 certain conditions are met, subject to certain
 14 limitations; providing for contingent repeal; amending
 15 s. 288.7102, F.S.; requiring the Department of
 16 Economic Opportunity to prioritize certain
 17 applications for the Black Business Loan Program;
 18 directing the Commissioner of Education's African
 19 American History Task Force to determine ways in which
 20 the 1920 Ocoee Election Day Riots may be included in
 21 required instruction on African-American history;
 22 requiring the task force to submit recommendations to
 23 the commissioner and the State Board of Education by a
 24 specified date; directing the Secretary of State to
 25 take certain action regarding the inclusion of the
 26 history of the 1920 Ocoee Election Day Riots in museum
 27 exhibits; directing the Secretary of Environmental
 28 Protection to assess naming opportunities for state
 29 parks, or a portion of a facility therein, in

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30 recognizing victims of the 1920 Ocoee Election Day
 31 Riots; authorizing the secretary to appoint a
 32 committee to assist in assessing naming opportunities;
 33 requiring the secretary to submit recommendations to
 34 the Legislature under specified circumstances;
 35 encouraging district school boards to assess naming
 36 opportunities for school facilities in recognizing
 37 victims of the 1920 Ocoee Election Day Riots;
 38 providing effective dates.
 39

40 WHEREAS, in the decades following the conclusion of
 41 Reconstruction, Jim Crow laws were enacted throughout the
 42 southern United States, including Florida, which mandated
 43 segregation and imposed numerous restrictions, such as the
 44 imposition of poll taxes and literacy requirements, thereby
 45 suppressing the ability of African Americans to participate in
 46 the democratic process, and

47 WHEREAS, throughout the country, organizations such as the
 48 Ku Klux Klan staged rallies, marches, and other demonstrations
 49 in an effort to intimidate African Americans and any allies from
 50 organizing and attempting to exercise the right to vote, and

51 WHEREAS, as the 1920 presidential election approached,
 52 efforts were undertaken in Orange County by numerous
 53 organizations and individuals, including Judge John M. Cheney
 54 and two prominent African-American residents of Ocoee, Julius
 55 "July" Perry and Moses Norman, to register African-American
 56 voters to allow for their participation in the upcoming
 57 election, and

58 WHEREAS, on November 2, 1920, as several African Americans

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in Ocoee, including Moses Norman, unsuccessfully attempted to vote on Election Day, violence ensued as a mob of approximately 100 white men formed and marched to Julius "July" Perry's residence, and proceeded to open gunfire as Julius "July" Perry attempted to defend himself along with his property and family, and

WHEREAS, after the Perry family eventually fled the residence, Julius "July" Perry was soon arrested and subsequently shot and lynched after the mob gained access to his jail cell with the aid of local law enforcement, and

WHEREAS, the violence spread throughout the African-American community of Ocoee and upwards of 60 people are estimated to have perished while dozens of homes, two churches, and a lodge meeting hall were set ablaze and gunfire overtook the community, and

WHEREAS, in the aftermath of the riots, nearly all African-American residents of the community were forced to flee, abandoning their residences and property and relocating elsewhere, and

WHEREAS, there is no record that state or local government officials took any action to prevent the tragedy that occurred in Ocoee, or reasonably investigated the matter in the riot's aftermath in an effort to bring the perpetrators of the incident to justice or to allow the displaced African-American residents to return to their homes and property, and

WHEREAS, in November 2018, the Ocoee City Commission adopted a proclamation that acknowledged the acts of domestic terror inflicted upon the African-American residents of Ocoee and western Orange County on November 2, 1920, and required the

11-01689-20

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installation of a historical marker in a public space describing the events of that day, and

WHEREAS, the Florida Legislature recognizes an obligation to redress the injuries, damages, infringement of civil rights, and loss of life that African-American residents sustained as a result of the violence and destruction that occurred in Ocoee in November 1920, NOW, THEREFORE,

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

Section 1. If SB ____ or similar legislation establishing the Ocoee Election Day Riots Descendant Compensation Trust Fund is adopted in the 2020 Regular Session or an extension thereof, section 16.63, Florida Statutes, is created to read:

16.63 Ocoee Election Day Riots Descendant Compensation Fund Program.—

(1) The Ocoee Election Day Riots Descendant Compensation Fund Program is established in the Department of Legal Affairs. The purpose of the program is to compensate direct descendants of individuals who were killed, injured, or otherwise victimized by the violence that took place at Ocoee, Florida, on November 2, 1920.

(2) The Department of Legal Affairs shall accept and process applications for payment of claims for compensation pursuant to this section. The department shall provide reasonable notice of the availability of compensation, including through Internet postings on the department's website.

(3) A claim for compensation must be on forms approved by the department and must include all of the following:

11-01689-20

20201262__

(a) The name and contact information of an applicant who is submitting a claim for compensation.

(b) The name of the victim who was killed, injured, or otherwise victimized as a result of the 1920 Ocoee Election Day Riots for whom the applicant is seeking compensation on behalf of.

(c) Reasonable proof establishing the applicant's lineage to an individual who was killed, injured, or otherwise victimized as a result of the 1920 Ocoee Election Day Riots, including, but not limited to, census records.

(d) A statement that the applicant affirms that he or she agrees not to seek a claim bill regarding the underlying incident from the Legislature.

(4) Upon receipt and verification of a valid claim of compensation, the department shall approve such application for payment. The amount of compensation awarded may not exceed \$150,000 per individual who was killed, injured, or otherwise victimized by the violence that took place at Ocoee. If multiple descendants of a single individual apply for compensation on behalf of that individual, the amount of compensation shall be prorated among any eligible claimants. A descendant may not receive compensation for more than one individual.

(5) This section is repealed July 1, 2024, unless the Ocoee Election Day Riots Descendant Compensation Trust Fund established pursuant to s. 16.631 is re-created by such date.

Section 2. Subsection (2) of section 288.7102, Florida Statutes, is amended to read:

288.7102 Black Business Loan Program.—

(2) The department shall establish an application and

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annual certification process for entities seeking funds to participate in providing loans, loan guarantees, or investments in black business enterprises pursuant to the Florida Black Business Investment Act. The department shall process all applications and recertifications submitted by June 1 on or before July 31. The department shall prioritize any applications for black business enterprises in areas directly impacted by the 1920 Ocoee Election Day Riots so long as such entities meet the other requirements established in this section.

Section 3. The Commissioner of Education's African American History Task Force is directed to examine ways in which the history of the 1920 Ocoee Election Day Riots may be included in instruction on African-American history required pursuant to s. 1003.42(2)(h), Florida Statutes. The task force shall submit its recommendations to the Commissioner of Education and the State Board of Education by March 1, 2021.

Section 4. The Secretary of State is directed to:

(1) In coordination with the Division of Cultural Affairs of the Department of State, determine ways in which the Museum of Florida History and other state museums may promote the history of the 1920 Ocoee Election Day Riots through exhibits and educational programs.

(2) Collaborate with the National Museum of African American History and Culture of the Smithsonian Institution to seek inclusion of the history of the 1920 Ocoee Election Day Riots in the museum's exhibits.

Section 5. The Secretary of Environmental Protection is directed to assess if any state park, or a portion of or a facility therein, may be named in recognition of any victim of

11-01689-20

20201262

175 the 1920 Ocoee Election Day Riots. The secretary may appoint a
176 committee to assess naming opportunities. If a change to state
177 law is required in order to change the designation of a state
178 park, or a portion of or a facility therein, the secretary shall
179 submit any such recommendation to the President of the Senate
180 and the Speaker of the House of Representatives.

181 Section 6. District school boards are encouraged to assess
182 naming opportunities for school facilities in recognition of
183 victims of the 1920 Ocoee Election Day Riots.

184 Section 7. Except as otherwise expressly provided in this
185 act, this act shall take effect July 1, 2020.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Criminal and
Civil Justice, *Vice Chair*
Criminal Justice
Finance and Tax
Innovation, Industry, and Technology

SENATOR RANDOLPH BRACY

11th District

January 8, 2020

The Honorable David Simmons
Chairman, Committee on Judiciary
515 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Simmons:

I write to respectfully request that the following bills be placed on the agenda of the Judiciary Committee.

- SB 1262, 1920 Ocoee Election Day Riots: Establishes the Ocoee Election Day Riots Descendant Compensation Fund Program within the Department of Legal Affairs. It requires the department to accept and process applications for payment of claims for compensation.
- SB 1264, Ocoee Election Day Riots Descendant Compensation Trust Fund/Department of Legal Affairs: This bill creates the Ocoee Election Riots Compensation Trust Fund within the Department of Legal Affairs. It also specifies the purpose and funding source of the trust fund.

Your consideration is greatly appreciated. Please do not hesitate to let me know if you have any questions or concerns regarding the agenda request.

Sincerely,

A handwritten signature in dark ink, appearing to read "Randolph Bracy".

Senator Randolph Bracy

REPLY TO:

- ☐ 6965 Piazza Grande Avenue, Suite 211, Orlando, Florida 32835 (407) 297-2045 FAX: (888) 263-3814
- ☐ 213 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5011

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

January 21, 2020

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

SB1262 & ~~SB1264~~

Meeting Date

Bill Number (if applicable)

Topic Ocoee Election Day Riots Trust Fund

Amendment Barcode (if applicable)

Name Seber Newsome III

Job Title Retired

Address 86110 Fieldstone Drive

Phone 9042255591

Street
Yulee

Florida

32097

Email seberiii@comcast.net

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Myself

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
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 1264

INTRODUCER: Judiciary Committee and Senator Bracy

SUBJECT: Ocoee Election Day Riots Descendant Compensation Trust Fund/Department of Legal Affairs

DATE: January 23, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Elsesser</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
2.	<u> </u>	<u> </u>	<u>ACJ</u>	<u> </u>
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1264 creates the Ocoee Election Day Riots Descendant Compensation Trust Fund, a depository for funds to be used in the Ocoee Election Day Riots Descendant Compensation Fund Program described in SB 1262.

II. Present Situation:

Constitutional and statutory requirements for trust funds

A trust fund consists of monies received by the State which, under law or a trust agreement, are set aside for a purpose authorized by law. Article III, section 19(f) of the Florida Constitution prohibits the creation of a trust fund by law without a three-fifths vote by each legislative house, in a separate bill for the trust fund only.

Additionally, the Legislature has established criteria governing trust funds. Section 215.3207, F.S., requires that statutory language creating a trust fund specify:

- The name of the trust fund.
- The agency or branch of state government responsible for administering the trust fund.
- The requirements or purposes that the trust fund is established to meet.
- The sources of monies to be credited to the trust fund or specific sources of receipts to be deposited in the trust fund.

Article III, section 19(2)(f) of the Florida Constitution requires that trust funds terminate no more than 4 years after the effective date of the act authorizing their creation.

III. Effect of Proposed Changes:

The bill creates the Ocoee Election Day Riots Descendant Compensation Trust Fund within the Department of Legal Affairs. The trust fund is a depository for funds to be used in the Ocoee Election Day Riots Descendant Compensation Fund Program described in SB 1262. The bill requires the Department of Legal Affairs to administer the trust fund.

The bill states that any balance remaining in the trust fund at the end of any fiscal year shall remain in the trust fund. The bill states that the trust fund shall be terminate July 1, 2024, if not sooner.

The bill takes effect on the date that SB 1262 takes effect, which is July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

This bill must be approved by a three-fifths vote of each house of the Legislature.

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 16.631, 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 January 21, 2020:

The Committee Substitute differs from the underlying bill by removing language specifying an appropriations amount.

- B. Amendments:

None.



300816

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Bracy) recommended the following:

Senate Amendment (with title amendment)

Delete lines 37 - 42
and insert:

Section 3. This act shall take effect on the same date that
SB 1262 or similar legislation takes effect, if such legislation

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

And the title is amended as follows:

Delete line 10
and insert:



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12 fund; providing a



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Criminal and
Civil Justice, *Vice Chair*
Criminal Justice
Finance and Tax
Innovation, Industry, and Technology

SENATOR RANDOLPH BRACY

11th District

January 8, 2020

The Honorable David Simmons
Chairman, Committee on Judiciary
515 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Simmons:

I write to respectfully request that the following bills be placed on the agenda of the Judiciary Committee.

- SB 1262, 1920 Ocoee Election Day Riots: Establishes the Ocoee Election Day Riots Descendant Compensation Fund Program within the Department of Legal Affairs. It requires the department to accept and process applications for payment of claims for compensation.
- SB 1264, Ocoee Election Day Riots Descendant Compensation Trust Fund/Department of Legal Affairs: This bill creates the Ocoee Election Riots Compensation Trust Fund within the Department of Legal Affairs. It also specifies the purpose and funding source of the trust fund.

Your consideration is greatly appreciated. Please do not hesitate to let me know if you have any questions or concerns regarding the agenda request.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. Bracy", written over a light-colored background.

Senator Randolph Bracy

REPLY TO:

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Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

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 1302

INTRODUCER: Judiciary Committee and Senator Flores

SUBJECT: Sovereign Immunity

DATE: January 23, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Elsesser	Cibula	JU	Fav/CS
2. _____	_____	CA	_____
3. _____	_____	AP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1302 increases the per-occurrence limit on the collectability of judgments against government entities from \$300,000 to \$500,000 and eliminates the \$200,000-per-claimant limit. These new limits will apply to lawsuits that have not been adjudicated before the effective date of the bill.

The bill further allows government entities to settle claims in any amount without the approval of a claim bill by the Legislature. In contrast, current law allows government entities to settle and pay amounts exceeding the sovereign immunity caps only to the extent of insurance coverage. Otherwise, current law requires that the payment of the portion of a claim or judgment exceeding the sovereign immunity caps be approved by the Legislature in a claim bill.

II. Present Situation:

Sovereign immunity is a principle under which a government cannot be sued without its consent.¹ Article X, s. 13 of the Florida Constitution allows the Legislature to waive this immunity. In accordance with article X, s. 13 of the Florida Constitution, s. 768.28(1), F.S., allows for suits in tort against the State and its agencies and subdivisions for damages resulting from the negligence of government employees acting in the scope of employment. This liability exists only where a private person would be liable for the same conduct. Section 768.28 applies

¹ *Sovereign immunity*, Legal Information Institute (available at https://www.law.cornell.edu/wex/sovereign_immunity).

only to “injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the agency or subdivision while acting within the scope of the employee’s office or employment”²

Section 768.28(5), F.S., caps tort recovery from a governmental entity at \$200,000 per person and \$300,000 per accident.³ “Although an ‘excess’ judgment may be entered, the statutory caps make it impossible, absent a special claim bill passed by the legislature, for a claimant to collect more than the caps provide.”⁴

Individual government employees, officers, or agents are immune from suit or liability for damages caused by any action taken in the scope of employment, unless the damages result from the employee’s acting in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard for human rights, safety, or property.⁵ A government entity is not liable for any damages resulting from actions by an employee outside the scope of his or her employment, and is not liable for damages resulting from actions committed by the employee in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard for human rights, safety, or property.⁶

The phrase “bad faith,” as used in s. 768.28(9)(a), has been “equated with the actual malice standard.”⁷ The phrase “malicious purpose,” as used in s. 768.28(9)(a), has been interpreted as meaning the conduct was committed with “ill will, hatred, spite, [or] an evil intent.”⁸ The phrase “wanton and willful disregard of human rights [or] safety,” as used in s. 768.28(9)(a), F.S. has been interpreted as “conduct much more reprehensible and unacceptable than mere intentional conduct,” and “conduct that is worse than gross negligence.”⁹ While case law describes what “wanton and willful disregard of human rights [or] safety” is ‘more than’ or ‘worse than,’ neither of those references, nor any other case ... have interpreted what ‘wanton and willful disregard of human rights [or] safety’ *actually means* as used in section 768.28(9)(a).¹⁰ However, according to the Florida Standard Jury Instructions, “wanton” means “with a conscious and intentional indifference to consequences and with the knowledge that damage is likely to be done to persons or property” and willful means “intentionally, knowingly and purposely.”¹¹

A law enforcement agency may be liable for injury, death, or property damage by a person fleeing one of its law enforcement officers if the pursuit involves conduct by the officer so reckless as to constitute disregard for human rights, the officer did not initiate pursuit under the

² *City of Pembroke Pines v. Corrections Corp. of America, Inc.*, 274 So. 3d 1105, 1112 (Fla. 4th DCA 2019) (quoting s. 768.28(1), F.S.).

³ Section 768.28(5), F.S.

⁴ *Breaux v. City of Miami Beach*, 899 So. 2d 1059 (Fla.2005).

⁵ Section 768.28(9)(a), F.S.

⁶ *Id.*

⁷ *Peterson v. Pollack*, 2019 WL 6884887 (Fla. 4th DCA December 18, 2019) (quoting *Parker v. State of Fla. Bd. of Regents ex rel. Fla. State Univ.*, 724 So. 2d 163, 167 (Fla. 1st DCA 1998) (citation omitted)).

⁸ *Id.* (quoting *Eiras v. Florida*, 239 F. Supp. 3d 1331, 1343 (M.D. Fla. 2017)).

⁹ *Id.* (quoting *Richardson v. City of Pompano Beach*, 511 So. 2d 1121, 1123 (Fla. 4th DCA 1987); *Sierra v. Associated Marine Insts., Inc.*, 850 So. 2d 582, 593 (Fla. 2d DCA 2003)).

¹⁰ *Id.*

¹¹ *Id.* (citing Fla. Std. Jury Instr. (Crim.) 7.9 (Vehicular or Vessel Homicide); Fla. Std. Jury Instr. (Crim.) 28.5 (Reckless Driving); Fla. Std. Jury Instr. (Crim.) 28.19 (Reckless Operation of a Vessel)).

reasonable belief that the felling person had committed a forcible felony, and the pursuit was not conducted pursuant to a written policy.¹² While s. 768.28(9)(a), F.S., grants individual state officers immunity from judgment *and* suit (“qualified immunity”) in certain cases, s. 768.28(9)(d), F.S., only grants employing agencies immunity from judgment.¹³

Damages

The caps in s. 768.28(5), F.S., apply to “all of the elements of the monetary award to a plaintiff against a sovereignly immune entity.”¹⁴ In other words, a plaintiff’s entire recovery, including damages, back pay, attorney fees, and any other costs, are limited by the caps in s. 768.28, F.S.

“Generally speaking, damages are of two kinds, compensatory and punitive.”¹⁵ “Actual damages are compensatory damages.”¹⁶ “Compensatory damages are awarded as compensation for the loss sustained to make the party whole so far as that is possible.”¹⁷ “They arise from actual and indirect pecuniary loss.”¹⁸ Section 768.28, F.S., does not allow for the recovery of punitive damages, and, as such, only allows recovery for compensatory damages.

Claim Bills

A plaintiff may recover an amount in excess of the caps described in s. 768.28(5), F.S., by way of a claim bill. “A claim bill is not an action at law, but rather is a legislative measure that directs the Chief Financial Officer of Florida, or if appropriate, a unit of local government, to pay a specific sum of money to a claimant to satisfy an equitable or moral obligation.”¹⁹ Such obligations typically arise from the negligence of officers or employees of the State or a local governmental agency.²⁰ Legislative claim bills are used either after procurement of a judgment in an action at law or as a mechanism to avoid an action at law altogether.²¹ The amount awarded is based on the Legislature’s concept of fair treatment of a person who has been injured or damaged but who is without a complete judicial remedy or who is not otherwise compensable.²² “Unlike civil judgments, private relief acts are not obtainable by right upon the claimant’s proof of his entitlement. Private relief acts are granted strictly as a matter of legislative grace.”²³

Once a legislative claim bill is formally introduced, a special master conducts quasi-judicial a hearing.²⁴ “This hearing may at times resemble a trial during which the claimant offers testimony as well as documentary and physical evidence necessary to establish the claim. Trial records may be substituted for witness testimony. Witnesses who testify are sworn and subject to cross

¹² Section 768.28(9)(d), F.S.

¹³ *Ross v. City of Jacksonville*, 274 So. 3d 1180, 1186 (Fla. 1st DCA 2019).

¹⁴ *Gallagher v. Manatee Cty.*, 927 So. 2d 914, 918 (Fla. 2d DCA 2006).

¹⁵ 22 Am.Jur.2d § 1 at 13 (1965).

¹⁶ *United States v. State Road Department of Florida*, 189 F.2d 591 (5th Cir.1951), *cert. denied*, 342 U.S. 903 (1952).

¹⁷ *Fisher v. City of Miami*, 172 So. 2d 455 (Fla. 1965).

¹⁸ *Margaret Ann Supermarkets, Inc. v. Dent*, 64 So.2d 291 (Fla. 1953).

¹⁹ *Wagner v. Orange Cty.*, 960 So. 2d 785, 788 (Fla. 5th DCA 2007)

²⁰ *Id.*

²¹ *City of Miami v. Valdez*, 847 So. 2d 1005 (Fla. 3d DCA 2003).

²² *Wagner*, 960 So. 2d at 788 (citing Kahn, Legislative Claim Bills, Fla. B. Journal (April 1988)).

²³ *United Servs. Auto. Ass’n v. Phillips*, 740 So. 2d 1205, 1209 (Fla. 2d DCA 1999).

²⁴ *Wagner*, 960 So. 2d at 788 (citing Kahn, at 26).

examination.”²⁵ A responding agency may present a defense to contest the claim, and the special master must then prepare a report with an advisory recommendation to the Legislature.²⁶

The beneficiary of a claim bill recovers by virtue of its enactment, regardless of whether the governmental tortfeasor purchased liability insurance for the purpose of paying an excess judgment.²⁷ However, where the governmental tortfeasor has liability insurance in excess of the statutory cap, and the claimant receives compensation in excess of that statutory cap through a claim bill, the claim bill is paid with funds of the insured, not general revenue.²⁸

A government entity may, without a claim bill, settle claim against it for an amount in excess of the caps in s. 768.28, F.S., if that amount is within the limits of insurance coverage.²⁹

Workers’ Compensation

When an employer is a governmental entity, a “co-employee” tortfeasor is immune from personal liability for torts under s. 768.28(9)(a), F.S. “Under this provision, any negligence claim arising under the unrelated works exception against a public employee must be brought against the governmental entity employer.”³⁰ In the case of a private employer, if the “unrelated works” exception is found to apply, the employee can make common law tort claims against the employer directly based upon the doctrine of *respondeat superior* if the tortfeasor-employee is acting within the scope of employment.³¹

Other Jurisdictions

At least twenty-seven other state legislatures have placed monetary caps on recovery from actions in tort against their states:

- Colorado: \$350,000 for one person in a single occurrence, and \$990,000 for two or more people in a single occurrence, limited to \$350,000 per person.³²
- Georgia: \$1 million for one person in a single occurrence, and \$3 million per occurrence.³³
- Idaho: \$500,000 per occurrence, regardless of the number of people, unless the government is insured above the limit.³⁴
- Illinois: \$2,000,000.³⁵
- Indiana: \$700,000 per person and \$5 million per occurrence.³⁶
- Kansas: \$500,000 per occurrence.³⁷

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Servs. Auto Ass’n v. Phillips*, 740 So. 2d 1205 (Fla. 2d DCA 1999).

²⁸ *Fla. Mun. Ins. Trust v. Village of Golf*, 850 So. 2d 544 (Fla. 4th DCA 2003).

²⁹ *Michigan Millers Mut. Ins. Co. v. Burke*, 607 So. 2d 418, 421-22 (Fla. 1992); Section 768.28(5), F.S.

³⁰ *Aravena v. Miami-Dade Cty.*, 928 So. 2d 1163, 1168 (Fla. 2006).

³¹ *Holmes County School Bd. v. Duffell*, 651 So. 2d 1176, 1179 (Fla.1995) (Anstead, J., concurring).

³² Colo. Rev. Stat. §24-10-114.

³³ Ga. Code §50-21-29(a)-(b)(1).

³⁴ Idaho Code §6-926.

³⁵ Ill. Ann. Stat. ch. 705, §505/8.

³⁶ Ind. Code §34-13-3-4.

³⁷ Kan. Stat. Ann. §75-6105.

- Louisiana: \$500,000 per occurrence.³⁸
- Maine: \$400,000 per occurrence.³⁹
- Maryland: \$400,000 per person per occurrence.⁴⁰
- Massachusetts: \$100,000.⁴¹
- Minnesota: \$500,000 per person and \$1,500,000 per occurrence.⁴²
- Mississippi: \$500,000 per occurrence.⁴³
- Missouri: \$300,000 per person and \$2 million per occurrence.⁴⁴
- Montana: \$750,000 per claim and \$1.5 million per occurrence.⁴⁵
- New Hampshire: \$475,000 per claimant and \$3.75 million per occurrence.⁴⁶
- New Mexico: \$200,000 per claim of property damage, \$300,000 per claim of medical expenses, \$400,000 for claims other than property damages or medical expenses. All limited to \$750,000 per occurrence.⁴⁷
- North Carolina: \$1 million per occurrence.⁴⁸
- North Dakota: \$250,000 per person and \$1 million per occurrence.⁴⁹
- Oklahoma: \$125,000 per person and \$1 million per occurrence.⁵⁰
- Pennsylvania: \$250,000 per person and \$1 million per occurrence.⁵¹
- Rhode Island: \$100,000.⁵²
- South Carolina: \$300,000 per person or \$600,000 per occurrence.⁵³
- Tennessee: \$300,000 per person or \$1 million per occurrence.⁵⁴
- Texas: \$250,000 per person and \$500,000 per occurrence (\$100,000 per claim of destruction of personal property).
- Utah: \$233,600 for property damage and \$583,900 for personal injury person and \$3 million per occurrence.⁵⁵
- Vermont: \$500,000 per person a \$2 million per occurrence.⁵⁶
- Virginia: \$100,000.⁵⁷

³⁸ La. Rev. Stat. Ann. §13:5106.

³⁹ Me. Rev. Stat. Ann. tit. 14, §8105.

⁴⁰ Md. State Government Code Ann. §12-104(a)(2).

⁴¹ Mass. Gen. Laws Ann. ch. 258, §2.

⁴² Minn. Stat. Ann. §3.736(4).

⁴³ Miss. Code Ann. 11-46-15.

⁴⁴ Mo. Ann. Stat. §537.610.

⁴⁵ Mont. Code. Ann. §2-9-108

⁴⁶ N.H. Rev. Stat. Ann. §541-B:14.

⁴⁷ N.M. Stat. Ann. §41-4-19

⁴⁸ N.C. Gen. Stat. §143-299.2.

⁴⁹ N.D. Cent. Code S32-12.2-02.

⁵⁰ Okla. Stat. tit. 51, §154.

⁵¹ Pa. Cons. Stat. Ann. Tit. 42, §8528.

⁵² R.I. Gen. Laws §9-31-2.

⁵³ S.C. Code Ann. §15-78-12.

⁵⁴ Tenn. Code Ann. §9-8-307.

⁵⁵ Utah Code. Ann. §63G-7-604.

⁵⁶ Vt. Stat. Ann. tit. 12, §5601.

⁵⁷ Va. Code §8.01-195.3.

III. Effect of Proposed Changes:

The bill increases the cap on the collectability of damages against the state and its agencies and subdivisions for torts to \$500,000 per occurrence and eliminates the per-person cap.

The bill allows a government entity to settle a claim against it in excess of the \$500,000 cap on the collectability of damages without a claim bill. Under current law, amounts exceeding the sovereign immunity caps may be paid without the approval of the Legislature only from the proceeds of insurance. The bill also states that the payment of claims from a government entity's liability insurance may not be conditioned on a claim bill. This proscribes contractual bars to recovery that have been used at least on occasion.⁵⁸

The bill states that the sovereign immunity caps in s. 768.28, F.S., shall be adjusted on July 1 of each year beginning in 2021 to "reflect changes" in the Consumer Price Index. To be clearer the Legislature may wish to revise the language to state that the caps shall be adjusted upward or downward using the percentage change in the Consumer Price Index.⁵⁹ The caps in place at the time of entry of a final judgment apply to a claim.

The bill takes effect October 1, 2020.

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:

Article I, s. 10 of the Florida Constitution prohibits laws that impair the obligations of existing contracts.⁶⁰ Because the bill bars insurance conditioned on the payment of a

⁵⁸ See *Martin v. Nation Union Fire Ins. Co. of Pittsburgh, Pa.*, 616 So. 2d 1143, 1144 (Fla. 4th DCA 1993) ("The trial court found a legislative claims bill was a condition precedent to any further recovery by the Martins, and dismissed their suit with prejudice").

⁵⁹ See *Coastal Fuels Marketing, Inc. v. Leasco Investments*, 662 So. 2d 375, 376 (Fla. 5th DCA 1995) (citing to leasing agreement containing an adjustment based on changes in the Consumer Price Index).

⁶⁰ *Searcy, Denney, Scarola, Barnhart & Shipley, etc. v. State*, 209 So. 3d 1181, 1190 (Fla. 2017).

claim bill, the Legislature should specify that this provision applies to insurance contracts entered into or renewed on or after the effective date of the bill.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may enable more individuals who have tort claims against the state or one of its agencies or subdivisions to receive larger payments without the need to pursue a claim bill. The ability to collect larger settlements or judgments against government entities may also serve as an incentive for private attorneys to represent claimants in these matters. However, the bill may reduce government services to the public in proportion to additional amounts paid to satisfy tort claims.

C. Government Sector Impact:

By increasing the sovereign immunity cap and allowing the settlement and payment of claims exceeding the cap without the necessity of a claim bill, the bill increases the possibility that the state and its agencies and subdivisions will spend more of their resources to satisfy tort claims. The provision of larger payments in satisfaction of tort claims, however, may also reduce the demand for other government services that would have otherwise been necessary for the claimants.

The bill states that the “limitations of liability in effect on the date of a final judgment is entered apply to the claim.” As a result, the increased limits on liability exposure will apply to causes of action that have accrued before the effective date of the bill. Accordingly, the Legislature may wish to provide that the increased limits of the sovereign immunity caps apply only to causes of action accruing on or after the effective date of the bill.

Though the bill may reduce the workload of the Legislature by reducing the number of claim bills filed the bill may reduce the oversight of claims against government entities provided by the legislative process.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 768.28, 29.0081, 39.8297, 163.01, 252.36, 260.0125, 288.9625, 316.6146, 321.24, 324.022, 381.0056, 403.0862, 456.048, 458.320, 459.0085, 589.19, 616.242, 624.461, 624.462, 627.733, 760.11, 766.1115, 766.118, 768.1315, 768.135, 944.713, 984.09, 985.037, 1002.55, 1002.88, 1004.41, 1004.43, 1004.447, 1006.261, 45.061, 110.504, 111.071, 190.043, 213.015, 284.31, 284.38, 337.19, 341.302, 373.1395, 375.251, 393.075, 403.706, 409.993, 455.221, 455.32, 456.009, 472.006, 497.167, 548.046, 556.106, 768.295, 946.5026, 946.514, 961.06, 1002.33, 1002.333, 1002.34, 1002.77, and 1002.83.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

CS by Judiciary on January 21, 2020:

The Committee Substitute differs from the underlying bill by:

- Lowering the proposed increases in the per-occurrence liability cap to \$500,000 from \$1 million
- No longer expanding the liability of a government entity for damages resulting from the actions of a state employee acting in bad faith, with a malicious purpose, or in a manner exhibiting wanton and willful disregard for human rights (the underlying bill stated that the state would be liable for these damages in excess of the statutory caps).

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Flores) recommended the following:

Senate Amendment (with title amendment)

Delete lines 51 - 130
and insert:

(6)~~(5)~~ The state and its agencies and subdivisions shall be liable for tort claims in the same manner and to the same extent as a private individual under like circumstances, but liability shall not include punitive damages or interest for the period before judgment. Neither the state nor its agencies or subdivisions shall be liable to pay ~~a claim or a judgment by any one person which exceeds the sum of \$200,000 or any claim or~~



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judgment, or portions thereof, which, when totaled with all other claims or judgments paid by the state or its agencies or subdivisions arising out of the same incident or occurrence, exceeds the sum of \$500,000 ~~\$300,000~~. However, a judgment or judgments may be claimed and rendered in excess of this amount ~~these amounts and may be settled~~ and paid pursuant to this act up to \$500,000 ~~\$200,000 or \$300,000, as the case may be;~~ and that portion of the judgment that exceeds this amount ~~these amounts~~ may be reported to the Legislature, but may be paid in part or in whole only by further act of the Legislature.

Notwithstanding the limited waiver of sovereign immunity provided herein, the state or an agency or subdivision thereof may agree, ~~within the limits of insurance coverage provided,~~ to settle a claim made or a judgment rendered against it in excess of \$500,000 without further action by the Legislature., ~~but~~ The state or agency or subdivision thereof may ~~shall~~ not be deemed to have waived any defense of sovereign immunity or to have increased the limits of its liability as a result of its obtaining insurance coverage for tortious acts in excess of the \$500,000 ~~\$200,000 or \$300,000~~ waiver provided above. The limitations of liability set forth in this subsection shall apply to the state and its agencies and subdivisions whether or not the state or its agencies or subdivisions possessed sovereign immunity before July 1, 1974.

Beginning July 1, 2021, and every July 1 thereafter, the limitations of liability in this subsection shall be adjusted to reflect changes in the Consumer Price Index for the Southeast or a successor index as calculated by the United States Department



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of Labor. When determining liability limits for a claim, the limitations of liability in effect on the date a final judgment is entered apply to the claim.

(10)~~(9)~~(a) No officer, employee, or agent of the state or of any of its subdivisions shall be held personally liable in tort or named as a party defendant in any action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or function, unless such officer, employee, or agent acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. However, such officer, employee, or agent shall be considered an adverse witness in a tort action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or function. The exclusive remedy for injury or damage suffered as a result of an act, event, or omission of an officer, employee, or agent of the state or any of its subdivisions or constitutional officers shall be by action against the governmental entity, or the head of such entity in her or his official capacity, or the constitutional officer of which the officer, employee, or agent is an employee, unless such act or omission was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. The state or its subdivisions shall not be liable in tort for the acts or omissions of an officer, employee, or agent committed while acting outside the course and scope of her or his employment or committed in



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

And the title is amended as follows:

Delete lines 3 - 19

and insert:

768.28, F.S.; providing a short title; increasing the
statutory limits on liability for tort claims against
the state and its agencies and subdivisions;
conforming provisions to changes made by the act;
revising when a state and its agencies and
subdivisions may agree to settle a claim or judgment
without further action from the Legislature; requiring
that the limitations on tort liability be adjusted
every year after a specified date; specifying that the
limitations in effect on the date a final judgment is
entered apply to that judgment; prohibiting an
insurance policy from

By Senator Flores

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1 A bill to be entitled
 2 An act relating to sovereign immunity; amending s.
 3 768.28, F.S.; providing a short title; providing an
 4 exception to certain liability for the state and its
 5 agencies and subdivisions; increasing the statutory
 6 limits on liability for tort claims against the state
 7 and its agencies and subdivisions; conforming
 8 provisions to changes made by the act; revising when a
 9 state and its agencies and subdivisions may agree to
 10 settle a claim or judgment without further action from
 11 the Legislature; requiring that the limitations on
 12 tort liability be adjusted every year after a
 13 specified date; specifying that the limitations in
 14 effect on the date a final judgment is entered apply
 15 to that judgment; requiring certain final judgment
 16 amounts to be paid without further action by the
 17 Legislature; providing liability for claims arising as
 18 a result of certain acts or omissions by certain
 19 persons; prohibiting an insurance policy from
 20 conditioning the payment of benefits on the enactment
 21 of claims bills; amending ss. 29.0081, 39.8297,
 22 163.01, 252.36, 260.0125, 288.9625, 316.6146, 321.24,
 23 324.022, 381.0056, 403.0862, 456.048, 458.320,
 24 459.0085, 589.19, 616.242, 624.461, 624.462, 627.733,
 25 760.11, 766.1115, 766.118, 768.1315, 768.135, 944.713,
 26 984.09, 985.037, 1002.55, 1002.88, 1004.41, 1004.43,
 27 1004.447, and 1006.261, F.S.; conforming cross-
 28 references; reenacting ss. 45.061, 110.504, 111.071,
 29 163.01(15)(k), 190.043, 213.015, 284.31, 284.38,

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

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30 337.19, 341.302, 373.1395, 375.251, 393.075, 403.706,
 31 409.993, 455.221, 455.32, 456.009, 472.006, 497.167,
 32 548.046, 556.106, 768.295, 946.5026, 946.514, 961.06,
 33 1002.33, 1002.333, 1002.34, 1002.77, and 1002.83,
 34 F.S., to incorporate the amendment made to s. 768.28,
 35 F.S.; providing an effective date.
 36

37 Be It Enacted by the Legislature of the State of Florida:
 38

39 Section 1. Present subsections (1) through (20) of section
 40 768.28, Florida Statutes, are redesignated as subsections (2)
 41 through (21), respectively, a new subsection (1) is added to
 42 that section, and present subsection (5), paragraphs (a) and (b)
 43 of present subsection (9), and paragraph (a) of present
 44 subsection (16) of that section are amended, to read:

45 768.28 Florida Fair Claims Act; waiver of sovereign
 46 immunity in tort actions; recovery limits; limitation on
 47 attorney fees; statute of limitations; exclusions;
 48 indemnification; risk management programs.—

49 (1) This section may be cited as the "Florida Fair Claims
 50 Act."

51 (6)(a)~~(5)~~ The state and its agencies and subdivisions shall
 52 be liable for tort claims in the same manner and to the same
 53 extent as a private individual under like circumstances, but
 54 liability shall not include punitive damages or interest for the
 55 period before judgment. Except as specified in paragraph (b),
 56 neither the state nor its agencies or subdivisions shall be
 57 liable to pay ~~a claim or a judgment by any one person which~~
 58 ~~exceeds the sum of \$200,000 or~~ any claim or judgment, or

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portions thereof, which, when totaled with all other claims or judgments paid by the state or its agencies or subdivisions arising out of the same incident or occurrence, exceeds the sum of ~~\$1 million \$300,000~~. However, a judgment or judgments may be claimed and rendered in excess of this amount ~~these amounts and may be settled~~ and paid pursuant to this act up to \$1 million ~~\$200,000 or \$300,000, as the case may be~~; and that portion of the judgment that exceeds this amount ~~these amounts~~ may be reported to the Legislature, but may be paid in part or in whole only by further act of the Legislature. Notwithstanding the limited waiver of sovereign immunity provided herein, the state or an agency or subdivision thereof may agree, ~~within the limits of insurance coverage provided~~, to settle a claim made or a judgment rendered against it in excess of \$1 million without further action by the Legislature, ~~but~~ The state or agency or subdivision thereof may ~~shall~~ not be deemed to have waived any defense of sovereign immunity or to have increased the limits of its liability as a result of its obtaining insurance coverage for tortious acts in excess of the \$1 million ~~\$200,000 or \$300,000~~ waiver provided above. The limitations of liability set forth in this subsection shall apply to the state and its agencies and subdivisions whether or not the state or its agencies or subdivisions possessed sovereign immunity before July 1, 1974.

Beginning July 1, 2021, and every July 1 thereafter, the limitations of liability in this paragraph shall be adjusted to reflect changes in the Consumer Price Index for the Southeast or a successor index as calculated by the United States Department

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of Labor. When determining liability limits for a claim, the limitations of liability in effect on the date a final judgment is entered apply to the claim.

(b) The state and its agencies and subdivisions shall be liable to pay the final judgment amount for compensatory damages for claims in which an officer, employee, or agent of the state or its subdivisions, in the scope of her or his employment or function, committed the act in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. The limits in effect on the date a final judgment is entered apply to the judgment. The final judgment amount for compensatory damages for such claims shall be paid without further action by the Legislature.

(10)(9) (a) No officer, employee, or agent of the state or of any of its subdivisions shall be held personally liable in tort or named as a party defendant in any action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or function, unless such officer, employee, or agent acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. However, such officer, employee, or agent shall be considered an adverse witness in a tort action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or function. The exclusive remedy for injury or damage suffered as a result of an act, event, or omission of an officer, employee, or agent of the state or any of its subdivisions or constitutional officers shall be by action against the governmental entity, or the head of such

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entity in her or his official capacity, or the constitutional officer of which the officer, employee, or agent is an employee, unless such act or omission was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. The state or its subdivisions shall not be liable in tort for the acts or omissions of an officer, employee, or agent committed while acting outside the course and scope of her or his employment. However, the state or its subdivision shall be liable for compensatory damages pursuant to paragraph (6)(b) and the employee, officer, or agent of the state or its subdivision shall be liable for all damages for any injury or damage suffered as a result of any act or omission that the person, in the scope of her or his employment or function, ~~or~~ committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

(b) As used in this subsection, the term:

1. "Employee" includes any volunteer firefighter.

2. "Officer, employee, or agent" includes, but is not limited to, any health care provider when providing services pursuant to s. 766.1115; any nonprofit independent college or university located and chartered in this state which owns or operates an accredited medical school, and its employees or agents, when providing patient services pursuant to paragraph (11)(f) ~~(10)(f)~~; and any public defender or her or his employee or agent, including, among others, an assistant public defender and an investigator.

(17)(16) (a) The state and its agencies and subdivisions are

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authorized to be self-insured, to enter into risk management programs, or to purchase liability insurance for whatever coverage they may choose, or to have any combination thereof, in anticipation of any claim, judgment, and claims bill which they may be liable to pay pursuant to this section. Agencies or subdivisions, and sheriffs, that are subject to homogeneous risks may purchase insurance jointly or may join together as self-insurers to provide other means of protection against tort claims, any charter provisions or laws to the contrary notwithstanding. An insurance policy may not condition the payment of benefits, in whole or in part, on the enactment of claims bills.

Section 2. Paragraph (b) of subsection (2) of section 29.0081, Florida Statutes, is amended to read:

29.0081 County funding of additional court personnel.—

(2) The agreement shall, at a minimum, provide that:

(b) The personnel whose employment is funded under the agreement are hired, supervised, managed, and fired by personnel of the judicial circuit. The county shall be considered the employer for purposes of s. 440.10 and chapter 443. Employees funded by the county under this section and other county employees may be aggregated for purposes of a flexible benefits plan pursuant to s. 125 of the Internal Revenue Code of 1986. The judicial circuit shall supervise the personnel whose employment is funded under the agreement; be responsible for compliance with all requirements of federal and state employment laws, including, but not limited to, Title VII of the Civil Rights Act of 1964, Title I of the Americans with Disabilities Act, 42 U.S.C. s. 1983, the Family Medical Leave Act, the Fair

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Labor Standards Act, chapters 447 and 760, and ss. 112.3187, 440.105, and 440.205; and fully indemnify the county from any liability under such laws, as authorized by s. 768.28(20) ~~s. 768.28(19)~~, to the extent such liability is the result of the acts or omissions of the judicial circuit or its agents or employees.

Section 3. Paragraph (b) of subsection (2) of section 39.8297, Florida Statutes, is amended to read:

39.8297 County funding for guardian ad litem employees.—

(2) The agreement, at a minimum, must provide that:

(b) The persons who are employed will be hired, supervised, managed, and terminated by the executive director of the Statewide Guardian Ad Litem Office. The statewide office is responsible for compliance with all requirements of federal and state employment laws, and shall fully indemnify the county from any liability under such laws, as authorized by s. 768.28(20) ~~s. 768.28(19)~~, to the extent such liability is the result of the acts or omissions of the Statewide Guardian Ad Litem Office or its agents or employees.

Section 4. Paragraph (h) of subsection (3) of section 163.01, Florida Statutes, is amended to read:

163.01 Florida Interlocal Cooperation Act of 1969.—

(3) As used in this section:

(h) "Local government liability pool" means a reciprocal insurer as defined in s. 629.021 or any self-insurance program created pursuant to s. 768.28(17) ~~s. 768.28(16)~~, formed and controlled by counties or municipalities of this state to provide liability insurance coverage for counties, municipalities, or other public agencies of this state, which

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pool may contract with other parties for the purpose of providing claims administration, processing, accounting, and other administrative facilities.

Section 5. Paragraph (1) of subsection (5) of section 252.36, Florida Statutes, is amended to read:

252.36 Emergency management powers of the Governor.—

(5) In addition to any other powers conferred upon the Governor by law, she or he may:

(1) Authorize the use of forces already mobilized as the result of an executive order, rule, or proclamation to assist the private citizens of the state in cleanup and recovery operations during emergencies when proper permission to enter onto or into private property has been obtained from the property owner. The provisions of s. 768.28(10) ~~s. 768.28(9)~~ apply to this paragraph.

Section 6. Subsection (2) of section 260.0125, Florida Statutes, is amended to read:

260.0125 Limitation on liability of private landowners whose property is designated as part of the statewide system of greenways and trails.—

(2) Any private landowner who consents to designation of his or her land as part of the statewide system of greenways and trails pursuant to s. 260.016(2)(d) without compensation shall be considered a volunteer, as defined in s. 110.501, and shall be covered by state liability protection pursuant to s. 768.28, including s. 768.28(10) ~~s. 768.28(9)~~.

Section 7. Subsection (2) and paragraph (g) of subsection (10) of section 288.9625, Florida Statutes, are amended to read: 288.9625 Institute for Commercialization of Florida

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Technology.—

(2) The purpose of the institute is to assist, without any financial support or specific appropriations from the state, in the commercialization of products developed by the research and development activities of an innovation business, including, but not limited to, those defined in s. 288.1089. The institute shall fulfill its purpose in the best interests of the state.

The institute:

(a) Is a corporation primarily acting as an instrumentality of the state pursuant to s. 768.28(3) ~~s. 768.28(2)~~, for the purposes of sovereign immunity;

(b) Is not an agency within the meaning of s. 20.03(11);

(c) Is subject to the open records and meetings requirements of s. 24, Art. I of the State Constitution, chapter 119, and s. 286.011;

(d) Is not subject to chapter 287;

(e) Is governed by the code of ethics for public officers and employees as set forth in part III of chapter 112;

(f) May create corporate subsidiaries; and

(g) May not receive any financial support or specific appropriations from the state.

(10) The private fund manager:

(g) Is not a corporation primarily acting as an instrumentality of the state pursuant to s. 768.28(3) ~~s. 768.28(2)~~, for the purposes of sovereign immunity.

Section 8. Section 316.6146, Florida Statutes, is amended to read:

316.6146 Transportation of private school students on public school buses and public school students on private school

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buses; agreement.—Private school students may be transported on public school buses and public school students may be transported on private school buses when there is mutual agreement between the local school board and the applicable private school. Any agreement for private school students to be transported on public school buses must be in accordance with ss. 768.28(10)(a) ~~ss. 768.28(9)(a)~~ and 316.6145. Any agreement for public school students to be transported on private school buses must be contingent on the private school bus driver's having adequate liability insurance through his or her employer.

Section 9. Subsection (5) of section 321.24, Florida Statutes, is amended to read:

321.24 Members of an auxiliary to Florida Highway Patrol.—

(5) Notwithstanding any other law to the contrary, any volunteer highway patrol troop surgeon appointed by the director of the Florida Highway Patrol and any volunteer licensed health professional appointed by the director of the Florida Highway Patrol to work under the medical direction of a highway patrol troop surgeon is considered an employee for purposes of s. 768.28(10) ~~s. 768.28(9)~~.

Section 10. Subsection (1) of section 324.022, Florida Statutes, is amended to read:

324.022 Financial responsibility for property damage.—

(1) Every owner or operator of a motor vehicle required to be registered in this state shall establish and maintain the ability to respond in damages for liability on account of accidents arising out of the use of the motor vehicle in the amount of \$10,000 because of damage to, or destruction of, property of others in any one crash. The requirements of this

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291 section may be met by one of the methods established in s.
 292 324.031; by self-insuring as authorized by s. 768.28(17) ~~s.~~
 293 ~~768.28(16)~~; or by maintaining an insurance policy providing
 294 coverage for property damage liability in the amount of at least
 295 \$10,000 because of damage to, or destruction of, property of
 296 others in any one accident arising out of the use of the motor
 297 vehicle. The requirements of this section may also be met by
 298 having a policy which provides coverage in the amount of at
 299 least \$30,000 for combined property damage liability and bodily
 300 injury liability for any one crash arising out of the use of the
 301 motor vehicle. The policy, with respect to coverage for property
 302 damage liability, must meet the applicable requirements of s.
 303 324.151, subject to the usual policy exclusions that have been
 304 approved in policy forms by the Office of Insurance Regulation.
 305 No insurer shall have any duty to defend uncovered claims
 306 irrespective of their joinder with covered claims.

307 Section 11. Subsection (9) of section 381.0056, Florida
 308 Statutes, is amended to read:

309 381.0056 School health services program.—

310 (9) Any health care entity that provides school health
 311 services under contract with the department pursuant to a school
 312 health services plan developed under this section, and as part
 313 of a school nurse services public-private partnership, is deemed
 314 to be a corporation acting primarily as an instrumentality of
 315 the state solely for the purpose of limiting liability pursuant
 316 to s. 768.28(6) ~~s. 768.28(5)~~. The limitations on tort actions
 317 contained in s. 768.28(6) ~~s. 768.28(5)~~ shall apply to any action
 318 against the entity with respect to the provision of school
 319 health services, if the entity is acting within the scope of and

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320 pursuant to guidelines established in the contract or by rule of
 321 the department. The contract must require the entity, or the
 322 partnership on behalf of the entity, to obtain general liability
 323 insurance coverage, with any additional endorsement necessary to
 324 insure the entity for liability assumed by its contract with the
 325 department. The Legislature intends that insurance be purchased
 326 by entities, or by partnerships on behalf of the entity, to
 327 cover all liability claims, and under no circumstances shall the
 328 state or the department be responsible for payment of any claims
 329 or defense costs for claims brought against the entity or its
 330 subcontractor for services performed under the contract with the
 331 department. This subsection does not preclude consideration by
 332 the Legislature for payment by the state of any claims bill
 333 involving an entity contracting with the department pursuant to
 334 this section.

335 Section 12. Subsection (4) of section 403.0862, Florida
 336 Statutes, is amended to read:

337 403.0862 Discharge of waste from state groundwater cleanup
 338 operations to publicly owned treatment works.—

339 (4) The limitation on damages provided by s. 768.28(6) ~~s.~~
 340 ~~768.28(5)~~ shall not apply to any obligation or payment which may
 341 become due under this section.

342 Section 13. Paragraph (a) of subsection (2) of section
 343 456.048, Florida Statutes, is amended to read:

344 456.048 Financial responsibility requirements for certain
 345 health care practitioners.—

346 (2) The board or department may grant exemptions upon
 347 application by practitioners meeting any of the following
 348 criteria:

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349 (a) Any person licensed under chapter 457, s. 458.3475, s.
 350 459.023, chapter 460, chapter 461, s. 464.012, chapter 466, or
 351 chapter 467 who practices exclusively as an officer, employee,
 352 or agent of the Federal Government or of the state or its
 353 agencies or its subdivisions. For the purposes of this
 354 subsection, an agent of the state, its agencies, or its
 355 subdivisions is a person who is eligible for coverage under any
 356 self-insurance or insurance program authorized by the provisions
 357 of s. 768.28(17) ~~s. 768.28(16)~~ or who is a volunteer under s.
 358 110.501(1).

359 Section 14. Paragraph (a) of subsection (5) of section
 360 458.320, Florida Statutes, is amended to read:
 361 458.320 Financial responsibility.—

362 (5) The requirements of subsections (1), (2), and (3) do
 363 not apply to:

364 (a) Any person licensed under this chapter who practices
 365 medicine exclusively as an officer, employee, or agent of the
 366 Federal Government or of the state or its agencies or its
 367 subdivisions. For the purposes of this subsection, an agent of
 368 the state, its agencies, or its subdivisions is a person who is
 369 eligible for coverage under any self-insurance or insurance
 370 program authorized by the provisions of s. 768.28(17) ~~s.~~
 371 ~~768.28(16)~~.

372 Section 15. Paragraph (a) of subsection (5) of section
 373 459.0085, Florida Statutes, is amended to read:
 374 459.0085 Financial responsibility.—

375 (5) The requirements of subsections (1), (2), and (3) do
 376 not apply to:

377 (a) Any person licensed under this chapter who practices

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378 medicine exclusively as an officer, employee, or agent of the
 379 Federal Government or of the state or its agencies or its
 380 subdivisions. For the purposes of this subsection, an agent of
 381 the state, its agencies, or its subdivisions is a person who is
 382 eligible for coverage under any self-insurance or insurance
 383 program authorized by the provisions of s. 768.28(17) ~~s.~~
 384 ~~768.28(16)~~.

385 Section 16. Paragraph (e) of subsection (4) of section
 386 589.19, Florida Statutes, is amended to read:
 387 589.19 Creation of certain state forests; naming of certain
 388 state forests; Operation Outdoor Freedom Program.—

389 (4)
 390 (e)1. A private landowner who provides land for designation
 391 and use as an Operation Outdoor Freedom Program hunting site
 392 shall have limited liability pursuant to s. 375.251.

393 2. A private landowner who consents to the designation and
 394 use of land as part of the Operation Outdoor Freedom Program
 395 without compensation shall be considered a volunteer, as defined
 396 in s. 110.501, and shall be covered by state liability
 397 protection pursuant to s. 768.28, including s. 768.28(10) ~~s.~~
 398 ~~768.28(9)~~.

399 3. This subsection does not:

400 a. Relieve any person of liability that would otherwise
 401 exist for deliberate, willful, or malicious injury to persons or
 402 property.

403 b. Create or increase the liability of any person.

404 Section 17. Paragraph (c) of subsection (9) of section
 405 616.242, Florida Statutes, is amended to read:

406 616.242 Safety standards for amusement rides.—

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(9) INSURANCE REQUIREMENTS.—

(c) The insurance requirements imposed under this subsection do not apply to a governmental entity that is covered by the provisions of s. 768.28(17) ~~s. 768.28(16)~~.

Section 18. Section 624.461, Florida Statutes, is amended to read:

624.461 Definition.—For the purposes of the Florida Insurance Code, “self-insurance fund” means both commercial self-insurance funds organized under s. 624.462 and group self-insurance funds organized under s. 624.4621. The term “self-insurance fund” does not include a governmental self-insurance pool created under s. 768.28(17) ~~s. 768.28(16)~~.

Section 19. Subsection (6) of section 624.462, Florida Statutes, is amended to read:

624.462 Commercial self-insurance funds.—

(6) A governmental self-insurance pool created pursuant to s. 768.28(17) ~~s. 768.28(16)~~ shall not be considered a commercial self-insurance fund.

Section 20. Paragraph (b) of subsection (3) of section 627.733, Florida Statutes, is amended to read:

627.733 Required security.—

(3) Such security shall be provided:

(b) By any other method authorized by s. 324.031(2) or (3) and approved by the Department of Highway Safety and Motor Vehicles as affording security equivalent to that afforded by a policy of insurance or by self-insuring as authorized by s. 768.28(17) ~~s. 768.28(16)~~. The person filing such security shall have all of the obligations and rights of an insurer under ss. 627.730-627.7405.

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Section 21. Subsection (5) of section 760.11, Florida Statutes, is amended to read:

760.11 Administrative and civil remedies; construction.—

(5) In any civil action brought under this section, the court may issue an order prohibiting the discriminatory practice and providing affirmative relief from the effects of the practice, including back pay. The court may also award compensatory damages, including, but not limited to, damages for mental anguish, loss of dignity, and any other intangible injuries, and punitive damages. The provisions of ss. 768.72 and 768.73 do not apply to this section. The judgment for the total amount of punitive damages awarded under this section to an aggrieved person shall not exceed \$100,000. In any action or proceeding under this subsection, the court, in its discretion, may allow the prevailing party a reasonable attorney ~~attorney's~~ fee as part of the costs. It is the intent of the Legislature that this provision for attorney ~~attorney's~~ fees be interpreted in a manner consistent with federal case law involving a Title VII action. The right to trial by jury is preserved in any such private right of action in which the aggrieved person is seeking compensatory or punitive damages, and any party may demand a trial by jury. The commission's determination of reasonable cause is not admissible into evidence in any civil proceeding, including any hearing or trial, except to establish for the court the right to maintain the private right of action. A civil action brought under this section shall be commenced no later than 1 year after the date of determination of reasonable cause by the commission. The commencement of such action shall divest the commission of jurisdiction of the complaint, except that the

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commission may intervene in the civil action as a matter of right. Notwithstanding the above, the state and its agencies and subdivisions shall not be liable for punitive damages. The total amount of recovery against the state and its agencies and subdivisions shall not exceed the limitation as set forth in s. 768.28(6) ~~s. 768.28(5)~~.

Section 22. Subsection (4) and paragraphs (a) and (b) of subsection (12) of section 766.1115, Florida Statutes, are amended to read:

766.1115 Health care providers; creation of agency relationship with governmental contractors.—

(4) CONTRACT REQUIREMENTS.—A health care provider that executes a contract with a governmental contractor to deliver health care services on or after April 17, 1992, as an agent of the governmental contractor is an agent for purposes of s. 768.28(10) ~~s. 768.28(9)~~, while acting within the scope of duties under the contract, if the contract complies with the requirements of this section and regardless of whether the individual treated is later found to be ineligible. A health care provider shall continue to be an agent for purposes of s. 768.28(10) ~~s. 768.28(9)~~ for 30 days after a determination of ineligibility to allow for treatment until the individual transitions to treatment by another health care provider. A health care provider under contract with the state may not be named as a defendant in any action arising out of medical care or treatment provided on or after April 17, 1992, under contracts entered into under this section. The contract must provide that:

(a) The right of dismissal or termination of any health

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care provider delivering services under the contract is retained by the governmental contractor.

(b) The governmental contractor has access to the patient records of any health care provider delivering services under the contract.

(c) Adverse incidents and information on treatment outcomes must be reported by any health care provider to the governmental contractor if the incidents and information pertain to a patient treated under the contract. The health care provider shall submit the reports required by s. 395.0197. If an incident involves a professional licensed by the Department of Health or a facility licensed by the Agency for Health Care Administration, the governmental contractor shall submit such incident reports to the appropriate department or agency, which shall review each incident and determine whether it involves conduct by the licensee that is subject to disciplinary action. All patient medical records and any identifying information contained in adverse incident reports and treatment outcomes which are obtained by governmental entities under this paragraph are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(d) Patient selection and initial referral must be made by the governmental contractor or the provider. Patients may not be transferred to the provider based on a violation of the antidumping provisions of the Omnibus Budget Reconciliation Act of 1989, the Omnibus Budget Reconciliation Act of 1990, or chapter 395.

(e) If emergency care is required, the patient need not be referred before receiving treatment, but must be referred within

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48 hours after treatment is commenced or within 48 hours after the patient has the mental capacity to consent to treatment, whichever occurs later.

(f) The provider is subject to supervision and regular inspection by the governmental contractor.

(g) As an agent of the governmental contractor for purposes of s. 768.28(10) ~~s. 768.28(9)~~, while acting within the scope of duties under the contract, a health care provider licensed under chapter 466 may allow a patient, or a parent or guardian of the patient, to voluntarily contribute a monetary amount to cover costs of dental laboratory work related to the services provided to the patient. This contribution may not exceed the actual cost of the dental laboratory charges.

A governmental contractor that is also a health care provider is not required to enter into a contract under this section with respect to the health care services delivered by its employees.

(12) APPLICABILITY.—This section applies to incidents occurring on or after April 17, 1992. This section does not:

(a) Apply to any health care contract entered into by the Department of Corrections which is subject to s. 768.28(11)(a) ~~s. 768.28(10)(a)~~.

(b) Apply to any affiliation agreement or other contract that is subject to s. 768.28(11)(f) ~~s. 768.28(10)(f)~~.

Section 23. Paragraph (c) of subsection (6) of section 766.118, Florida Statutes, is amended to read:

766.118 Determination of noneconomic damages.—

(6) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE OF A PRACTITIONER PROVIDING SERVICES AND CARE TO A MEDICAID

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RECIPIENT.—Notwithstanding subsections (2), (3), and (5), with respect to a cause of action for personal injury or wrongful death arising from medical negligence of a practitioner committed in the course of providing medical services and medical care to a Medicaid recipient, regardless of the number of such practitioner defendants providing the services and care, noneconomic damages may not exceed \$300,000 per claimant, unless the claimant pleads and proves, by clear and convincing evidence, that the practitioner acted in a wrongful manner. A practitioner providing medical services and medical care to a Medicaid recipient is not liable for more than \$200,000 in noneconomic damages, regardless of the number of claimants, unless the claimant pleads and proves, by clear and convincing evidence, that the practitioner acted in a wrongful manner. The fact that a claimant proves that a practitioner acted in a wrongful manner does not preclude the application of the limitation on noneconomic damages prescribed elsewhere in this section. For purposes of this subsection:

(c) The term “wrongful manner” means in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property, and shall be construed in conformity with the standard set forth in s. 768.28(10)(a) ~~s. 768.28(9)(a)~~.

Section 24. Paragraph (c) of subsection (2) of section 768.1315, Florida Statutes, is amended to read:

768.1315 Good Samaritan Volunteer Firefighters’ Assistance Act; immunity from civil liability.—

(2) DEFINITIONS.—As used in this section, the term:

(c) “State agency or subdivision” shall have the meaning

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provided in s. 768.28(3) ~~s. 768.28(2)~~.

Nothing in this section shall be construed as a waiver of sovereign immunity.

Section 25. Subsection (4) of section 768.135, Florida Statutes, is amended to read:

768.135 Volunteer team physicians; immunity.—

(4) As used in this section, the term "wrongful manner" means in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property, and shall be construed in conformity with the standard set forth in s. 768.28(10)(a) ~~s. 768.28(9)(a)~~.

Section 26. Subsection (2) of section 944.713, Florida Statutes, is amended to read:

944.713 Insurance against liability.—

(2) The contract shall provide for indemnification of the state by the private vendor for any liabilities incurred up to the limits provided under s. 768.28(6) ~~s. 768.28(5)~~. The contract shall provide that the private vendor, or the insurer of the private vendor, is liable to pay any claim or judgment for any one person which does not exceed the sum of \$100,000 or any claim or judgment, or portions thereof, which, when totaled with all other claims or judgments arising out of the same incident or occurrence, does not exceed the sum of \$200,000. In addition, the contractor must agree to defend, hold harmless, and indemnify the department against any and all actions, claims, damages and losses, including costs and attorney ~~attorney's~~ fees.

Section 27. Subsection (3) of section 984.09, Florida

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Statutes, is amended to read:

984.09 Punishment for contempt of court; alternative sanctions.—

(3) ALTERNATIVE SANCTIONS.—Each judicial circuit shall have an alternative sanctions coordinator who shall serve under the chief administrative judge of the juvenile division of the circuit court, and who shall coordinate and maintain a spectrum of contempt sanction alternatives in conjunction with the circuit plan implemented in accordance with s. 790.22(4)(c). Upon determining that a child has committed direct contempt of court or indirect contempt of a valid court order, the court may immediately request the alternative sanctions coordinator to recommend the most appropriate available alternative sanction and shall order the child to perform up to 50 hours of community-service manual labor or a similar alternative sanction, unless an alternative sanction is unavailable or inappropriate, or unless the child has failed to comply with a prior alternative sanction. Alternative contempt sanctions may be provided by local industry or by any nonprofit organization or any public or private business or service entity that has entered into a contract with the Department of Juvenile Justice to act as an agent of the state to provide voluntary supervision of children on behalf of the state in exchange for the manual labor of children and limited immunity in accordance with s. 768.28(12) ~~s. 768.28(11)~~.

Section 28. Subsection (3) of section 985.037, Florida Statutes, is amended to read:

985.037 Punishment for contempt of court; alternative sanctions.—

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(3) ALTERNATIVE SANCTIONS.—Each judicial circuit shall have an alternative sanctions coordinator who shall serve under the chief administrative judge of the juvenile division of the circuit court, and who shall coordinate and maintain a spectrum of contempt sanction alternatives in conjunction with the circuit plan implemented in accordance with s. 790.22(4)(c). Upon determining that a child has committed direct contempt of court or indirect contempt of a valid court order, the court may immediately request the alternative sanctions coordinator to recommend the most appropriate available alternative sanction and shall order the child to perform up to 50 hours of community-service manual labor or a similar alternative sanction, unless an alternative sanction is unavailable or inappropriate, or unless the child has failed to comply with a prior alternative sanction. Alternative contempt sanctions may be provided by local industry or by any nonprofit organization or any public or private business or service entity that has entered into a contract with the Department of Juvenile Justice to act as an agent of the state to provide voluntary supervision of children on behalf of the state in exchange for the manual labor of children and limited immunity in accordance with s. 768.28(12) ~~s. 768.28(11)~~.

Section 29. Paragraph (1) of subsection (3) of section 1002.55, Florida Statutes, is amended to read:

1002.55 School-year prekindergarten program delivered by private prekindergarten providers.—

(3) To be eligible to deliver the prekindergarten program, a private prekindergarten provider must meet each of the following requirements:

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(1) Notwithstanding paragraph (j), for a private prekindergarten provider that is a state agency or a subdivision thereof, as defined in s. 768.28(3) ~~s. 768.28(2)~~, the provider must agree to notify the coalition of any additional liability coverage maintained by the provider in addition to that otherwise established under s. 768.28. The provider shall indemnify the coalition to the extent permitted by s. 768.28.

Section 30. Paragraph (p) of subsection (1) of section 1002.88, Florida Statutes, is amended to read:

1002.88 School readiness program provider standards; eligibility to deliver the school readiness program.—

(1) To be eligible to deliver the school readiness program, a school readiness program provider must:

(p) Notwithstanding paragraph (m), for a provider that is a state agency or a subdivision thereof, as defined in s. 768.28(3) ~~s. 768.28(2)~~, agree to notify the coalition of any additional liability coverage maintained by the provider in addition to that otherwise established under s. 768.28. The provider shall indemnify the coalition to the extent permitted by s. 768.28.

Section 31. Paragraph (e) of subsection (4) and paragraph (d) of subsection (5) of section 1004.41, Florida Statutes, are amended to read:

1004.41 University of Florida; J. Hillis Miller Health Center.—

(4)

(e) Shands Teaching Hospital and Clinics, Inc., in support of the health affairs mission of the University of Florida Board of Trustees and with the board's prior approval, may create or

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have created either for-profit or not-for-profit subsidiaries and affiliates, or both. The University of Florida Board of Trustees, which may act through the president of the university or his or her designee, may control Shands Teaching Hospital and Clinics, Inc. For purposes of sovereign immunity pursuant to s. 768.28(3) ~~s. 768.28(2)~~, Shands Teaching Hospital and Clinics, Inc., and any not-for-profit subsidiary which directly delivers health care services and whose governing board is chaired by the president of the university or his or her designee and is controlled by the University of Florida Board of Trustees, which may act through the president of the university or his or her designee and whose primary purpose is the support of the University of Florida Board of Trustees' health affairs mission, shall be conclusively deemed a corporation primarily acting as an instrumentality of the state.

(5)

(d) For purposes of sovereign immunity pursuant to s. 768.28(3) ~~s. 768.28(2)~~, Shands Jacksonville Medical Center, Inc., Shands Jacksonville HealthCare, Inc., and any not-for-profit subsidiary which directly delivers health care services and whose governing board is chaired by the President of the University of Florida or his or her designee and is controlled by the University of Florida Board of Trustees, which may act through the president of the university or his or her designee and whose primary purpose is the support of the University of Florida Board of Trustees' health affairs mission, shall be conclusively deemed corporations primarily acting as instrumentalities of the state.

Section 32. Subsection (1) of section 1004.43, Florida

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

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Statutes, is amended to read:

1004.43 H. Lee Moffitt Cancer Center and Research Institute.—There is established the H. Lee Moffitt Cancer Center and Research Institute, a statewide resource for basic and clinical research and multidisciplinary approaches to patient care.

(1) The Board of Trustees of the University of South Florida shall enter into a lease agreement for the utilization of the lands and facilities on the campus of the University of South Florida to be known as the H. Lee Moffitt Cancer Center and Research Institute, including all furnishings, equipment, and other chattels used in the operation of such facilities, with a Florida not-for-profit corporation organized solely for the purpose of governing and operating the H. Lee Moffitt Cancer Center and Research Institute. The lease agreement with the not-for-profit corporation shall be rent free as long as the not-for-profit corporation and its subsidiaries utilize the lands and facilities primarily for research, education, treatment, prevention, and early detection of cancer or for teaching and research programs conducted by state universities or other accredited medical schools or research institutes. The lease agreement shall provide for review of construction plans and specifications by the University of South Florida for consistency with the university's campus master plan, impact on the university's utilities infrastructure, compliance with applicable building codes and general design characteristics, and compatibility with university architecture, as appropriate. The not-for-profit corporation may, with the prior approval of the Board of Governors, create either for-profit or not-for-

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

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profit corporate subsidiaries, or both, to fulfill its mission. The not-for-profit corporation and any approved not-for-profit subsidiary shall be conclusively deemed corporations primarily acting as instrumentalities of the state, pursuant to s. 768.28(3) ~~s. 768.28(2)~~, for purposes of sovereign immunity. For-profit subsidiaries of the not-for-profit corporation may not compete with for-profit health care providers in the delivery of radiation therapy services to patients. The not-for-profit corporation and its subsidiaries are authorized to receive, hold, invest, and administer property and any moneys received from private, local, state, and federal sources, as well as technical and professional income generated or derived from practice activities of the institute, for the benefit of the institute and the fulfillment of its mission. The affairs of the corporation shall be managed by a board of directors who shall serve without compensation. The President of the University of South Florida and the chair of the Board of Governors, or his or her designee, shall be directors of the not-for-profit corporation. Each director shall have only one vote, shall serve a term of 3 years, and may be reelected to the board. Other than the President of the University of South Florida and the chair of the Board of Governors, directors shall be elected by a majority vote of the board. The chair of the board of directors shall be selected by majority vote of the directors.

Section 33. Paragraph (a) of subsection (2) of section 1004.447, Florida Statutes, is amended to read:

1004.447 Florida Institute for Human and Machine Cognition, Inc.—

(2) The corporation and any authorized and approved

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subsidiary:

(a) Shall be a corporation primarily acting as an instrumentality of the state, pursuant to s. 768.28(3) ~~s. 768.28(2)~~, for purposes of sovereign immunity.

Section 34. Paragraph (b) of subsection (2) of section 1006.261, Florida Statutes, is amended to read:

1006.261 Use of school buses for public purposes.—

(2)

(b) For purposes of liability for negligence, state agencies or subdivisions as defined in s. 768.28(3) ~~s. 768.28(2)~~ shall be covered by s. 768.28. Every other corporation or organization shall provide liability insurance coverage in the minimum amounts of \$100,000 on any claim or judgment and \$200,000 on all claims and judgments arising from the same incident or occurrence.

Section 35. Sections 45.061, 110.504, 111.071, 163.01(15)(k), 190.043, 213.015, 284.31, 284.38, 337.19, 341.302, 373.1395, 375.251, 393.075, 403.706, 409.993, 455.221, 455.32, 456.009, 472.006, 497.167, 548.046, 556.106, 768.295, 946.5026, 946.514, 961.06, 1002.33, 1002.333, 1002.34, 1002.77, and 1002.83, Florida Statutes, are reenacted for the purpose of incorporating the amendment made by this act to s. 768.28, Florida Statutes, in references thereto.

Section 36. This act shall take effect October 1, 2020.



The Florida Senate

Committee Agenda Request

To: Senator David Simmons, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: January 17, 2020

I respectfully request that **Senate Bill #1302**, relating to Sovereign Immunity, be placed on the:

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

A handwritten signature in cursive script that reads "Anitere Flores".

Senator Anitere Flores
Florida Senate, District 39

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/21/20

Meeting Date

1302

Bill Number (if applicable)

423226

Amendment Barcode (if applicable)

Topic Sovereign Immunity

Name Bob Harris

Job Title

Address 2618 Centennial Place

Street

Tallahassee FL 32308

City

State

Zip

Phone 222-0720

Email bharris@lawfla.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing PAEC (Panhandle Area Educational Consortium)

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)

1.21.20

Meeting Date

1302

Bill Number (if applicable)

Topic SOVEREIGN IMMUNITY

Amendment Barcode (if applicable)

Name LAURA VOLMANS

Job Title LEGISLATIVE COUNSEL

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Phone 294-1838

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TAL

City

PL

State

32301

Zip

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FLORIDA ASSOCIATION OF COUNTIES

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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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)

1/21/20

Meeting Date

1302

Bill Number (if applicable)

Topic Sovereign Immunity

Amendment Barcode (if applicable)

Name David Cruz

Job Title Legislative Counsel

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Tallahassee

City

State

FL 32301

Zip

Email DCRUZ@FCCitides.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida League of Cities

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)

1-21-20

Meeting Date

SB1302

Bill Number (if applicable)

Topic Sov. Immunity

Amendment Barcode (if applicable)

Name Ben J. Whitman

Job Title Atty.

Address 1919 N Flayler Drive

Phone 561 899 2100

Street

WPB

City

FL

State

33404

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Reynaldo Lopez-Cancel -

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)

1/21/20
Meeting Date

SB 1302
Bill Number (if applicable)

Topic Sovereign Immunity

Amendment Barcode (if applicable)

Name Cameron Kennedy

Job Title lawyer

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Street

Phone 850 224 7600

Tallahassee FL 32301
City State Zip

Email cmk@searaylaw.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Searcy Denney Scarola Bornhart & Shipley

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)

1/21/2020
Meeting Date

SB 1302
Bill Number (if applicable)

Topic Sovereign Immunity

Amendment Barcode (if applicable)

Name Edward b Labrador

Job Title Legislative Counsel

Address 100 S. Andrews Ave., Main Library, 8th Floor
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City State Zip

Phone 954-826-1155

Email elabrador@broward.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Broward County

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)

1/21/20
Meeting Date

1302
Bill Number (if applicable)

Topic Sovereign Immunity

Amendment Barcode (if applicable)

Name Bob Harris

Job Title _____

Address 2618 Centennial Place

Phone 222-0720

Tallahassee FL 32308
City State Zip

Email bharris@lawfla.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing PAEC (Panhandle Area Educational Consortium)

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
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: SB 1328

INTRODUCER: Senator Wright

SUBJECT: Fines and Fees

DATE: January 17, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Ravelo</u>	<u>Cibula</u>	<u>JU</u>	<u>Pre-meeting</u>
2. _____	_____	<u>ACJ</u>	_____
3. _____	_____	<u>AP</u>	_____

I. Summary:

SB 1328 requires the clerks of court to establish uniform payment plans for court related fees, service charges, costs, and fines for individuals who are indigent. This plan will allow for the consolidation of amounts owed from all cases involving the individual in the county.

The bill allows a court to excuse the balance of fees and fines owed by an indigent individual if he or she makes consecutive monthly payments under a payment plan for 12, 24, or 36 months depending on the total initial obligation. The bill also allows a court, upon determining that an indigent individual is unable to comply with a payment plan, to modify the plan or convert to community service the amounts owed for fees, service charges, costs, or fines.

The bill repeals the authority of the clerk of court to suspend driver licenses based on the failure of a person to:

- enter into or comply with a payment plan to pay civil or criminal traffic fines and fees;
- attend a driver improvement school; or
- appear at a scheduled hearing.

Individuals whose driver licenses have been suspended before the July 1, 2020, effective date of this bill, solely for the failure to pay fines, service charges, fees, or costs may have their licenses reinstated upon payment of a reinstatement fee.

The bill is effective July 1, 2020.

II. Present Situation:

Clerks of the Circuit Court

Each of the 67 Florida counties has a clerk of court. The clerk is an elected constitutional officer who oversees judiciary functions as the clerk of both the county and circuit courts.¹ The clerk may also serve as the ex-officio clerk of the board of county commissioners, as well as the auditor, recorder, and custodian of all county funds.

The State Constitution requires that the clerks of courts be funded from revenue generated from charges for service, court costs, filing fees, and fines from civil and criminal proceedings.² The revenue is used for court related functions as well as select costs, expenses, and salaries as provided by law.³ Court related functions include:

- Case maintenance;
- Records management;
- Court preparation and attendance;
- Collection and distribution of fines, fees, service charges, and court costs;
- Processing for the assignment, reopening, reassignment, and appeals of cases;
- Reasonable administrative support costs;
- Data collection and reporting;
- Determinations of indigent status; and
- Collection and distribution of fines, fees, service charges, and court costs.⁴

The clerk of courts statewide operating budgets vary each year depending on revenues generated. For fiscal year 2013-2014 clerks had an operating budget of \$472.3 million for court-related functions. The 2017-2018 budget was \$409.04 million, while the latest 2018-2019 budget was \$424.8 million.⁵

Between October 1, 2017, and September 30, 2018, the Clerks statewide assessed \$1,163,151,976, in fines, and collected a total of \$863,594,314 for a collection rate of 74.25 percent statewide.⁶ Revenue collected from fines and fees are not solely budgeted toward the clerks of courts. The Legislature has provided, for example, a 5 percent surcharge for certain non-criminal traffic citations, which is deposited in the Crimes Compensation Trust Fund.⁷ Additionally, that same trust fund collects \$49 from every \$50 collected as a fine from every

¹ FLA. CONST. ART. V, § 16

² FLA. CONST. ART. V, § 14. Although the clerks of courts are funded through fines and fees through this provision of the State Constitution, courts have stated that mere operational underfunding which causes the poor performance of a clerk of court do not mean that the funding levels are unconstitutional. *See Fla. Dep't of Rev. v. Forman*, 273 So. 3d 223 (Fla. 1st DCA 2019), jurisdiction denied, No. SC19-1262, 2019 Fla. LEXIS 2153 (Fla Nov. 25, 2019).

³ *Id.*

⁴ Section 28.35(3)(a), F.S.

⁵ Gary Blankenship, *Court Clerks Get a Bit of the Budget Help they Need*, FLA. BAR NEWS, May 13, 2019, <https://www.floridabar.org/the-florida-bar-news/court-clerks-get-a-bit-of-the-budget-help-they-need/>.

⁶ Florida Court Clerks and Comptrollers, *2018 Annual Assessments and Collections Report*, https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/public_documents/_1_final_front_matter_cover_s.pdf.

⁷ Section 938.04, F.S. The Crimes Compensation Trust Fund was created for the purpose of compensating victims of crime. Section 960.21, F.S.

adjudication from any felony, misdemeanor, delinquent act, or criminal traffic offense.⁸ During fiscal year 2018-2019, the Crime Compensation Trust Fund received \$13,794,800.86 of revenue generated from the above fines and fees collected by the clerks of courts.⁹

Once fees, service charges, fines, or court costs have remained unpaid for 90 days, the clerk may forward the accounts to an attorney or collection agent if the clerk of court attempted to collect the unpaid amount through an internal process such as a collection docket.¹⁰ It is unclear how successful collection agents are at collecting the remaining fees and fines. However, some counties such as Broward¹¹ County have unpaid fines and fees totaling hundreds of millions of dollars which go back decades.

Payment Plans

Court costs, fines, and other fines related to a disposition are enforced by court order and collected by the clerks of the circuit and county courts. An indigent person may apply to the clerk of court to enter a payment plan. The monthly payments under a payment plan are presumed to correspond to the indigent person's ability to pay if it does not exceed 2 percent of the indigent person's annual net income divided by 12.¹² A person is indigent if their income is equal to or below 200 percent of the federal poverty guidelines¹³ or if the person is receiving Temporary Assistance for Needy Families-Cash Assistance, poverty-related veterans' benefits, or Supplemental Security Income.¹⁴

Certain crimes in Florida have significant mandatory minimum fines. An individual convicted of trafficking cocaine, for example, must pay a fine of \$50,000, if the amount trafficked is at least 28 grams, or \$250,000 if the amount trafficked is more than 400¹⁵ grams.¹⁶ Depending on the individual's income and ability to pay, fines and fees may take decades to pay off. An individual on a payment plan in Miami-Dade, for example, is scheduled to complete her \$190,000 payment plan resulting from a grand theft conviction in 190 years.¹⁷ She pays \$100 per month under her payment plan.

⁸ Section 938.03, F.S.

⁹ Memorandum, Florida Clerks of Court Operations Corporation, *CCOC Bill Analysis for SB 1328*, January 2020 (on file with the Senate Committee on Judiciary).

¹⁰ Section 28.246(6), F.S.

¹¹ Broward County has \$735.6 million in outstanding fees and fines from felony, misdemeanor, and traffic dispositions. Similarly, Palm-Beach County has \$277.5 million outstanding while Miami-Dade County has \$278 million from felony adjudications alone. Dan Sweeney, *South Florida felons owe a billion dollars in fines - and that will affect their ability to vote*, SOUTH FLORIDA SUN SENTINEL, May 31, 2019, <https://www.sun-sentinel.com/news/politics/fl-ne-felony-fines-broward-palm-beach-20190531-5hxf7mveyree5cjhk4xr7b73v4-story.html>.

¹² Section 28.26(4), F.S.

¹³ Currently, the federal poverty level is \$12,490 for individuals, with an additional \$4,420 for each additional family member in the individual's household. See: United States Department of Health and Human Services, *U.S. Federal Poverty Guidelines Used to Determine Financial Eligibility for Certain Federal Programs*, <https://aspe.hhs.gov/2019-poverty-guidelines> (last visited Jan 14, 2020).

¹⁴ Section 27.52(1), F.S.

¹⁵ 400 grams is the equivalent to .88 of a pound.

¹⁶ Section 893.135(1)(b)1., F.S.

¹⁷ Lawrence Mower, *Should a felon who owes \$59 million be allowed to vote? How about \$190,000?* MIAMI HERALD, Mar. 29, 2019, <https://www.miamiherald.com/news/politics-government/state-politics/article228399999.html>.

Driver's License Suspension in Florida

More than 2 million of the more than 14 million driver licenses issued in Florida are currently suspended.¹⁸ A license can be suspended for a variety of different reasons, including:

- Failure to pay a fine.
- Failure to comply with or appear at a traffic summons.
- Failure to complete driver improvement school based on court order or citation.
- Unpaid citations reported by another state.
- Clearing a court financial obligation.¹⁹

III. Effect of Proposed Changes:

The bill requires clerks of courts to establish uniform payment plans for court related fees, service charges, costs, and fines for individuals who are indigent. These payment plans must be available electronically, by mail, in person, or through a community based organization authorized by the clerk to collect payments. The monthly payment plans must include all fines and fees assessed for any cases within the county that the individual has been ordered to pay. If the individual is unable to comply with the terms of the payment plan, the court may modify or convert the outstanding amount to community service.

The bill provides a 30-day grace period for the first payment for individuals out of custody, and a 90-day grace period for first payment for those in custody.

The bill allows for a court to determine that the financial obligations under a payment plan have been met when:

- 12 consecutive payments have been made for an obligation that was \$500 or less.
- 24 consecutive payments have been made for an obligation greater than \$500 and less than \$1000.
- 36 consecutive payments have been made for an obligation greater than \$1,000.

This authority to waive the collection of any additional amount only applies to individuals under a payment plan who are indigent,²⁰ receive public assistance,²¹ or whose household income is

¹⁸ Wayne K. Roustan, *Florida suspends nearly 2 million driver's licenses. Help may be on way*, SOUTH FLORIDA SUN SENTINEL, Feb. 16, 2018, <https://www.sun-sentinel.com/news/transportation/fl-reg-drivers-license-suspensions-20180208-story.html>.

¹⁹ Florida Department of Highway Safety and Motor Vehicles, *Traffic Citations or Court Suspensions*, <https://www.flhsmv.gov/driver-licenses-id-cards/driver-license-suspensions-revocations/traffic-citations-court-suspensions/> (last visited Jan. 15, 2020).

²⁰ Section 27.52(2)(a), F.S. Defines indigent status as:

An applicant, including an applicant who is a minor or an adult tax-dependent person, is indigent if the applicant's income is equal to or below 200 percent of the then-current federal poverty guidelines prescribed for the size of the household of the applicant by the United States Department of Health and Human Services or if the person is receiving Temporary Assistance for Needy Families-Cash Assistance, poverty-related veterans' benefits, or Supplemental Security Income (SSI).

²¹ Section 409.2554, F.S. Defines public assistance as money assistance paid on the basis of Title IV-E and Title XIX of the Social Security Act, temporary cash assistance, or food assistance benefits received on behalf of a child under 18 years of age who has an absent parent.

below 200 percent of the federal poverty level.²² If an individual is ordered by a court to pay substantially more than what was paid within the above time periods, the remaining obligations are excused.

The bill will affect the budgets of each clerk of court as well as the separate entities that receive money from revenue generated by fines and fees.

The bill removes the ability of a clerk of court to suspend driver licenses based on failure to pay civil or criminal traffic fines and fees.

The bill allows individuals whose driver licenses were suspended before July 1, 2020, solely for nonpayment of fines and fees, to reinstate their licenses upon payment of a reinstatement fee. The amount of the fee, however, is not specified in the bill.

The bill does not appear to effect the payment of restitution to victims of crimes.²³

The bill is effective July 1, 2020.

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:

Article V. s. 14(b) of the State Constitution provides that the clerks of court are to be funded from filing fees, service charges, and costs for performing court related functions. To the extent that the bill will waive or forgive collectable amounts owed by some

²² Currently, the federal poverty level is \$12,490 for individuals, with an additional \$4,420 for each additional family member in the individual's household. *See*: United States Department of Health and Human Services, *U.S. Federal Poverty Guidelines Used to Determine Financial Eligibility for Certain Federal Programs*, <https://aspe.hhs.gov/2019-poverty-guidelines> (last visited Jan 14, 2020).

²³ Section 775.089, F.S. Although a court may order restitution to be paid in installments similar to a payment plan, restitution is not considered a fine or fee for the purpose of payment plans under section 28.246(4) F.S.

participants in the judicial system, the Constitution may require the imposition of increased fees, charges, and costs upon others.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill could have a negative impact on the overall budget of each clerk of court. The Florida Clerks of Courts Operations Corporations estimates that this bill would result in a revenue loss for Clerks of Court of between \$20.8 million and \$49.5 million statewide.²⁴ Additionally, a decline in revenue generated from fines and fees would impact government entities such as the State Attorney's and Public Defenders, as well as various trusts such as the Child Welfare Training Trust Fund²⁵ and the Brain and Spinal Injury Trust Fund,²⁶ which both receive funding from revenue generated by fines and fees collected by the clerks of courts.

The Crimes Compensation Trust Fund is one of many trust funds that will be negatively affected as a result of the bill. This fund has experienced notable declines in revenue and increases in expenditures in recent years. There is currently an amended issue in a Legislative Budget Request submitted by the Department of Legal Affairs for \$11.5 million nonrecurring General Revenue to support the Victim Compensation Program. Passage of this bill would further exacerbate the revenue issues this trust fund has experienced in recent years. Other trust funds that will be negatively impacted by the bill include the Brain and Spinal Cord Trust Fund and the Court Facilities Fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

²⁴ Memorandum, Florida Clerks of Court Operations Corporation, *CCOC Bill Analysis*, January 2020 (on file with the Senate Committee on Judiciary).

²⁵ Section 318.21(1), F.S.

²⁶ Section 318.21(2)(d), F.S.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 28.24, 28.246, 28.42, 318.15, 322.245, 34.191, 320.03, 27.52, and 57.082.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

None.

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 Wright

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1 A bill to be entitled
2 An act relating to fines and fees; amending s. 28.24,
3 F.S.; revising specified service charges for recording
4 documents with the clerk of the circuit court;
5 amending s. 28.246, F.S.; revising the methods by
6 which the clerk of the circuit court may accept
7 payments for certain fees, charges, costs, and fines;
8 requiring the court to enroll certain persons in a
9 monthly payment plan under certain circumstances;
10 providing requirements for the payment plan;
11 authorizing a court to convert certain fines and fees
12 to community service under specified circumstances;
13 authorizing certain persons to have their payment
14 plans terminated if certain requirements are met;
15 amending s. 28.42, F.S.; requiring the Office of the
16 State Courts Administrator to develop a uniform
17 payment plan form by a specified date; providing
18 minimum criteria for the form; amending s. 318.15,
19 F.S.; deleting provisions specifying procedures to be
20 used if a person fails to comply with certain court-
21 ordered requirements; authorizing certain persons to
22 reinstate their suspended driver licenses under
23 certain circumstances; amending s. 322.245, F.S.;
24 authorizing certain persons to reinstate their
25 suspended driver licenses under certain circumstances;
26 deleting provisions requiring the department to
27 suspend the driver licenses of certain persons who
28 have failed to pay financial obligations for certain
29 criminal offenses; deleting provisions addressing the

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30 reinstatement of such suspended licenses; amending ss.
31 34.191 and 320.03, F.S.; conforming cross-references;
32 reenacting ss. 27.52(5)(i) and 57.082(6), F.S.,
33 relating to determination of indigent status, to
34 incorporate the amendment made to s. 28.24, F.S., in
35 references thereto; providing an effective date.
36
37 Be It Enacted by the Legislature of the State of Florida:
38
39 Section 1. Subsection (26) of section 28.24, Florida
40 Statutes, is amended to read:
41 28.24 Service charges.—The clerk of the circuit court shall
42 charge for services rendered manually or electronically by the
43 clerk's office in recording documents and instruments and in
44 performing other specified duties. These charges may not exceed
45 those specified in this section, except as provided in s.
46 28.345.
47 (26) (a) For receiving and disbursing all restitution
48 payments, per payment: 3.50, from which the clerk shall remit
49 0.50 per payment to the Department of Revenue for deposit into
50 the General Revenue Fund.
51 ~~(b) For receiving and disbursing all partial payments,~~
52 ~~other than restitution payments, for which an administrative~~
53 ~~processing service charge is not imposed pursuant to s. 28.246,~~
54 ~~per month.....5.00~~
55 (b)(c) For setting up a payment plan, a one-time
56 administrative processing charge: in lieu of a per month charge
57 under paragraph (b).....25.00
58 (c) In lieu of the administrative processing charge in

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 59 paragraph (b), a one-time administrative processing charge that
 60 covers all payment plans within a particular county for a person
 61 who is indigent as described in s. 27.52(2)(a), a person who
 62 receives public assistance as defined in s. 409.2554, or a
 63 person whose household income is below 200 percent of the
 64 federal poverty level based on the current year's federal
 65 poverty guidelines:.....5.00

66 Section 2. Section 28.246, Florida Statutes, is amended to
 67 read:

68 28.246 Payment of court-related fines or other monetary
 69 penalties, fees, charges, and costs; monthly ~~partial~~ payments;
 70 community service; distribution of funds.—

71 (1) The clerk of the circuit court shall report the
 72 following information to the Legislature and the Florida Clerks
 73 of Court Operations Corporation on a form, and using guidelines
 74 developed by the clerks of court, through their association and
 75 in consultation with the Office of the State Courts
 76 Administrator:

77 (a) The total amount of mandatory fees, service charges,
 78 and costs assessed; the total amount underassessed, if any,
 79 which is the amount less than the minimum amount required by law
 80 to be assessed; and the total amount collected.

81 (b) The total amount of discretionary fees, service
 82 charges, and costs assessed and the total amount collected.

83 (c) The total amount of mandatory fines and other monetary
 84 penalties assessed; the total amount underassessed, if any,
 85 which is the amount less than the minimum amount required by law
 86 to be assessed; and the total amount collected.

87 (d) The total amount of discretionary fines and other

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 88 monetary penalties assessed and the total amount collected.

89
 90 The clerk, in reporting to the Legislature and corporation,
 91 shall separately identify the monetary amount assessed and
 92 subsequently discharged or converted to community service, to a
 93 judgment or lien, or to time served. The form developed by the
 94 clerks shall include separate entries for recording the amount
 95 discharged and the amount converted. If a court waives,
 96 suspends, or reduces an assessment as authorized by law, the
 97 portion waived, suspended, or reduced may not be deemed assessed
 98 or underassessed for purposes of the reporting requirements of
 99 this section. The clerk also shall report a collection rate for
 100 mandatory and discretionary assessments. In calculating the
 101 rate, the clerk shall deduct amounts discharged or converted
 102 from the amount assessed. The clerk shall submit the report on
 103 an annual basis 90 days after the end of the county fiscal year.
 104 The clerks and the courts shall develop by October 1, 2012, the
 105 form and guidelines to govern the accurate and consistent
 106 reporting statewide of assessments as provided in this section.
 107 The clerk shall use the new reporting form and guidelines in
 108 submitting the report for the county fiscal year ending
 109 September 30, 2013, and for each year thereafter.

110 (2) The clerk of the circuit court shall establish and
 111 maintain a system of accounts receivable for court-related fees,
 112 charges, and costs.

113 (3) Court costs, fines, and other dispositional assessments
 114 shall be enforced by order of the courts, collected by the
 115 clerks of the circuit and county courts, and disbursed in
 116 accordance with authorizations and procedures as established by

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117 general law.

118 (4) The clerk of the circuit court shall accept monthly
 119 ~~partial~~ payments for court-related fees, service charges, costs,
 120 and fines electronically, by mail, in person, or by a community-
 121 based organization authorized by the clerk to collect such
 122 payments in accordance with the terms of an established payment
 123 plan and shall enroll in a monthly payment plan any person. ~~An~~
 124 ~~individual~~ seeking to defer payment of fees, service charges,
 125 costs, or fines imposed by operation of law or order of the
 126 court under any provision of general law ~~shall apply to the~~
 127 ~~clerk for enrollment in a payment plan.~~ The clerk shall enter
 128 into a payment plan with an individual who the court determines
 129 is indigent for costs. A monthly payment amount shall be,
 130 calculated based upon all fees, fees, service charges, and all
 131 anticipated costs and must, ~~is presumed to~~ correspond to the
 132 person's ability to pay. The monthly payment shall be the
 133 greater of \$10 per month, per county or if the amount does not
 134 ~~exceed~~ 2 percent of the person's annual net income, as defined
 135 in s. 27.52(1), divided by 12. If a county has more than one
 136 case open for a person against whom fines, service charges,
 137 fees, and costs have been assessed, the monthly payment plan
 138 must include the amounts assessed for all of the cases. If a
 139 person is not in custody, the plan must provide a 30-day grace
 140 period for the person to make the first payment. If a person is
 141 incarcerated, the first payment is due 90 days after the date
 142 the person is released from custody. The court may, on its own
 143 motion or by petition, review and modify the reasonableness of
 144 the payment plan or convert the outstanding fees, service
 145 charges, costs, or fines to community service if the court

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146 determines that the person is otherwise unable to comply with
 147 the terms of the payment plan.

148 (5) A person who is indigent as described in s. 27.52(2), a
 149 person who receives public assistance as defined in s. 409.2554,
 150 or a person whose household income is below 200 percent of the
 151 federal poverty level based on the current year's federal
 152 poverty guidelines may petition the court to declare that the
 153 financial obligations under the payment plan have been met and
 154 to terminate the payment plan if, up to the date of the
 155 petition, the person made timely payments for:

156 (a) Twelve consecutive months for any financial obligation
 157 that was \$500 or less;

158 (b) Twenty-four consecutive months for any financial
 159 obligation that was greater than \$500 but \$1,000 or less; or

160 (c) Thirty-six consecutive months for any financial
 161 obligation that was greater than \$1,000.

162 (6) ~~(5)~~ When receiving partial payment of fees, service
 163 charges, court costs, and fines, clerks shall distribute funds
 164 according to the following order of priority:

165 (a) That portion of fees, service charges, court costs, and
 166 fines to be remitted to the state for deposit into the General
 167 Revenue Fund.

168 (b) That portion of fees, service charges, court costs, and
 169 fines required to be retained by the clerk of the court or
 170 deposited into the Clerks of the Court Trust Fund within the
 171 Department of Revenue.

172 (c) That portion of fees, service charges, court costs, and
 173 fines payable to state trust funds, allocated on a pro rata
 174 basis among the various authorized funds if the total collection

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amount is insufficient to fully fund all such funds as provided by law.

(d) That portion of fees, service charges, court costs, and fines payable to counties, municipalities, or other local entities, allocated on a pro rata basis among the various authorized recipients if the total collection amount is insufficient to fully fund all such recipients as provided by law.

To offset processing costs, clerks may impose ~~either a per-month service charge pursuant to s. 28.24(26)(b) or~~ a one-time administrative processing service charge at the inception of the payment plan pursuant to s. 28.24(26)(b) or (c) ~~s. 28.24(26)(c)~~.

(7) ~~(6)~~ A clerk of court shall pursue the collection of any fees, service charges, fines, court costs, and liens for the payment of attorney fees and costs pursuant to s. 938.29 which remain unpaid after 90 days by referring the account to a private attorney who is a member in good standing of The Florida Bar or collection agent who is registered and in good standing pursuant to chapter 559. In pursuing the collection of such unpaid financial obligations through a private attorney or collection agent, the clerk of the court must have attempted to collect the unpaid amount through a collection court, collections docket, or other collections process, if any, established by the court, find this to be cost-effective and follow any applicable procurement practices. The collection fee, including any reasonable attorney's fee, paid to any attorney or collection agent retained by the clerk may be added to the balance owed in an amount not to exceed 40 percent of the amount

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owed at the time the account is referred to the attorney or agent for collection. The clerk shall give the private attorney or collection agent the application for the appointment of court-appointed counsel regardless of whether the court file is otherwise confidential from disclosure.

Section 3. Section 28.42, Florida Statutes, is amended to read:

28.42 Manual of filing fees, charges, costs, and fines; uniform payment plan forms.—

(1) The clerks of court, through their association and in consultation with the Office of the State Courts Administrator, shall prepare and disseminate a manual of filing fees, service charges, costs, and fines imposed pursuant to state law, for each type of action and offense, and classified as mandatory or discretionary. The manual also shall classify the fee, charge, cost, or fine as court-related revenue or noncourt-related revenue. The clerks, through their association, shall disseminate this manual to the chief judge, state attorney, public defender, and court administrator in each circuit and to the clerk of the court in each county. The clerks, through their association and in consultation with the Office of the State Courts Administrator, shall at a minimum update and disseminate this manual on July 1 of each year.

(2) By October 1, 2021, the Office of the State Courts Administrator, in consultation with the clerks of court and the Florida Clerks of Court Operations Corporation, shall develop a uniform payment plan form for use by persons seeking to establish a payment plan in accordance with s. 28.246. The form must inform the person about the minimum payment due each month,

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the term of the plan, acceptable payment methods, and the circumstances under which a case may be sent to collections for nonpayment.

Section 4. Section 318.15, Florida Statutes, is amended to read:

318.15 Failure to comply with civil penalty or to appear; penalty.—

~~(1)(a) If a person fails to comply with the civil penalties provided in s. 318.18 within the time period specified in s. 318.14(4), fails to enter into or comply with the terms of a penalty payment plan with the clerk of the court in accordance with ss. 318.14 and 28.246, fails to attend driver improvement school, or fails to appear at a scheduled hearing, the clerk of the court shall notify the Department of Highway Safety and Motor Vehicles of such failure within 10 days after such failure. Upon receipt of such notice, the department shall immediately issue an order suspending the driver license and privilege to drive of such person effective 20 days after the date the order of suspension is mailed in accordance with s. 322.251(1), (2), and (6). Any such suspension of the driving privilege which has not been reinstated, including a similar suspension imposed outside Florida, shall remain on the records of the department for a period of 7 years from the date imposed and shall be removed from the records after the expiration of 7 years from the date it is imposed. The department may not accept the resubmission of such suspension.~~

~~(b) However,~~ A person who elects to attend driver improvement school and has paid the civil penalty as provided in s. 318.14(9) but who subsequently fails to attend the driver

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improvement school within the time specified by the court is deemed to have admitted the infraction and shall be adjudicated guilty. If the person received an 18-percent reduction pursuant to s. 318.14(9), the person must pay the clerk of the court that amount and a processing fee of up to \$18, from which the clerk shall remit \$3 to the Department of Revenue for deposit into the General Revenue Fund, after which additional penalties, court costs, or surcharges may not be imposed for the violation. In all other such cases, the person must pay the clerk a processing fee of up to \$18, from which the clerk shall remit \$3 to the Department of Revenue for deposit into the General Revenue Fund, after which additional penalties, court costs, or surcharges may not be imposed for the violation. The clerk of the court shall notify the department of the person's failure to attend driver improvement school and points shall be assessed pursuant to s. 322.27.

(2)(e) A person who is charged with a traffic infraction may request a hearing within 180 days after the date upon which the violation occurred, ~~regardless of any action taken by the court or the department to suspend the person's driving privilege,~~ and, upon request, the clerk must set the case for hearing. ~~The person shall be given a form for requesting that his or her driving privilege be reinstated.~~ If the 180th day after the date upon which the violation occurred is a Saturday, Sunday, or legal holiday, the person who is charged must request a hearing within 177 days after the date upon which the violation occurred; however, the court may grant a request for a hearing made more than 180 days after the date upon which the violation occurred. This subsection paragraph does not affect

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the assessment of late fees as otherwise provided in this chapter.

~~(2) After the suspension of a person's driver license and privilege to drive under subsection (1), the license and privilege may not be reinstated until the person complies with the terms of a periodic payment plan or a revised payment plan with the clerk of the court pursuant to ss. 318.14 and 28.246 or with all obligations and penalties imposed under s. 318.18 and presents to a driver license office a certificate of compliance issued by the court, together with a nonrefundable service charge of \$60 imposed under s. 322.29, or presents a certificate of compliance and pays the service charge to the clerk of the court or a driver licensing agent authorized under s. 322.135 clearing such suspension. Of the charge collected, \$22.50 shall be remitted to the Department of Revenue to be deposited into the Highway Safety Operating Trust Fund. Such person must also be in compliance with requirements of chapter 322 before reinstatement.~~

(3) A person whose driver license was suspended solely for nonpayment pursuant to this section before July 1, 2020, and who is otherwise eligible to drive may reinstate his or her driver license upon payment of a reinstatement fee ~~The clerk shall notify the department of persons who were mailed a notice of violation of s. 316.074(1) or s. 316.075(1)(c)1. pursuant to s. 316.0083 and who failed to enter into, or comply with the terms of, a penalty payment plan, or order with the clerk to the local hearing officer or failed to appear at a scheduled hearing within 10 days after such failure, and shall reference the person's driver license number, or in the case of a business~~

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entity, ~~vehicle registration number.~~

~~(a) Upon receipt of such notice, the department, or authorized agent thereof, may not issue a license plate or revalidation sticker for any motor vehicle owned or co-owned by that person pursuant to s. 320.03(8) until the amounts assessed have been fully paid.~~

~~(b) After the issuance of the person's license plate or revalidation sticker is withheld pursuant to paragraph (a), the person may challenge the withholding of the license plate or revalidation sticker only on the basis that the outstanding fines and civil penalties have been paid pursuant to s. 320.03(8).~~

Section 5. Subsections (1) and (5) of section 322.245, Florida Statutes, are amended to read:

322.245 Suspension of license upon failure of person charged with specified offense under chapter 316, chapter 320, or this chapter to comply with directives ordered by traffic court or upon failure to pay child support in non-IV-D cases as provided in chapter 61 or failure to pay any financial obligation in any other criminal case.—

(1) If a person charged with a violation of any of the criminal offenses enumerated in s. 318.17 or with the commission of any offense constituting a misdemeanor under chapter 320 or this chapter fails to comply with all of the directives of the court within the time allotted by the court, other than the payment of fines, service charges, fees, or costs, the clerk of the traffic court shall mail to the person, at the address specified on the uniform traffic citation, a notice of such failure, notifying him or her that, if he or she does not comply

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with the directives of the court within 30 days after the date of the notice and pay a delinquency fee of up to \$25 to the clerk, from which the clerk shall remit \$10 to the Department of Revenue for deposit into the General Revenue Fund, his or her driver license will be suspended. The notice shall be mailed no later than 5 days after such failure. The delinquency fee may be retained by the office of the clerk to defray the operating costs of the office.

(5)~~(a)~~ A person whose driver license was suspended solely for nonpayment pursuant to this section before July 1, 2020, and who is otherwise eligible to drive may reinstate his or her driver license upon payment of a reinstatement fee ~~When the department receives notice from a clerk of the court that a person licensed to operate a motor vehicle in this state under the provisions of this chapter has failed to pay financial obligations for any criminal offense other than those specified in subsection (1), in full or in part under a payment plan pursuant to s. 28.246(4), the department shall suspend the license of the person named in the notice.~~

~~(b) The department must reinstate the driving privilege when the clerk of the court provides an affidavit to the department stating that:~~

~~1. The person has satisfied the financial obligation in full or made all payments currently due under a payment plan;~~

~~2. The person has entered into a written agreement for payment of the financial obligation if not presently enrolled in a payment plan; or~~

~~3. A court has entered an order granting relief to the person ordering the reinstatement of the license.~~

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~~(e) The department shall not be held liable for any license suspension resulting from the discharge of its duties under this section.~~

Section 6. Subsection (1) of section 34.191, Florida Statutes, is amended to read:

34.191 Fines and forfeitures; dispositions.—

(1) All fines and forfeitures arising from offenses tried in the county court shall be collected and accounted for by the clerk of the court and, other than the charge provided in s. 318.1215, disbursed in accordance with ss. 28.2402, 34.045, 142.01, and 142.03 and subject to s. 28.246(6) and (7) the provisions of s. 28.246(5) and (6). Notwithstanding the provisions of this section, all fines and forfeitures arising from operation of the provisions of s. 318.1215 shall be disbursed in accordance with that section.

Section 7. Subsection (8) of section 320.03, Florida Statutes, is amended to read:

320.03 Registration; duties of tax collectors; International Registration Plan.—

(8) If the applicant's name appears on the list referred to in s. 316.1001(4), s. 316.1967(6), ~~s. 318.15(3)~~, or s. 713.78(13), a license plate or revalidation sticker may not be issued until that person's name no longer appears on the list or until the person presents a receipt from the governmental entity or the clerk of court that provided the data showing that the fines outstanding have been paid. This subsection does not apply to the owner of a leased vehicle if the vehicle is registered in the name of the lessee of the vehicle. The tax collector and the clerk of the court are each entitled to receive monthly, as

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costs for implementing and administering this subsection, 10 percent of the civil penalties and fines recovered from such persons. As used in this subsection, the term "civil penalties and fines" does not include a wrecker operator's lien as described in s. 713.78(13). If the tax collector has private tag agents, such tag agents are entitled to receive a pro rata share of the amount paid to the tax collector, based upon the percentage of license plates and revalidation stickers issued by the tag agent compared to the total issued within the county. The authority of any private agent to issue license plates shall be revoked, after notice and a hearing as provided in chapter 120, if he or she issues any license plate or revalidation sticker contrary to the provisions of this subsection. This section applies only to the annual renewal in the owner's birth month of a motor vehicle registration and does not apply to the transfer of a registration of a motor vehicle sold by a motor vehicle dealer licensed under this chapter, except for the transfer of registrations which includes the annual renewals. This section does not affect the issuance of the title to a motor vehicle, notwithstanding s. 319.23(8)(b).

Section 8. For the purpose of incorporating the amendment made by this act to section 28.24, Florida Statutes, in a reference thereto, paragraph (i) of subsection (5) of section 27.52, Florida Statutes, is reenacted to read:

27.52 Determination of indigent status.—

(5) INDIGENT FOR COSTS.—A person who is eligible to be represented by a public defender under s. 27.51 but who is represented by private counsel not appointed by the court for a reasonable fee as approved by the court or on a pro bono basis,

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or who is proceeding pro se, may move the court for a determination that he or she is indigent for costs and eligible for the provision of due process services, as prescribed by ss. 29.006 and 29.007, funded by the state.

(i) A defendant who is found guilty of a criminal act by a court or jury or enters a plea of guilty or nolo contendere and who received due process services after being found indigent for costs under this subsection is liable for payment of due process costs expended by the state.

1. The attorney representing the defendant, or the defendant if he or she is proceeding pro se, shall provide an accounting to the court delineating all costs paid or to be paid by the state within 90 days after disposition of the case notwithstanding any appeals.

2. The court shall issue an order determining the amount of all costs paid by the state and any costs for which prepayment was waived under this section or s. 57.081. The clerk shall cause a certified copy of the order to be recorded in the official records of the county, at no cost. The recording constitutes a lien against the person in favor of the state in the county in which the order is recorded. The lien may be enforced in the same manner prescribed in s. 938.29.

3. If the attorney or the pro se defendant fails to provide a complete accounting of costs expended by the state and consequently costs are omitted from the lien, the attorney or pro se defendant may not receive reimbursement or any other form of direct or indirect payment for those costs if the state has not paid the costs. The attorney or pro se defendant shall repay the state for those costs if the state has already paid the

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costs. The clerk of the court may establish a payment plan under s. 28.246 and may charge the attorney or pro se defendant a one-time administrative processing charge under s. 28.24(26)(c).

Section 9. For the purpose of incorporating the amendment made by this act to section 28.24, Florida Statutes, in a reference thereto, subsection (6) of section 57.082, Florida Statutes, is reenacted to read:

57.082 Determination of civil indigent status.—

(6) PROCESSING CHARGE; PAYMENT PLANS.—A person who the clerk or the court determines is indigent for civil proceedings under this section shall be enrolled in a payment plan under s. 28.246 and shall be charged a one-time administrative processing charge under s. 28.24(26)(c). A monthly payment amount, calculated based upon all fees and all anticipated costs, is presumed to correspond to the person's ability to pay if it does not exceed 2 percent of the person's annual net income, as defined in subsection (1), divided by 12. The person may seek review of the clerk's decisions regarding a payment plan established under s. 28.246 in the court having jurisdiction over the matter. A case may not be impeded in any way, delayed in filing, or delayed in its progress, including the final hearing and order, due to nonpayment of any fees or costs by an indigent person. Filing fees waived from payment under s. 57.081 may not be included in the calculation related to a payment plan established under this section.

Section 10. This act shall take effect July 1, 2020.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Military and Veterans Affairs and Space, *Chair*
Children, Families, and Elder Affairs
Commerce and Tourism
Environment and Natural Resources

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR TOM A. WRIGHT

14th District

January 8, 2020

The Honorable David Simmons
404, Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Re: Senate Bill 1328 – Fines and Fees

Dear Chair Simmons:

Senate Bill 1328, relating to Fines and Fees has been referred to the Committee on Judiciary. I am requesting your consideration on placing SB 1328 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Tom A. Wright".

Tom A. Wright, District 14

cc: Tom Cibula, Staff Director of the Committee on Judiciary
Joyce Butler, Administrative Assistant of the Committee on Judiciary

REPLY TO:

- ☐ 4606 Clyde Morris Blvd., Suite 2-J, Port Orange, Florida 32129 (386) 304-7630
- ☐ 312 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

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LAURA E. ROTH
VOLUSIA COUNTY

HARVEY RUVIN, ESQ.
MIAMI-DADE COUNTY

RON FICARROTTA
13TH JUDICIAL CIRCUIT JUDGE
SUPREME COURT APPOINTEE

**ANGELINA "ANGEL"
COLONNESO, ESQ.**
MANATEE COUNTY
SENATE APPOINTEE

VACANT
HOUSE APPOINTEE

JOHN DEW
EXECUTIVE DIRECTOR

JOE BOYD
GENERAL COUNSEL

2560-102 BARRINGTON CIRCLE | TALLAHASSEE, FLORIDA 32308 | PHONE 850.386.2223 | FAX 850.386.2224 | WWW.FLCCOC.ORG

CCOC BILL ANALYSIS

Bill Number:	HB 903
Subject:	Fines and Fees
Sponsor:	Representative Donalds
Committee Reference:	Civil Justice; Appropriations; Judiciary
Similar/Identical Bill:	SB 1328 Fines and Fees by Sen. Wright
Lead CCOC Staff:	Jason Welty, CCOC Budget and Communications Director

The proposed legislation makes various changes to Florida Statutes relating to driver license (DL) suspensions. Additionally, the bill makes changes to the way clerks receive payments.

Specifically, the bill:

- **Payment Plans**
 - Removes the \$5 per month payment plan fee
 - Standardizes all payment plan fees to be a one-time \$25 fee
 - Allows an indigent person (as defined in the bill) to only pay a one-time \$5 fee instead of the \$25 fee
 - Requires electronic payments of payment plans
 - Standardizes all payment plans to be the greater amount of either \$10 per month or 2 percent of a person's annual net income divided by 12
 - Requires all cases to be rolled into one payment plan
 - Requires the Office of the State Courts Administrator (OSCA) to work with clerks and the Clerks of Court Operations Corporation (CCOC) to create a uniform payment plan form
 - Provides a 30-day grace period from initiation of a payment plan, or a 90-day grace period from the date of release if the person is incarcerated
 - Allows an indigent person to petition the court to have financial obligations waived after a certain period
- **Suspension of Driver Licenses**
 - Removes the ability to suspend driver licenses based on failure to pay civil traffic fines and fees
 - Removes the ability to suspend driver licenses based on failure to pay criminal traffic fines and fees

- Allows persons with suspended driver licenses, based on failure to pay criminal traffic fines and fees, to have their licenses reinstated without paying the financial obligations.

Clerks of Court have a statutory duty to ensure compliance with court orders, including payment of fines and fees, on behalf of the state. Consequences to individuals for not complying with court orders can be significant, including license suspension. The suspension of a driver license is an important part of Clerks' toolkit to encourage individuals to pay their court obligations. However, it is important to note that a license is only suspended when an individual takes no action to comply.

Clerks share the policy goal of reducing driver license suspensions. Therefore, clerks have made it a priority component of their approved statewide legislative agenda this year to work with the Legislature and other stakeholders on solutions that help reduce driver license suspensions, without eliminating the ability to do so when necessary. There is an opportunity to meet the goal of reducing suspensions and keeping people driving legally through additional work, statewide and locally, with Floridians on the front end to stay in compliance with court orders and avoid suspensions.

Clerks are taking aggressive action through both the CCOC and their association, Florida Court Clerks & Comptrollers (FCCC), to promulgate best practices, seek additional technology resources to assist with easy and convenient payments, as well as looking for opportunities to gain better economies of scale for compliance activities for smaller operations. Removing the ability for clerks to suspend driver licenses for failure to pay court-ordered fines and fees would affect clerks' ability to ensure compliance and will have significant fiscal and operational impact on Florida's Clerks of Court, as well as General Revenue, judicial partners, and numerous state trust funds.

Additionally, while clerks view payment plans as an important component of a comprehensive statewide compliance program, it is important to recognize that a one-size fits all approach will present significant challenges. Florida's 67 counties are so different, and vary greatly in size, economic conditions, structure of the county operations, etc., that what works well in one county may not work in another. Setting arbitrary payment amounts, mandating processes statewide, and significantly increasing individuals being placed onto payment plans that do not work for their particular situation without the resources and systems in place to support and monitor those plans, will likely result in significant defaults on payments and other unintended negative consequences.

As currently drafted, CCOC estimates that this bill would result in a revenue loss for Clerks of Court of between \$20.8 million and \$49.5 million statewide. The bill will also result in an additional similar significant revenue loss to state General Revenue, various trust funds, as well as other judicial partners. The bill will also have an indeterminate but significant cost impact for clerks, due to increased workload to comply with the new requirements of the bill.

It is also important to note that the impacts stated in this analysis will likely be even more significant for smaller counties that do not have the existing staff or resources available to absorb the additional workload.

Clerks' Focus on Compliance

Clerks understand that many Floridians depend on driving to get to work, to get groceries, or to pick the kids up from school, and that consequences to individuals for not complying with their court orders can be significant, including license suspension and mounting debt. While clerks view driver license suspension as an important part of the compliance toolkit, clerks believe there is an opportunity to meet the public policy goal of reducing suspensions and keeping people driving legally with a statewide focus and approach to work with Floridians on the front end to stay in compliance with court orders.

Currently, clerks utilize a variety of solutions to increase compliance with court orders, including statewide best practices and local compliance programs. Clerks also recently held two important statewide events focused on compliance: a joint summit, hosted by the CCOC and FCCC, focusing on keys to a successful compliance program; and "Operation Green Light," which helped 11,624 Floridians become eligible for driver license reinstatement and placed more than 20,000 cases on payment plans.

Recognizing the importance of this issue, Florida's clerks requested, and the CCOC Executive Council subsequently approved, over \$2 million in additional funding to clerks for additional compliance services as part of the CFY 2019-20 budget.

This session, clerks also plan to work with the Legislature to offer Floridians solutions using convenient, reasonable payment plans; more payment options and locations; innovative technology to reach people with electronic reminders, making staying in compliance simpler; and cooperation to achieve economies of scale for compliance processes where needed.

CURRENT SITUATION**CONSTITUTIONAL REQUIREMENTS FOR CLERK FUNDING**

Article V of the State Constitution establishes the judicial branch of state government, including the trial and appellate courts and describes the duties and responsibilities of the clerks of the court. In 1998, voters approved to allocate more court costs to the state. Subsequent to that revision, Article V, section 14 of the Florida Constitution specifies the state and county responsibilities for funding the state courts system, by providing that the Supreme Court and the District Courts of Appeal must be fully funded by the state, and the trial courts are jointly funded by the state and counties. As it pertains to the clerks, Article V, section 14(b) provides that:

All funding for the offices of the clerks of the circuit and county courts performing court-related functions, except as otherwise provided in this subsection and subsection (c), shall be provided by adequate and appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions as required by general law. Selected salaries, costs, and expenses of the state courts system may be funded from appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions, as provided by general law. Where the requirements of either the United States Constitution or the Constitution of the State of Florida preclude the imposition of filing fees for judicial proceedings and service charges and costs for performing court-related functions sufficient to fund the court-related functions of the offices of the clerks of the circuit and county courts, the state shall provide, as determined by the legislature, adequate and appropriate supplemental funding from state revenues appropriated by general law.

According to s. 28.35, F.S., the list of court-related functions clerks perform is limited to those functions expressly authorized by statute or court rule. Relevant to this analysis, these duties include:

- Case maintenance;
- Records management;
- Court preparation and attendance;
- Collection and distribution of fines, fees, service charges, and court costs;
- Data collection and reporting; and
- Determinations of indigent status.

LEGISLATIVE IMPLEMENTATION OF CLERK FUNDING

The Legislature authorizes the clerks of the court to collect revenue and designates a portion of the collected revenues for the purpose of funding the clerks' annual budgets. Revenues are diverse and often a single revenue source will be distributed to multiple recipients.

For instance, the statutory base fine for a speeding ticket for 6-9 miles per hour over the speed limit is \$25; however, there are optional county fees (\$30 for court facilities, \$3 for teen court, \$5 for driver education programs, and \$2 for law enforcement education); a Court Cost Clearing fee of \$3; two court costs fees totaling \$32.50; two General Revenue fees totaling \$17.50; a \$5 fee for the state courts; a \$3.33 fee for the State Attorneys; a \$1.67 fee for the Public Defenders; and finally, a \$3 state radio system fee. The total cost for a 6-9 MPH speeding ticket could be up to \$131 (See Table 1). On a 6-9 mph speeding ticket, the revenue breakdown by receiving entity is:

Entity	Revenue per Citation	Percentage of Revenue
County / City	\$56.29	42.97%
Clerk	\$35.60	27.18%
State - General Revenue	\$19.10	14.58%
Other State Entities	\$20.01	15.27%
TOTAL	\$131.00	100.00%

Table 1 – Distribution of a Civil Traffic Infraction

SPEEDING 6-9 MPH ¹		
STATUTORY BASE FEES	AMOUNT	AUTHORITY
TEEN COURT (BOCC) Optional with Co. Ordinance	\$2.85	938.19(2)
TEEN COURT SERVICE CHARGE	\$0.15	938.19(4)(b)
DORI SLOSBERG (BOCC) – Optional with Co. Ordinance	\$5.00	318.1215
COURT FACILITIES FUND (BOCC) <i>Optional with Co. Ordinance</i>	\$30.00	318.18(13)(a)1.
LOCAL LAW ENFORCEMENT EDU (BOCC) <i>Optional with Ordinance</i>	\$2.00	938.15/ 318.18(11)(d)
ADDITIONAL COURT COST CLEARING TRUST FUND – (FDLE and DCF)	\$3.00	318.18(11)(d)
ADDITIONAL COURT COST - CLERK or COUNTY	\$2.50	318.18(11) (c)
COURT COSTS - (CLERK)	\$30.00	318.18(11)(a)
GENERAL REVENUE FUND	\$5.00	318.18(11)(a)
ART V - STATE COURTS REVENUE TRUST FUND	\$5.00	318.18(19)(a)
ART V - STATE ATTORNEYS REVENUE TRUST FUND	\$3.33	318.18(19)(b)
ART V - INDIGENT CRIMINAL DEFENSE TRUST FUND - (PUBLIC DEFENDERS)	\$1.67	318.18(19)(c)
GENERAL REVENUE FUND	\$12.50	318.18(18)
STATE RADIO SYSTEM SURCHARGE – (DMS)	\$3.00	318.18(17)
STATUTORY BASE FINE	\$25.00	318.18(3)
TOTAL	\$123.00	
DISTRIBUTION OF STATUTORY BASE FINE (\$17.75 of the \$25 base fee)		
10% FINE/FINE & FORFEITURE FUND – (CLERK)	\$2.50	28.37(5)
CHILD WELFARE TRUST FUND – (DCF)	\$1.00	318.21(1)
JUVENILE JUSTICE TRUST FUND – (DJJ)	\$1.00	318.21(1)
RADIO COMMUNICATIONS PROG. – (COUNTY)	\$12.50	318.21(9)
NONGAME WILDLIFE TRUST FUND – (FWC)	\$0.25	318.21(7)
OF THE REMAINDER OF FINE (\$7.75):		
GENERAL REVENUE FUND	20.6%	318.21(2)(a)
EMERGENCY MED. SERVICES – (DOH)	7.2%	318.21(2)(b)
ADD. COURT COSTS CLEARING TRUST FUND – (FDLE and DCF)	5.1%	318.21(2)(c)
BRAIN & SPINAL CORD – (DOH)	8.2%	318.21(2)(d)
DIVISION of VOC REHAB – (DOE)	2.0%	318.21(2)(e)
CLERK OF THE COURT	0.5%	318.21(2)(f)
CLERK OR SEMINOLE / MICCOSUKEE TRIBE OR	56.4%	318.21(2)(g)1
MUNICIPALITY AND	50.8%	318.21(2)(g)2
CLERK OF THE COURT	5.6%	318.21(2)2

As seen in the table above, which is derived from the 2019 Clerks' Distribution Schedule, the

¹ 2019 Distribution of Court Related Filing Fees, Service Charges, Costs and Fines, including a Fee Schedule for Recording - Effective July 1, 2019 (PDF), https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/advisories/advisories_2019/19bull053_Attach_1_2019_Dist.pdf.

Legislature specifically delineated the first \$17.25 of the statutory base fine to five entities. Of the remaining \$7.75 of the fine, the Legislature split the fine between seven or eight entities, depending upon which law enforcement agency wrote the ticket.

Another example of a legislatively created revenue for clerks are the fines and fees on criminal traffic infractions. For example, a first-time offense of knowingly driving with a suspended or revoked driver license is a second-degree misdemeanor, pursuant to s. 322.34, F.S. The fines, fees, and service fees are distributed as identified in the table below.

Table 2 – Distribution of a Criminal Traffic Infraction

TRAFFIC - SECOND DEGREE MISDEMEANOR²		
Clerks are authorized to retain 10% of the fine amount prior to distribution (28.37) for deposit into the Fine and Forfeiture Fund		
DESCRIPTION	AMOUNT	AUTHORITY
FINE – Clerk	Not to Exceed \$500	775.083
FINE IF ADJUDICATION WITHHELD--CLERK	Not to Exceed \$1,000	775.083
DEPARTMENT OF LEGAL AFFAIRS – CRIMES COMPENSATION TRUST FUND 5% SURCHARGE	5% OF FINE	938.04
CRIME STOPPERS TRUST FUND – (DLA/OAG)	\$17.00	938.06
CRIME STOPPERS TRUST FEE– (DLA/OAG)	\$3.00	938.06
ADDITIONAL COURT COSTS	\$50.00	938.05(1)(c)
GENERAL REVENUE FUND	\$10.00	938.05(1)(c)
CRIMES COMP FEE	\$1.00	938.03(4)
CRIMES COMP TRUST FUND – (DLA/OAG)	\$49.00	938.03(4)
ADDITIONAL COURT COST CLEARING TRUST FUND – (FDLE and DCF)	\$3.00	938.01
LOCAL LAW ENFORCEMENT EDU <i>Mandatory with Ordinance</i>	\$2.00	938.15
CRIMES PREVENTION FUND	\$20.00	775.083(2)
STATE RADIO SYSTEM SURCHARGE (assessed on any criminal traffic charges listed in 318.17)	\$3.00	318.18(17)
COURT FACILITIES FUND <i>Mandatory with Ordinance</i>	\$30.00	318.18(13)(a)
ADDITIONAL COSTS (BOCC) - PROGRAMS <i>Mandatory with Ordinance</i>	\$65.00	939.185(1)(a)
TEEN COURT (BOCC) Optional with Co. Ordinance	\$2.85	938.19(2)
TEEN COURT SERVICE CHARGE	\$0.15	938.19(4)(b)
COST OF PROSECUTION—assessed upon conviction		
JAC/STATE ATTY GRANTS AND DONATIONS/Misdemeanor or Criminal Traffic	not less than \$50	938.27(8)

These examples are just two of several hundred fines, fees, service charges, and court costs the Legislature provided to the clerks to implement their statutory and constitutional duties.

² 2019 Distribution of Court Related Filing Fees, Service Charges, Costs and Fines, including a Fee Schedule for Recording - Effective July 1, 2019 (PDF).

https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/advisories/advisories_2019/19bull053_Attach_1_2019_Dist.pdf.

TRAFFIC CITATIONS AND DRIVER LICENSE SUSPENSION

The Legislature uses the sanctioning of a driver license for individuals who violate Florida laws for both driving and non-driving-related offenses. Suspensions and revocations take away a person's driving privilege, although the focus of this analysis is on the suspension of a driver license. To reinstate a suspended license, an individual must fulfill legal and financial obligations and, in some cases, wait a minimum time before the privilege to drive is reinstated.

At the state level, Florida Highway Safety and Motor Vehicles (FLHSMV) is responsible for issuing driver licenses and has the power to suspend or revoke those licenses when certain criteria are met. FLHSMV must provide the notice required by law and communicate license reinstatement requirements when informing an individual of a sanctioned license. The role of other state agencies is to notify the department when individuals violate laws that can be sanctioned by driver license suspension. For example, if a parent is delinquent on child support payments, the Department of Revenue notifies FLHSMV to start the process of driver license suspension.

At the local level, clerks of court are responsible for collecting financial obligations imposed by the court for criminal and traffic offenses, as well as maintaining court records and ensuring that court orders are carried out. Sections 322.245, and 318.15, Florida Statutes, require clerks of court to notify FLHSMV when a driver fails to pay court-imposed financial obligations for criminal offenses or civil traffic offenses. Failure to pay criminal court obligations can result in a license suspension. Also, clerks of court provide information to the department about any court actions that require the suspension or revocation of driver licenses. On behalf of FLHSMV, clerks of court and county tax collectors may reinstate driving privileges and collect reinstatement fees.

Generally, a person has 30 days to pay or contest a traffic citation. If the citation is unpaid, clerks will send a notice to FLHSMV within 10 days after the due date. Upon receipt of the notice from the clerks, FLHSMV must immediately issue an order suspending the driver license of the person, effective 20 days after the date the order of suspension is mailed. During the 20 days, a person's license is not suspended, and they can prevent the suspension of their license by either paying the full amount of the obligation or establishing a payment plan with the clerk of court. As an illustration, during Calendar Year (CY) 2018, 43 percent of the cases that were set to be suspended paid their obligations during this 20-day window, proving to be an effective compliance tool.

After a person's license is suspended, and 90 days after the citation was issued, clerks must forward the outstanding obligation to a collection agent or private attorney to collect unpaid financial obligations if the defendant has not established a payment plan with the clerk or paid the financial obligation in full. The collection agents can charge up to 40 percent of the amount owed at the time of referral, pursuant to s. 28.246(6), F.S. To reinstate their license, a person must establish a payment plan with the clerk or pay the entire amount in full. In addition to the original fines and costs, a person must pay a \$60 reinstatement fee and a \$16 civil penalty late fee.

The table below shows the number of civil traffic infractions by calendar year and violation type.

Table 3 – Civil Traffic Citations by Type³

Calendar Year	Non-Moving	Moving	Total
2015	964,705	2,037,434	3,002,139
2016	796,944	1,983,627	2,780,571
2017	730,323	1,898,583	2,628,906
2018	713,827	1,891,072	2,604,899

Section 318.15, Florida Statutes, compels the clerks of the court to begin the suspension of a driver license of a person that does not pay the civil penalties associated with traffic infractions. This section requires the clerks to send a notification to Florida Highway Safety and Motor Vehicles (FLHSMV) within 10 days after a person fails to pay the fines. The department must immediately issue an order suspending the driver license and privilege to drive, effective 20 days after the date the order of suspension is mailed. The Legislature created this enforcement mechanism as a tool for compliance of obligations and in many instances this tool is effective.

Data from the FLHSMV shows in calendar year 2018 there were 1,237,513 sanctions created for failure to pay fines, failure to appear in court, or failure to complete driver school. Approximately 76 percent of these cases (939,712) were failure to pay traffic fines.

Of the 939,712 cases of failure to pay traffic fines, approximately 46 percent of cases (436,089) were paid before the driver license suspension took effect. Of the remaining 503,623 cases, 66 percent (330,239) had their license restored after the suspension took effect. By July 15, 2019, only 173,384 cases were unpaid, and the licenses were still suspended, which is 18 percent of the total sanctions created. The data for the past four years is similar to calendar year 2018, as seen in the table below.

Table 4 – Sanctions for Failure to Pay Civil Traffic Citations

FAILURE TO PAY MOVING OR NONMOVING TRAFFIC FINE								
Year	# of Sanctions Created	# Restored Prior to Becoming Effective	% Restored Before Losing License	# Effective Sanctions	# Restored After Becoming Effective	% Restored After Losing License	# Not Restored as of July Following Year	% not restored by July of Following Year
CY 2015	1,060,339	504,741	48%	555,598	345,866	62%	209,732	20%
CY 2016	1,022,574	476,772	47%	545,802	342,929	63%	202,873	20%
CY 2017	991,490	454,876	46%	536,614	340,654	63%	195,960	20%
CY 2018	939,712	436,089	46%	503,623	330,239	66%	173,384	18%

Criminal traffic infractions are separate from civil traffic infractions. The table below shows the number of criminal traffic infractions by calendar year and violation type.

³ Florida Highway Safety and Motor Vehicles, Crash and Citation Reports & Statistics.
<https://www.flhsmv.gov/resources/crash-citation-reports/> last visited 12/18/19

Table 5 – Criminal Traffic Citations by Type⁴

Calendar Year	DUI	DWLSR	Other	Total
2015	46,922	157,084	180,353	384,359
2016	44,643	137,668	170,727	353,038
2017	43,899	140,989	169,535	354,423
2018	43,715	140,148	176,093	359,956

Criminal Traffic offenses include⁵:

1. Fleeing or attempting to elude a police officer, in violation of s. [316.1935](#);
2. Leaving the scene of a crash, in violation of ss. [316.027](#) and [316.061](#);
3. Driving, or being in actual physical control of, any vehicle while under the influence of alcoholic beverages, any chemical substance set forth in s. [877.111](#), or any substance controlled under chapter 893, in violation of s. [316.193](#), or driving with an unlawful blood-alcohol level;
4. Reckless driving, in violation of s. [316.192](#);
5. Making false crash reports, in violation of s. [316.067](#);
6. Willfully failing or refusing to comply with any lawful order or direction of any police officer or member of the fire department, in violation of s. [316.072](#)(3);
7. Obstructing an officer, in violation of s. [316.545](#)(1); or
8. Any other offense in chapter 316 which is classified as a criminal violation.

Table 6 – Sanctions for Failure to Pay Criminal Traffic Citations

FAILURE TO PAY MOVING OR NONMOVING TRAFFIC FINE								
Year	# of Sanctions Created	# Restored Prior to Becoming Effective	% Restored Before Losing License	# Effective Sanctions	# Restored After Becoming Effective	% Restored After Losing License	# Not Restored as of July Following Year	% not restored by July of Following Year
CY 2015	52,104	7,188	14%	44,916	10,697	24%	34,219	66%
CY 2016	72,031	9,393	13%	62,638	13,775	22%	48,863	68%
CY 2017	68,169	8,867	13%	59,302	13,287	22%	46,015	68%
CY 2018	75,680	8,938	12%	66,742	14,390	22%	52,352	69%

The fines and fees for criminal traffic can be much greater than civil traffic; because of the increased cost, the percentage of suspended licenses that are reinstated before the sanction is imposed is much smaller than civil traffic cases (12 percent compared to 46 percent).

⁴ Florida Highway Safety and Motor Vehicles, Crash and Citation Reports & Statistics.
<https://www.flhsmv.gov/resources/crash-citation-reports/> last visited 12/18/19

⁵ s. 318.17, F.S.

Determinations of Indigency

Section 27.52(2), Florida Statutes, requires the clerk of the court to determine whether an applicant seeking appointment of a public defender is indigent. The clerk must consider the applicant to be indigent if the applicant is:

- At or below 200 percent of the federal poverty guidelines;
- Receiving Temporary Assistance for Needy Families-Cash Assistance (TANF);
- Receiving poverty-related veterans' benefits; or
- Receiving Supplemental Security Income (SSI).

Section 57.082, Florida Statutes, requires the clerk of the court to determine whether an applicant seeking appointment of an attorney in a civil case is indigent. Like the determination of indigency for criminal cases, a person is presumed to be indigent if they are at or below 200 percent of the federal poverty guidelines.

In both civil and criminal indigency applications, there is a presumption that the applicant is not indigent if the applicant owns, or has equity in, any intangible or tangible personal property or real property or the expectancy of an interest in property having a net equity value of \$2,500 or more, excluding the value of the person's homestead and one vehicle having a net value under \$5,000⁶.

In determining whether an applicant is indigent, the clerk must compare the information provided by the applicant to the criteria prescribed in either s. 27.52, F.S., or s. 57.082, F.S. This is a workload issue; therefore, clerks take the indigent applications at face-value and do not perform additional research to verify accuracy. The determination of indigent status is a ministerial act of the clerk and not a decision based on further investigation or the exercise of independent judgment by the clerk.

⁶ ss. 27.52(2) and 57.082(2), F.S.

EFFECT OF PROPOSED CHANGES – LICENSE SUSPENSION

The bill amends s. 318.15, F.S., removing the responsibility of clerks to notify FLHSMV if a person has failed to comply with the civil penalties provided in s. 318.18, F.S. Correspondingly, FLHSMV will no longer suspend a person's driver license for failure to pay a fine. Additionally, the bill removes the reinstatement process for failure to pay and the \$60 reinstatement fee. The current distribution of this fee is split between the clerks and FLHSMV with the clerks receiving \$37.50 and FLHSMV receiving \$22.50.

As illustrated in the previous tables, of the 2.6 million citations written in 2018, clerks sent approximately 1 million cases to FLHSMV for a failure to pay a moving or nonmoving traffic fine, which is approximately 36 percent of all citations. The bill will eliminate the suspension of licenses and does not provide another enforcement mechanism to encourage people to pay their obligations. While the bill will provide a positive public policy of allowing people to continue to maintain a driver license, it eliminates a compliance tool, which may disincentivize paying financial obligations. Without the potential for license suspension, it is reasonable to assume that fewer individuals will choose to comply and pay the fines owed. This reduction in compliance could significantly constrain clerks' ability to collect the fines, fees, and court costs that under current law fund their operations. Additionally, as pointed out in the speeding ticket examples, these changes impact collections for other stakeholders and judicial partners, as well as General Revenue.

CURRENT SITUATION – PAYMENT PLANS

From CFY 2013-14 to CFY 2017-18, clerks experienced an almost \$63 million budget cut due to decreasing revenues. In an effort to reverse the decreasing revenues, in October 2017, clerks held a statewide Compliance Summit to discuss various programs and best practices from around the state to keep people working, driving, and help them move on with their lives. The clerks held a second summit in October 2019 to continue to share the best practices and ideas for clerks to help keep people in compliance without suspending their licenses. Ideally, clerks would never have to begin the process of suspending a license, because everyone would simply pay their statutory obligations; however, the clerks recognize the needs of their community and work with struggling customers to develop a payment plan to fit their needs while taking care of their obligations.

As part of the statutory revisions that originated from Revision 7 of Article V, the Legislature created s. 28.246, F.S., which requires clerks to accept partial payments for unpaid court-related fees, charges, and costs in accordance with the terms of an established payment plan. Payment plans are designed to meet the needs of the individuals that owe obligations to the state. There is a diversity of payment plans that typically meets the needs of a clerks' constituency. Clerks attempt to customize or tailor the payment plan to fit the needs of the customer.

Due to the variations in payment plan types and lengths, clerks have two options under s. 28.24(26), F.S., when it comes to payment plan administrative costs. Clerks have the option to charge a \$5 per month fee or a \$25 one-time administrative fee for a case on a payment plan. Some clerks use the \$25 fee exclusively, others use the \$5 per month exclusively, while some clerks use both fees depending upon the needs of the customer. In addition to payment

plans, some clerks offer a 30-day extension to allow the customer more time to pay the obligation in full.

In addition to the variable administrative fee for payment plans, clerks have differences in payment schedules depending on the amount owed. For instance, one county has the following payment schedule:

Table 7 – Payment Schedule

Total Amount Owed	Months to Pay
\$300 or less	3 months
\$301 to \$700	6 months
\$701 to \$1200	12 months
\$1201 to \$2000	18 months
\$2001 and above	24 months

While this payment schedule works in this county, it may not work for another county due to differences in economic conditions. Another example from a different part of the state that has a lower median household income is as follows:

Table 8 – Payment Schedule

Total Amount Owed	Months to pay
50 - \$166	3 months
\$167 - \$350	6 months
\$351 - \$500	9 months
\$501 - \$750	12 months
\$750 - \$1000	15 months
\$1000.01 - \$1500	24 months
\$1500.01 - \$2500	36 months

Clerks are balancing two, sometimes conflicting, goals when creating payment plans. Clerks must construct payment plans to meet the needs of the individuals but must also try to collect the maximum amount of revenue, which funds many stakeholders within the justice system, not just the clerk's office.

EFFECT OF PROPOSED CHANGES – PAYMENT PLANS

The bill makes several changes to the structure of payment plans. The bill amends s. 28.24, F.S., removing the \$5 per month payment plan fee, making the \$25 one-time fee standard, and creates a new \$5 one-time payment fee for an indigent person in lieu of the \$25 fee.

The bill amends s. 28.246, F.S., to specify the way individuals can make payments. The bill expands the options of where an individual can make a payment and requires clerks to accept payments through a community-based organization authorized by the clerk. Additionally, the bill removes the payment plan option for individuals that are indigent for costs. The bill standardizes all payment plans to be the greater amount of either \$10 per month or 2 percent of a person's annual net income divided by 12 and requires all cases to be combined into one payment plan.

The bill also amends s. 28.246, F.S., to provide two grace periods for making the first payment of the payment plan; a 90-day grace period for individuals released from incarceration and a 30-day grace period for individuals not in custody.

Finally, the bill creates new subsection (5), which will allow an indigent person to petition the court to declare that the financial obligations under the payment plan have been met and to terminate the payment plan if, up to the date of the petition, the person made timely payments for:

1. Twelve consecutive months for any financial obligation that was \$500 or less;
2. Twenty-four consecutive months for any financial obligation that was greater than \$500 but \$1000 or less; or
3. Thirty-six consecutive months for any financial obligation that was greater than \$1000.

In addition to four designations for indigency identified in s. 27.52, F.S., the bill adds “a person who receives public assistance as defined in s. 409.2554, F.S.,” to the list of automatic indigency qualifiers.

The changes to payment plans will significantly impact Florida’s clerks of the court. Clerks individualize and negotiate payment plans to fit the needs of the people who request a payment plan. Setting an arbitrary amount undermines the clerk’s ability to work with an individual to design an agreeable payment amount. Clerks are willing to work with individuals who are struggling to make payments and need to renegotiate terms and do so on a regular basis. If a person is up-to-date with their payment plan, the clerk will not submit a request to FLHSMV to suspend their license. Eliminating the \$5 per month charge for payment plans will negatively impact the clerks’ ability to customize these plans, which will hurt those on the payment plans and will also impact the clerk’s current revenue collection.

Some clerks have payment plans of only 3 months; by eliminating the \$5 per month charge, these individuals will pay \$10 more to the clerk. On the other end of the spectrum, clerks will also lose revenue by standardizing the one-time \$25 payment; a payment plan of 36 months could see a reduction of \$155 per payment plan. Additionally, the bill further reduces the cost the clerks collect by providing a one-time \$5 fee for indigent individuals. Most felony cases in the circuit criminal court will be indigent, exacerbating the lost revenue to the clerks.

In addition to the lost revenue, clerks will see an increased workload with changes proposed in this bill. Two examples of increased workload:

1. Review the defendant’s indigent application (possibly verify the information provided) — Significant clerk time required, as this task requires frequent repetition.
2. Determine the monthly payment based on the information provided by the defendant, also factoring in the number of cases covered by the payment plan with totals due in every case — Significant clerk time required, as this task requires frequent repetition.

Indigent Financial Obligation Waiver

The bill creates a waiver of court obligations for indigent individuals. This waiver has a potentially significant negative fiscal impact to the criminal justice system. For example, the 2019 Distribution Schedule shows the following fines and court costs for a third-degree felony.

Table 9 – Distribution Schedule for a Third-Degree Felony ⁷

3RD DEGREE FELONY		
DESCRIPTION AND STATUTORY AUTHORITY	AMOUNT	ENTITY RECEIVING FUNDS
COST OF PROSECUTION—assessed upon conviction		
JAC/STATE ATTY GRANTS AND DONATIONS/Felony – s. 938.27(8), F.S.	not less than \$100	State Attorneys
PUBLIC DEFENDER APPLICATION FEE - each application		
INDIGENT CRIM TRUST FEE 2% -S. 27.52(1)(b), F.S.	\$0.80	Clerks
GENERAL REVENUE FUND - s. 27.52(1)(b), F.S.	\$0.20	State GR
INDIGENT CRIMINAL TRUST FUND – s. 27.52(1)(b), F.S.	\$49.00	Public Defenders
FINES AND FEES		
FINE NOT TO EXCEED \$5,000 – s. 775.083(1)(c)	Not to exceed \$5,000	Clerks
5% SURCHARGE (assessed only if there is a fine assessed) – s. 938.04, F.S.	5% of fine	Attorney General - Crimes Compensation Trust Fund
CRIME STOPPERS T.F. FEE – s. 938.06(2), F.S.	\$3.00	Clerks
CRIME STOPPERS T.F. – s. 938.06(1), F.S.	\$17.00	Attorney General
COURT COST		
ADDITIONAL COURT COST – s. 938.05(1)(a), F.S.	\$200.00	Clerks
GENERAL REVENUE FUND – s. 938.05(1)(a), F.S.	\$25.00	State GR
CRIMES COMPENSATION TRUST FEE - s. 938.03, F.S.	\$1.00	Clerks
CRIMES COMPENSATION TRUST FUND – s. 938.03, F.S.	\$49.00	Attorney General - Crimes Compensation Trust Fund
ADDITIONAL COURT COST CLEARING TRUST – s. 938.01, F.S.	\$3.00	1. FDLE – Criminal Justice Standards and Training Trust Fund 2. FDLE – Operating Trust Fund for the Criminal Justice Grant Program 3. DCF – Domestic Violence Trust Fund
LOCAL LAW ENFORCEMENT EDU <i>Mandatory with Ordinance</i> - s. 938.15, F.S.	\$2.00	County
CRIME PREVENTION – s. 775.083 (2), F.S.	\$50.00	County
ADDITIONAL COSTS (BOCC) - PROGRAMS <i>Mandatory with Ordinance</i> - s. 939.185(1)(a), F.S.	\$65.00	County
TEEN COURT (BOCC) Optional with Co. Ordinance – s. 938.19(2), F.S.	\$2.85	County
TEEN COURT SERVICE CHARGE – s. 938.19(4)(b), F.S.	\$0.15	County

⁷ 2019 Distribution of Court Related Filing Fees, Service Charges, Costs and Fines, including a Fee Schedule for Recording - Effective July 1, 2019 (PDF).

https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/advisories/advisories_2019/19bull053_Attach_1_2019_Dist.pdf.

If an indigent person is convicted of a third-degree felony and a judge orders fifty percent of the max fine of \$5,000, that person will owe \$3,193, assuming all county-optional court costs are included. Under the proposed indigent fee waiver, a person could pay \$10 per month for 36 months (\$360), plus the one-time payment plan fee of \$5, and then petition the court to have the remaining \$2,830 waived.

Section 28.246(5), F.S., provides a prioritization schedule for revenue collected by the clerk: State General Revenue is the first priority; followed by the amount required to be retained by the clerk of the court; a pro rata share distributed to the various authorized state trust funds; and a pro rata share distributed to counties, municipalities, or other local entities.

If the proposed waiver of fees is granted, of the \$360 collected over a three-year period, the General Revenue Fund would receive the first \$25 and the balance would go to the clerk. In this scenario, the State Attorneys, Public Defenders, Attorney General and Department of Legal Affairs, Florida Department of Law Enforcement (FDLE), and Department of Children and Families would all lose out on any portion of the revenue they would typically collect. Over the last three years, clerks sent the following amounts to each of those trust funds:

Table 10: Revenue Collected by Clerks Sent to State Trust Funds for Felonies

TRUST FUNDS	CITATION	2016-2017	2017-2018	2018-2019
STATE ATTORNEYS REVENUE TRUST FUND	938.27(8)	\$18,217,141.85	\$18,114,730.28	\$19,497,763.67
INDIGENT CRIMINAL DEFENSE TF	27.52(1)	\$7,428,126.13	\$7,393,030.41	\$7,513,163.68
GENERAL REVENUE	27.52(7)(b)	\$10,239.57	\$1,466.32	\$62,291.05
JAC GRANTS AND DONATIONS TF	27.52(7)(b)	\$11,968.58	\$527.51	\$224.19
CRIMES COMPENSATION TF	938.04	\$1,783,987.00	\$1,700,840.96	\$1,763,523.07
CRIME STOPPERS TF	938.06	\$3,970,014.37	\$3,780,318.03	\$3,820,619.05
CRIMES COMPENSATION TF	938.03(4)	\$12,748,370.81	\$12,060,826.08	\$12,031,277.79
ADDITIONAL COURT COSTS - TF	938.01(1)(a)	\$1,301,730.67	\$1,258,834.61	\$1,238,479.23

Clerks recognize not all indigent defendants will have their fines waived by the court; however, for those that do, there will be a fiscal impact for these entities as well.

FISCAL SUMMARY

Clerks recognize the potential public policy benefits of some of the changes proposed by this bill and believe there is an opportunity to meet the public policy goal of reducing suspensions and keeping people driving legally by working with Floridians on the front end to stay in compliance with court orders. However, removing from the law the ability for clerks to suspend driver licenses for failure to pay court-ordered fines and fees would affect clerks' ability to ensure compliance and, as illustrated throughout this analysis, due to the current budget funding model, will have significant fiscal and operational impacts on Florida's clerks of court, General Revenue, judicial partners, and numerous state trust funds.

The CCOC estimates a REVENUE LOSS range for this bill to clerks of between \$20.8 million and \$49.5 million. CCOC bases this estimate on the revenue lost from the number of cases that fail to pay civil and criminal traffic citations, an estimate of revenue lost on the standardization of payment plans, and the revenue lost due to the waiver of outstanding financial obligations for indigent individuals.

Elimination of Driver License Suspension for Failure to Pay

Civil Traffic

Based on CY2015-CY2018 data, there were an average 2,754,129 moving and non-moving traffic citations each year, and clerks sent an average of 1,003,529 cases to FLHSMV each year for failure to pay traffic citations. Based on those figures, clerks send on average 36 percent of all civil traffic cases to FLHSMV to suspend the license. However, 47 percent (468,120) of those cases pay before the license is suspended; these people are in the "20-day window" after receiving the letter from FLHSMV that their license will be suspended. An additional 63 percent of cases (339,922) pay their obligations after FLHSMV suspends the driver license.

Based on information collected from the clerk's Expenditure and Collections report, over the last three county fiscal years, clerks collect and retain on average \$106,909,535 million from civil traffic cases. Using this figure, there is a percentage of this money that is paid by those who pay on time, those that pay within the 20-day window, and those that pay after their license is suspended. The percentage and amounts are:

Table 11: Cases and Revenue Associated with Civil Traffic*

	Estimated Cases	Percent	Revenue Collected
Pay on time	1,750,600	69%	\$73,767,580
Pay within 20-days	468,120	18%	\$19,243,716
Pay after suspension	339,922	13%	\$13,898,240
TOTAL	2,558,642	100%	\$106,909,536

* There are an additional of 195,487 citations that were still suspended as of July 15 of the following fiscal year, which when added to the 2,558,642 cases brings the total up to the 2,754,129 4-year average. It is assumed these cases did not contribute to the revenue received by the clerks

The low estimate assumes 60 percent of the 20-day cases will continue to pay. The low estimate also assumes 25 percent of the pay after suspension cases will continue to pay.

Low Assumption 1: 20-day window cases pay at 60 percent – Revenue Lost - \$7,697,487

Low Assumption 2: Suspended cases pay at 25 percent – Revenue Lost - \$10,423,680

Total Revenue lost - \$18,121,167

The middle estimate assumes 50 percent of the 20-day cases will continue to pay. The middle estimate also assumes 10 percent of the pay after suspension cases will continue to pay.

Mid Assumption 1: 20-day window cases pay at 50 percent – Revenue Lost – \$9,621,859

Mid Assumption 2: Suspended cases pay at 10 percent – Revenue Lost - \$12,508,416

Total Revenue lost - \$22,130,275

The high estimate assumes none of the 20-day cases will continue to pay. The high estimate also assumes none of the pay after suspension cases will continue to pay.

High Assumption 1: 20-day window cases pay at 0 percent – Revenue Lost – \$19,243,717

High Assumption 2: Suspended cases pay at 0 percent – Revenue Lost - \$13,898,240

Total Revenue lost - \$33,141,957

The max estimate assumes none of the 20-day cases or the pay after suspension cases will continue to pay. The max estimate also assumes 10 percent of the pay on time cases will now fail to pay.

Max Assumption 1: 20-day window cases pay at 0 percent – Revenue Lost – \$19,243,717

Max Assumption 2: Suspended cases pay at 0 percent – Revenue Lost - \$13,898,240

Max Assumption 3: Pay on time cases will pay at 90 percent – Revenue Lost – \$7,376,758

Total Revenue lost - \$40,518,715

Table 12: Low to Max Estimate of Lost Revenue on Civil Traffic Cases

	Low	Mid	High	Max
Pay within 20 days	\$7,697,487	\$9,621,859	\$19,243,717	\$19,243,717
Pay after suspension	\$10,423,680	\$12,508,416	\$13,898,240	\$13,898,240
Pay on time				\$7,376,758
TOTAL	\$18,121,167	\$22,130,275	\$33,141,957	\$40,518,715

Criminal Traffic

Criminal traffic offenses are outlined in s. 318.17, F.S. Like civil traffic cases, an individual's driver license can be suspended for failure to pay. Based on CY2015-CY2018 data, there were an average 362,944 criminal traffic citations each year, and clerks sent 66,996 cases to FLHSMV each year for failure to pay criminal traffic citations. Clerks send 18.5 percent of all criminal traffic cases to FLHSMV to suspend the license, and 13 percent (8,597) of those cases pay before the license is suspended; these cases are in the "20-day window" after receiving the letter from FLHSMV that their license will be suspended. An additional 22 percent of cases (13,037) pay their obligations after FLHSMV suspends the driver license.

Table 13: Cases and Revenue Associated with Criminal Traffic

	Cases	Percent	Revenue Collected
Pay on time	295,948	93%	\$30,971,218
Pay within 20-days	8,597	3%	\$899,684
Pay after suspension	13,037	4%	\$1,364,333
TOTAL	317,582	100%	\$33,235,235

The low estimate assumes 75 percent of the 20-day cases will continue to pay. The low estimate also assumes 25 percent of the pay after suspension cases will continue to pay.

Low Assumption 1: 20-day window cases pay at 60 percent – Revenue Lost - \$359,874

Low Assumption 2: Suspended cases pay at 25 percent – Revenue Lost - \$1,023,250

Total Revenue lost - \$1,383,124

The middle estimate assumes 50 percent of the 20-day cases will continue to pay. The middle estimate also assumes 10 percent of the pay after suspension cases will continue to pay.

Mid Assumption 1: 20-day window cases pay at 50 percent – Revenue Lost – \$449,842

Mid Assumption 2: Suspended cases pay at 10 percent – Revenue Lost - \$1,227,900

Total Revenue lost - \$1,677,742

The high estimate assumes none of the 20-day cases will continue to pay. The high estimate also assumes none of the pay after suspension cases will continue to pay.

High Assumption 1: 20-day window cases pay at 0 percent – Revenue Lost – \$899,684

High Assumption 2: Suspended cases pay at 0 percent – Revenue Lost - \$1,364,333

Total Revenue lost - \$2,264,017

The max estimate assumes none of the 20-day cases or the pay after suspension cases will continue to pay. The max estimate also assumes 10 percent of the pay on time cases will now fail to pay.

Max Assumption 1: 20-day window cases pay at 0 percent – Revenue Lost – \$899,684

Max Assumption 2: Suspended cases pay at 0 percent – Revenue Lost - \$1,364,333

Max Assumption 3: Pay on time cases will pay at 90 percent – Revenue Lost – \$3,097,122

Total Revenue lost - \$5,361,139

Table 14: Low to Max Estimate of Lost Revenue on Civil Traffic Cases

	Low	Mid	High	Max
Pay within 20 days	\$359,874	\$449,842	\$899,684	\$899,684
Pay after suspension	\$1,023,250	\$1,227,900	\$1,364,333	\$1,364,333
Pay on time				\$3,097,122
TOTAL	\$1,383,124	\$1,677,742	\$2,264,017	\$5,361,139

Payment Plans

The fiscal impact for the changes to clerks' payment plans is more difficult to calculate. Currently, many clerks utilize the one-time \$25 administrative fee; however, what is unknown is the number of payment plans that would qualify under the new indigent provision, which would drop the one-time fee down to \$5. For example, one of the largest counties in central Florida had between 9,000 and 15,000 twenty-five-dollar payment plans over the last three years. If this county were to lose the \$20 on 5,000 payment plans per year, that would be \$100,000 lost revenue. If all the payment plans were converted to the indigent \$5 administrative fee, this county would have lost more than \$305,000 in CFY 2017-18.

In another large county, the average number of payment plans per month is 1,800, and this county expects to have approximately 1,000 cases claim indigency under the proposed parameters of this bill. The expected revenue impact would be \$240,000 annually. Between the lost revenue and the changes clerks will have to make to their case maintenance systems, it is safe to assume the annualized lost revenue statewide would be close to \$1 million for the changes to the payment plans.

Indigent Financial Obligation Waiver

The creation of a waiver of the remainder of fees for indigent individuals also has a potentially significant fiscal impact. An indigent individual can pay \$120 for a \$500 financial obligation, which is a 76 percent discount, \$240 for a \$1,000 financial obligation, which is a 76 percent discount, or \$360 for \$10,000, which is a 96 percent discount.

The primary court divisions impacted by the proposed indigent financial obligation waiver are circuit criminal, county criminal, criminal traffic, and juvenile delinquency. According to the 2019 Assessments & Collections Consolidated Summary Report, the total assessed for these court divisions was \$491,902,126 of which \$476,386,991 was collectable. Of the \$476,386,991 collectable, \$118,408,818 was deemed to be from indigent cases.

It is unknown how often the judiciary will use the waiver process described in the bill. Therefore, for illustrative purposes, the table below assumes the judiciary will waive one percent, five percent, and ten percent of all fines, fees, service charges, and court costs determined to be indigent from the example year, CFY 2018-19.

Table 15 – Potential Revenue Lost for Indigent Financial Obligation Waiver

Waiver of Financial Obligations	1 percent	5 percent	10 percent
Amount Waived	\$1,184,089.00	\$5,920,441.00	\$11,840,882.00
Total Revenue Lost*	\$420,351.60	\$2,101,756.56	\$4,203,513.11
Revenue Lost – Clerks**	\$273,228.54	\$1,366,141.76	\$2,732,283.52
Revenue Lost – Other Entities	\$147,123.06	\$735,614.79	\$1,471,229.59

*Assumes the current average collection rate, which is 35.5 percent

**Assumes 65 percent revenue is retained by clerks

Other Fiscal Impacts

In addition to the fiscal impact on clerks, this bill will have a fiscal impact on every entity that relies on traffic citations for funding. For instance, in SFY 2018-19, clerks sent \$20,755,195 to FLHSMV for citations relating to failure to pay.

Table 16 – Revenue Collected by the Clerks and Distributed to FLHSMV for Failure to Pay Cases

<u>Statute</u>	<u>Fee Amount</u>	<u>Fee to Highway Safety Operating TF or GR</u>	<u>Approximate number of Cases</u>	<u>Rev Collected by Clerks sent to FLHSMV</u>
Failure to comply with civil penalty or to appear; penalty s. 318.15, F.S.	\$60	\$22.50	143,421	\$3,226,971
Surrender and return of license s. 322.29, F.S.	\$60	\$22.50	5,554	\$125,002
Late Fee – Civil Penalty s. 318.18(8)a - to FLHSMV	\$16	\$9.50	1,092,945	\$10,382,979
Late Fee – Civil Penalty 318.18(8)a - to GR		\$6.50	1,080,037	\$7,020,243
Total				\$20,755,195

If 10 percent of cases failed to pay, it would reduce the Highway Safety Operating Trust Fund by almost \$1.4 million and General Revenue would be reduced by over \$700,000.

The following tables show the amounts collected by the clerks and distributed to the various trust funds for the past three state fiscal years for traffic related statutes. As the number of cases that fail to pay criminal and civil traffic violations increases, each of these trust funds would lose revenue.

Table 17 – Revenue Collected by the Clerks Pursuant to s. 318.18, F.S. by State Fiscal Year

Trust Fund	CITATION	2016-2017	2017-2018	2018-2019	Grand Total
MOTOR VEHICLE LICENSE CLEARING TF	318.18(8)(a)	\$10,684,159.57	\$10,454,108.97	\$10,382,979.38	\$31,521,247.92
MOTOR VEHICLE LICENSE CLEARING TF	318.18(8)(a)	\$7,259,046.12	\$7,075,888.02	\$7,020,243.39	\$21,355,177.53
ADDITIONAL COURT COSTS - TF	318.18(11)(d)	\$4,624,796.14	\$4,519,683.61	\$4,612,897.41	\$13,757,377.16
TOLL AGENCIES TF	318.18(7)	\$192,179.47	\$238,022.25	\$122,540.79	\$552,742.51
EMERGENCY MEDICAL SERVICES TF	318.18(15)(a)1	\$1,508,242.28	\$1,511,240.25	\$1,574,135.05	\$4,593,617.58
EMERGENCY MEDICAL SERVICES TF	318.18(3)(h)	\$93,133.41	\$47,812.72	\$20,094.02	\$161,040.15
MOTOR VEHICLE LICENSE CLEARING TF	318.18(16)		\$2,257.33	\$125.65	\$2,382.98
LAW ENFORCEMENT RADIO SYSTEM TF	318.18(17)	\$4,317,661.57	\$4,225,758.46	\$4,234,811.11	\$12,778,231.14
STATE COURTS REVENUE TF	318.18(19)(a)	\$8,783,917.43	\$8,558,462.91	\$8,511,870.18	\$25,854,250.52
STATE ATTORNEYS REVENUE TRUST FUND	318.18(19)(b)	\$5,883,465.15	\$5,730,976.56	\$5,689,019.49	\$17,303,461.20
INDIGENT CRIMINAL DEFENSE TF	318.18(19)(c)			\$2,562,612.77	\$2,562,612.77
PUBLIC DEFENDERS REVENUE TRUST FUND	318.18(19)(c)	\$2,951,548.12	\$2,879,885.34	\$223,003.78	\$6,054,437.24
EMERGENCY MEDICAL SERVICES TF	318.18(5)(c)	\$109,098.99	\$111,533.94	\$164,718.56	\$385,351.49
EMERGENCY MEDICAL SERVICES TF	318.18(20)	\$560,522.51	\$530,671.15	\$541,322.13	\$1,632,515.79
GENERAL REVENUE	318.18(15)(a)1	\$2,126,425.26	\$2,055,440.19	\$1,798,045.07	\$5,979,910.52
BRAIN & SPINAL CORD INJURY PROGRAM TF	318.18(15)(a)1	\$273,637.05	\$239,851.19	\$182,144.77	\$695,633.01
TOTAL		\$49,367,833.07	\$48,181,592.89	\$47,640,563.55	\$145,189,989.51

Table 18 – Revenue Collected by the Clerks Pursuant to s. 318.21, F.S. by State Fiscal Year

Trust Fund	CITATION	2016-2017	2017-2018	2018-2019	Grand Total
GENERAL REVENUE	318.21(2)(a)	\$12,447,745.69	\$11,811,353.18	\$11,548,657.66	\$35,807,756.53
EMERGENCY MEDICAL SERVICES TF	318.21(2)(b)	\$4,381,892.79	\$4,240,229.65	\$4,192,262.87	\$12,814,385.31
ADDITIONAL COURT COSTS - TF	318.21(2)(c)	\$3,018,346.05	\$2,941,964.06	\$2,898,049.24	\$8,858,359.35
BRAIN & SPINAL CORD INJURY PROGRAM TF	318.21(2)(d)	\$4,871,773.04	\$4,723,292.09	\$4,696,592.28	\$14,291,657.41
AUDIT & WARRANT CLEARING TF	318.21(2)(e)	\$1,283,558.25	\$100,561.93		\$1,384,120.18
DOE GRANTS AND DONATIONS TF	318.21(2)(e)		\$1,120,569.57	\$1,174,682.13	\$2,295,251.70
DOE GRANTS AND DONATIONS TF	318.21(4)	\$118.86	\$2,977.65	\$796.68	\$3,893.19
DOE GRANTS AND DONATIONS TF	318.21(5)		\$260.42	\$15.50	\$275.92
EPILEPSY SERVICES TF	318.21(6)	\$544,337.83	\$470,983.57	\$415,700.44	\$1,431,021.84
NONGAME WILDLIFE TF	318.21(7)	\$1,230,546.98	\$1,177,344.69	\$1,218,895.93	\$3,626,787.60
JUVENILE WELFARE TRAINING TF	318.21(1)	\$1,037,999.04	\$974,918.82	\$968,411.44	\$2,981,329.30
CHILD WELFARE TRAINING TF	318.21(1)	\$1,025,657.35	\$951,442.39	\$939,000.53	\$2,916,100.27
STATE COURTS REVENUE TF	318.21(20)	\$5,040,072.08	\$4,856,570.27	\$4,934,909.04	\$14,831,551.39
TOTAL		\$34,882,047.96	\$33,372,468.29	\$32,987,973.74	\$101,242,489.99

Table 19 - Revenue Collected by the Clerks Pursuant to s. 318.14, F.S. by State Fiscal Year

Trust Fund	CITATION	2016-2017	2017-2018	2018-2019	Grand Total
CHILD WELFARE TRAINING TF	318.14(10)(b)	\$308,642.31	\$331,289.03	\$299,251.83	\$939,183.17
JUVENILE WELFARE TRAINING TF	318.14(10)(b)	\$275,407.76	\$284,290.39	\$270,829.09	\$830,527.24
EMERGENCY MEDICAL SERVICES TF	318.14(5)	\$173,116.63	\$215,300.97	\$289,388.74	\$677,806.34
STATE COURTS REVENUE TF	318.14(9)	\$3,954,710.28	\$3,812,462.98	\$3,311,353.46	\$11,078,526.72
TOTAL		\$4,711,876.98	\$4,643,343.37	\$4,170,823.12	\$13,526,043.47

SECTION BY SECTION ANALYSIS

Section 1: Amends s. 28.24, F.S., removing the option of a \$5 per month payment plan fee, creating a one-time \$5 payment plan fee for individuals that are indigent, receiving public assistance, or are below 200 percent of the federal poverty level.

Section 2: Amends s. 28.246, F.S., removing the word “partial” and replacing it with “monthly,” as it relates to payment plans. Requires clerks to accept payments electronically, by mail, in person, or by a community-based organization authorized by the clerk to collect such payments. Additionally, this section removes the payment plan option for individuals that are indigent for costs. This section also creates a 30-day grace period for individuals not in custody and a 90-day grace period after a person is released from custody. The bill also allows a person to petition the court, on its own motion, to review and modify a payment plan or to convert the outstanding fees, service charges, costs, or fines to community service.

This section also creates a new subsection (5) under s. 28.246, F.S., creating an opportunity for an indigent individual to petition the court to terminate the payment plan if they have made timely payments for 12-36 months, based on their financial obligation.

Section 3: Amends s. 28.42, F.S., creating a uniform payment plan form. The bill requires the Office of the State Courts Administrator, in consultation with the clerks of court and the Florida Clerks of Court Operations Corporation to develop a uniform payment plan form and specifies the certain details to be included in the form.

Section 4: Amends 318.15, F.S., removing the ability for the Florida Highway Safety and Motor Vehicles to suspend a driver license for failure to comply with the terms of a payment plan, failure to attend driver improvement school, and failure to appear at a scheduled hearing. This section deletes the language relating to reinstating a license for failure to pay and adds a section allowing any person whose driver license was suspended solely for nonpayment to, before July 1, 2020, simply pay a reinstatement fee to receive their license.

Section 5: Amends s. 322.245, F.S., removing the ability for the Florida Highway Safety and Motor Vehicles to suspend a driver license for failure to pay fines, service charges, fees, and costs on criminal traffic infractions. This section also allows any person whose driver license was suspended solely for nonpayment to, before July 1, 2020, simply pay a reinstatement fee to receive their license.

Sections 6-9: Make conforming changes and reenact sections amended in the bill.

Section 10: Provides an effective date of July 1, 2020.

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/21/20

Meeting Date

SB 1328

Bill Number (if applicable)

Topic Fines + Fees

Amendment Barcode (if applicable)

Name Ashley Thomas

Job Title Florida State Director - Fines + Fees Justice Center

Address 4525 Woolman Ave

Phone 802-299-9059

Street

Jax

City

FL

State

32205

Zip

Email athomas@finesandfees

justicenter.org

Speaking: ☒ For ☐ Against ☒ Information

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

Representing Fines + Fees Justice Center

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)

01/21/2020

Meeting Date

1328

Bill Number (if applicable)

Topic Fines and Fees

Amendment Barcode (if applicable)

Name Tom Bexley

Job Title Clerk of the Circuit Court and Comptroller, Flagler County

Address 1769 E Moody Blvd, Bldg 1,

Phone 386-313-4400

Street

Bunnell

Florida

32110

Email tbexley@flaglerclerk.com

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Court Clerks & Comptrollers

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)

Jan 21 2020
Meeting Date

SB 1328
Bill Number (if applicable)

Topic Fines & Fees

Amendment Barcode (if applicable)

Name DIEGO ELHEVERRI

Job Title Legislative Liaison

Address 200 W College Ave
Street
TLH FL
City State Zip

Phone 954-614-3363

Email decheverri@afpky.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Americans For Prosperity

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)

1/21/2020

Meeting Date

1328

Bill Number (if applicable)

Topic Fines and fees

Amendment Barcode (if applicable)

Name CARLOS S. MARTINEZ

Job Title PUBLIC DEFENDER, 11TH JUDICIAL CIRCUIT

Address 1320 NW 14TH ST.

Phone 305-545-1900

Street

Miami

City

FL

State

33125

Zip

Email czm@pdmiami.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA PUBLIC DEFENDER 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.

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

January 21, 2020

Meeting Date

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

1328

Bill Number (if applicable)

Topic Driver's License Reinstatement Nightmare

Amendment Barcode (if applicable)

Name Dan Hendrickson

Job Title president, TALLAHASSEE VETERANS LEGAL COLLABORATIVE

Address 319 EAST PARK AVE

Phone 850 570-1967

Street

TALLAHASSEE, FL 32302

Email danbhendrickson@comcast.net

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing TALLAHASSEE VETERANS LEGAL COLLABORATIVE

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)

1-21

Meeting Date

1328

Bill Number (if applicable)

Topic

Fines & Fees

Amendment Barcode (if applicable)

Name

Ken Kniepman (keh-need-man)

Job Title

Associate

Address

201 W Park

Phone

Street

Tallahassee FL

Email

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

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

Representing

Florida Conference of Catholic Bishops

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
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 1510

INTRODUCER: Judiciary Committee and Senator Brandes

SUBJECT: Jurisdiction of Courts

DATE: January 23, 2020

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1510 transfers the jurisdiction of circuit courts to hear appeals of county court civil and criminal cases to the district courts of appeal. The bill is based on the recommendations of a recent report by the Judicial Management Council's Workgroup on Appellate Review of County Court Decisions.

II. Present Situation:

The State Constitution establishes a four-level court system consisting of a Supreme Court, five district courts of appeal, 20 circuit courts, and 67 county courts. The circuit courts and county courts primarily serve as trial courts, but the circuit courts also hear appeals from county courts involving many different types of cases and appeals from administrative bodies.

The Constitution also permits the Legislature to substantially define the jurisdictions of the circuit courts and county courts by statute.¹ As defined by statute, the circuit court has exclusive

¹ Article V, s. 6(b) states that "[t]he county courts shall exercise the jurisdiction prescribed by general law." Under Article V, s. 5(b), the jurisdiction the circuit courts includes "original jurisdiction not vested in the county courts, and jurisdiction of appeals when provided by general law." Circuit courts also "shall have the power of direct review of administrative action prescribed by general law." *Id.*

jurisdiction over several case types, including felony cases and probate matters, but the primary distinction between the jurisdictions of the courts is a monetary threshold.²

Recent Legislative Changes to Trial Court Jurisdiction

During the 2019 Legislative Session, the Legislature increased the monetary threshold in a way that expands the jurisdiction of the county courts. Since 1995, this threshold had been set at \$15,000.³ Claims exceeding \$15,000 were to be filed in the circuit court, and county courts had jurisdiction to hear claims valued up to that amount. With the 2019 legislation, effective January 1, 2020, the threshold became \$30,000. The threshold increases again, effective January 1, 2023, to \$50,000.

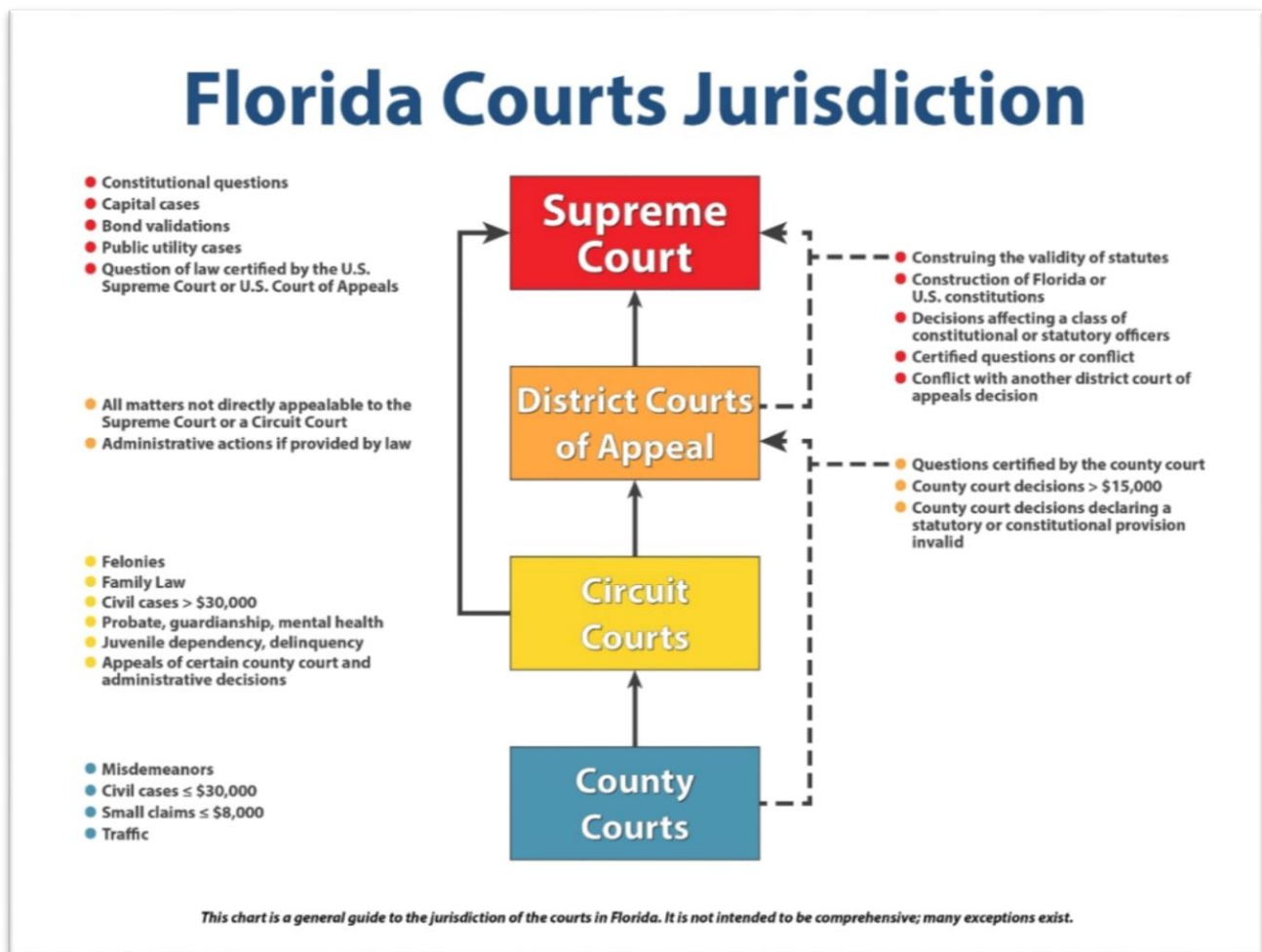
Although the 2019 legislation increased the value of claims that could be litigated in a county court, the legislation did not similarly or contemporaneously increase the jurisdiction of circuit courts to hear appeals from county courts. “Appeals of county court orders or judgments where the amount in controversy is greater than \$15,000”, according to the 2019 legislation, will continue to be heard by a district court of appeal until January 1, 2023.⁴ Appeals of county court orders or judgments involving amounts of \$15,000 or less will continue to be heard by a circuit court.

² Section 26.012, F.S. (defining the jurisdiction of the circuit courts) and s. 34.01, F.S. (defining the jurisdiction of the county courts).

³ Chapter 2019-58, ss. 1 and 9, Laws of Fla.

⁴ Chapter 2019-58, s. 1., Laws of Fla., amending s. 26.012(1), F.S., provides that limitation on the appellate jurisdiction of circuit courts to matters where the amount in controversy is \$15,000 or less is repealed on January 1, 2023.

The Florida Supreme Court has described the jurisdictions of Florida's courts as shown.⁵



Recommended Changes to Appellate Court Jurisdiction

About the same time the 2019 legislation was filed increasing the monetary jurisdictional threshold, the Chief Justice of the Florida Supreme Court issued an administrative order directing the Workgroup on Appellate Review of County Court Decisions to:

1. Study whether the circuit courts should be uniformly required to hear appeals in panels and propose appropriate amendments to the Rules of Judicial Administration or the Rules of Appellate Procedure if the Workgroup determines that such amendments are necessary.
2. Review the following recommendation made by the Judicial Management Council's Work Group on County Court Jurisdiction, and propose appropriate

⁵ The chart is a duplicate of Diagram of the State Courts System effective 1/1/2020 by the Supreme Court of Florida. The diagram is available on the Supreme Court's website at <https://www.floridasupremecourt.org/content/download/543675/6126128/Florida-Courts-Jurisdiction-Chart-2020.pdf>.

amendments to law or rule if the Workgroup determines that such amendments are necessary:

2.3 The Work Group recommends that any modification to the [county court] jurisdictional amount include a provision allowing intra- and intercircuit conflicts in circuit court appellate decisions within the same district to be certified to the district court of appeal for that district.

3. Consider whether other changes to the process for appellate review of county court decisions would improve the administration of justice. If so, the Workgroup may propose any revisions in the law and rules necessary to implement such recommended changes.⁶

In October 2019, the Workgroup issued a report containing its recommendations. The Workgroup's primary recommendation was that the Supreme Court:

Approve the proposal of statutory amendments to transfer the circuit courts' appellate and related extraordinary writ authority to the DCAs in county civil cases, including non-criminal violations, county, criminal cases, and administrative cases. If the new law is adopted during the 2021 Regular Legislative Session, an effective date of January 1, 2022, is recommended to allow time to make operational changes for the court system and to adopt conforming amendments to the Florida Rules of Court.⁷

The Supreme Court agreed with the recommendation, but supported more expeditious changes:

The Supreme Court supports the Legislature's consideration of proposed legislation during the 2020 Regular Session to transfer the referenced circuit court appellate and related extraordinary writ authority to the DCAs. Further, the Supreme Court supports an effective date for the legislation that is no earlier than January 1, 2021, to allow adequate time for implementation.⁸

Authority to Define Appellate Court Jurisdiction

Although the Legislature has broad authority to define the jurisdiction of the circuit and county courts, its authority to define the jurisdiction of the district courts of appeal is more limited. Under Article V, s. (4)(b)(1) and (2) of the State Constitution:

(1) District courts of appeal shall have jurisdiction to hear appeals, that may be taken as a matter of right, from final judgments or orders of trial courts, including those entered on review of administrative action, not directly appealable to the

⁶ Supreme Court of Florida, In Re: Workgroup on Appellate Review of County Court Decisions, Administrative Order No. AOSC19-3, (Jan. 4, 2019), <https://www.floridasupremecourt.org/content/download/425765/4589231/AOSC19-3.pdf>.

⁷ Supreme Court of Florida, Judicial Management Council, *Workgroup on Appellate Review of County Court Decisions: Final Report*, Oct. 10, 2019.

⁸ *Id.*

supreme court or a circuit court. They may review interlocutory orders in such cases to the extent provided by rules adopted by the supreme court.

(2) District courts of appeal shall have the power of direct review of administrative action, as prescribed by general law.

These provisions mean that a litigant has a right to only one appeal. As such, a litigant may appeal a final order of a county court or an administrative entity to a circuit court, but the litigant has no right to further appeal to a district court of appeal.⁹ The order may be reviewed by a district court only by a writ of certiorari, which means that the district court has the discretion to hear the case.¹⁰ Moreover, a review by certiorari is much more limited in scope than a review by appeal.¹¹

The certiorari jurisdiction of the district courts is defined, not by statute, but by the Florida Rules of Appellate Procedure.¹² Similarly, the authority for a district court to hear the appeal of an interlocutory order, which is a non-final order from a lower tribunal, is defined by court rules and not by statutes.

Because the Constitution divides the authority to define the appellate jurisdiction of the courts between the Supreme Court and the Legislature, expanding the appellate jurisdiction of the district courts of appeal while reducing the appellate jurisdiction of the circuit courts requires cooperation between the judiciary and the Legislature. The Legislature must make some statutory changes, and the Supreme Court must make changes to the Florida Rules of Appellate Procedure.

For example, the Legislature, in many cases, can provide for the appeal of a final order of a county court to a district court of appeal by eliminating the statutory authority for the appeal to be heard by a circuit court. By default, the appeal would have to be heard by a district court of appeal. However, without changes to the court rules, interlocutory appeals from a county court case would continue to be heard by a circuit court that would not have jurisdiction to hear the appeal of a final order from the case.¹³ This result would seem to be inefficient.

⁹ *City of Deerfield Beach v. Valliant*, 419 So. 2d 624, 625 (Fla. 1982).

¹⁰ *Id.*

¹¹ When a matter is appealed “all errors below may be corrected: jurisdictional, procedural, and substantive.” *Haines City Cmty. Dev. v. Heggs*, 658 So. 2d 523, n.3. (Fla. 1995). In contrast, “[c]ertiorari review is ‘intended to fill the interstices between direct appeal and the other prerogative writs’ and allow a court to reach down and halt a miscarriage of justice where no other remedy exists; it ‘was never intended to redress mere legal error.’” *Broward County v. G.B.V. Int’l, Ltd.*, 787 So. 2d 838, 842 (Fla. 2001).

¹² Fla. R. Civ. P. 9.030(b)(2).

¹³ Similarly, the State Constitution does not allow the Legislature to authorize the Legislature to make an interlocutory appeal of an order of a circuit court to a district court of appeal.

Any statute purporting to grant the right to take an interlocutory appeal is merely a declaration of legislative policy and is ineffective to accomplish its purpose; only if the Florida Supreme Court incorporates the statutory language into the appellate rules can appellate jurisdiction be broadened.

Osceola County v. Best Diversified, Inc., 830 So. 2d 139, 140-41 (Fla. 3d DCA 2002) (citing *State v. Gaines*, 770 So. 2d 1221 (Fla. 2000); *State v. Smith*, 260 So. 2d 489 (Fla. 1972)).

Problem of Conflicting Circuit Court Appellate Decisions

Decisions of circuit courts in their appellate capacity are binding on all county courts within their circuit.¹⁴ However, circuit courts are not bound by decisions of other courts within their circuits. As a result, conflicting appellate decisions within a circuit court create instability in the law. County court judges and non-parties to the prior litigation do not know how or which appellate decisions to follow.¹⁵

When conflicting decisions are rendered by different panels of judges within the same district court of appeal, the Florida Rules of Appellate Procedure permit the court to conduct an en banc proceeding.¹⁶ These proceedings allow the full court to reconcile its potentially conflicting decisions.¹⁷ In contrast, judicial circuits have no similar mechanism that enables them to reconcile their intra-circuit conflicting opinions. Moreover, a circuit court is not authorized to certify intra-circuit court conflicting opinions to a district court of appeal for review.¹⁸

III. Effect of Proposed Changes:

This bill transfers to the district courts of appeal the jurisdiction to hear appeals of decisions of county courts in civil and criminal cases. Under current law, these appeals are heard by circuit courts. The bill is based on the recommendations of a recent report by the Judicial Management Council's Workgroup on Appellate Review of County Court Decisions. The specific changes made by each section of the bill are described below.

Section 1. Jurisdiction of the circuit court (s. 26.012, F.S.)

The changes made by section 1 broadly eliminate the authority of the circuit courts to hear appeals from county courts in civil and criminal cases. Circuit courts, however, retain jurisdiction to hear appeals from final administrative orders of local code enforcement boards and to hear appeals and review other matters as expressly provided by law. By operation of Article V, s. 4(b)(1) of the State Constitution, the district courts of appeal will have jurisdiction of appeals from final orders of county courts in civil and criminal cases by default.

Section 2. Certification of questions to district court of appeal (s. 34.017, F.S.)

Current s. 34.017, F.S., authorizes a county court to certify important questions to a district court of appeal in a final judgment. The district court has absolute discretion to answer the certified question or transfer the case back to the circuit court having appellate jurisdiction.

As amended by the bill, s. 34.017, F.S., a county court may certify important questions to a district court of appeal only in a final judgment that is appealable to a circuit court. This conforming change recognizes that there is no need for a county court to certify questions relating to matters that a litigant may appeal to a district court as a matter of right.

¹⁴ See *Fieselman v. State*, 566 So. 2d 768, 770 (Fla. 1990).

¹⁵ See Sebastien Rogers, *The Chasm in Florida Appellate Law: Intra-Circuit Conflicting Appellate Decisions*, Vol. 92, No. 4 FLA. BAR J. 52 (Apr. 2008).

¹⁶ Fla. R. Civ. P. 9.331.

¹⁷ *Id.*

¹⁸ Rogers, *supra* n. 15.

Section 3. Review of judgment or order certified by county court to be of great public importance (s. 35.065, F.S.)

Current s. 35.065, F.S., allows a district court of appeal to review any order or judgment of a county court which is certified by the county court to be of great public importance.

As amended by the bill, s. 35.065, F.S., a district court of appeal may review an order or judgment of a county court that is certified to be of great public importance only in an order or judgment that is appealable to a circuit court. This conforming change recognizes that there is no need for a county court to certify questions relating to matters that a litigant may appeal to a district court as a matter of right.

Section 4. Courts of appeal (s. 924.08, F.S.)

This section repeals a statute that gives jurisdiction to circuit courts to hear appeals of judgments in misdemeanor cases.

Effective Date

The bill takes effect January 1, 2021.

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:

This bill may affect the private sector to the extent that it will necessitate changes in the filing fees for appeals.

C. Government Sector Impact:

According to the Office of the Office of State Courts Administrator, “the overall workload impact of the transfer of the circuit courts’ appellate and related extraordinary writ authority to the DCAs . . . is indeterminate.”¹⁹ OSCA does not have complete and reliable data identifying the total number of appeals and petitions for writs that are filed in the circuit courts.

The jurisdictional changes in the bill will result in increased workloads for the DCAs requiring an increase in court staff. However, the bill will also lead to a decrease in the workloads of circuit courts. Ultimately, the changes by the bill will be reflected in the Supreme Court’s annual certification of need for additional judges.

The provisions of the bill will also require the changes to many different court rules.

Filing fees paid to file an appeal with a DCA are distributed differently than those for filing an appeal with a circuit court. The changes in fee distribution will cause the clerks of court to experience a negative fiscal impact, but the changes will result in a positive fiscal impact to the State Courts Revenue Trust Fund and the General Revenue Fund.

OSCA’s judicial impact statement for the bill describes the known and potential fiscal impacts of the bill in more detail.

Currently, state attorneys are responsible for handling appeals of county court decisions in criminal cases to circuit courts. The Office of the Attorney General handles appeals of criminal cases before the district courts of appeal. Because the bill provides for the appeals from county courts to bypass circuit courts, the bill will increase the appellate workload of the Office of the Attorney General. To minimize this workload shift, the Legislature may wish to consider whether state attorneys should remain responsible for some or all of the appeals originating from county courts.

VI. Technical Deficiencies:

None.

¹⁹ Office of State Courts Administrator, *2020 Judicial Impact Statement for SB 1510* (Jan. 16, 2020) (on file with the Senate Committee on Judiciary).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 26.012, 34.017, and 35.065.

This bill repeals section 924.08, 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 January 21, 2020:

The committee substitute is narrower in scope than the underlying bill. The underlying bill would have given district courts of appeal jurisdiction to hear appeals of decisions of county courts in criminal and civil cases and to hear appeals relating to a variety of administrative decisions and noncriminal infractions. The committee substitute does not transfer to the district courts of appeal the appellate jurisdiction of circuit courts to hear administrative decisions and appeals relating to noncriminal infractions.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 26.012, Florida Statutes, is amended to
read

26.012 Jurisdiction of circuit court.—

~~(1) Circuit courts shall have jurisdiction of appeals from
county courts except:~~

~~(a) Appeals of county court orders or judgments where the
amount in controversy is greater than \$15,000. This paragraph is~~



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~~repealed on January 1, 2023.~~

~~(b) Appeals of county court orders or judgments declaring
invalid a state statute or a provision of the State
Constitution.~~

~~(c) Orders or judgments of a county court which are
certified by the county court to the district court of appeal to
be of great public importance and which are accepted by the
district court of appeal for review.~~

Circuit courts shall have jurisdiction of appeals from final
administrative orders of local government code enforcement
boards and of reviews and appeals as otherwise expressly
provided by law.

(2) They shall have exclusive original jurisdiction:

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

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

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

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

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

(f) In actions of ejectment; and



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

(3) The circuit court may issue injunctions.

(4) The chief judge of a circuit may authorize a county court judge to order emergency hospitalizations pursuant to part I of chapter 394 in the absence from the county of the circuit judge; and the county court judge shall have the power to issue all temporary orders and temporary injunctions necessary or proper to the complete exercise of such jurisdiction.

(5) A circuit court is a trial court.

Section 2. Section 34.017, Florida Statutes, is amended to read

34.017 Certification of questions to district court of appeal.—

(1) A county court may ~~is permitted to~~ certify a question to the district court of appeal in a final judgment that is appealable to the circuit court if the question may have statewide application, and:

(a) Is of great public importance; or

(b) Will affect the uniform administration of justice.

(2) In the final judgment, the trial court shall:

(a) Make findings of fact and conclusions of law; and

(b) State concisely the question to be certified.

(3) The decision to certify the question to the district court of appeal is within the sole discretion of the county court.

(4) The district court of appeal has absolute discretion as to whether to answer a question certified by the county court.

(a) If the district court agrees to answer the certified



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question, it shall decide all appealable issues that have been raised from the final judgment.

(b) If the district court declines to answer the certified question, the case shall be transferred to the circuit court which has appellate jurisdiction.

Section 3. Section 35.065, Florida Statutes, is amended to read

35.065 Review of judgment or order certified by county court to be of great public importance.—Pursuant to s. 34.017, a district court of appeal may review any order or judgment of a county court which is certified by the county court to be of great public importance.

Section 4. Section 924.08, Florida Statutes, is repealed.

Section 5. This act shall take effect January 1, 2021.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to jurisdiction of the courts;
amending s. 26.012, F.S.; limiting the appellate
jurisdiction of the circuit courts to appeals from
final administrative orders of local code enforcement
boards; amending s. 34.017, F.S.; authorizing a county
court to certify a question to a district court of
appeal in a final judgment that is appealable to a
circuit court; amending s. 35.065, F.S.; authorizing a
district court of appeal to review certain questions



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99 certified by a county court; repealing s. 924.08,
100 F.S.; relating to the jurisdiction of circuit court to
101 hear appeals from final judgments in misdemeanor
102 cases; providing an effective date.

By Senator Brandes

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1 A bill to be entitled
 2 An act relating to jurisdiction of courts; amending s.
 3 26.012, F.S.; revising the jurisdiction of circuit
 4 courts; amending s. 26.57, F.S.; revising the
 5 authority of county court judges temporarily
 6 designated to preside over circuit court cases;
 7 amending s. 28.241, F.S.; removing authorization for
 8 filing fees for certain appellate proceedings;
 9 repealing s. 34.017, F.S., relating to certification
 10 of questions to district courts of appeal; amending s.
 11 34.041, F.S.; conforming a provision to changes made
 12 by the act; repealing s. 35.065, F.S., relating to the
 13 review of a judgment or an order certified by a county
 14 court to be of great public importance; amending s.
 15 162.11, F.S.; transferring jurisdiction for appeals of
 16 final administrative orders of local government code
 17 enforcement boards from the circuit court to the
 18 district court of appeal; amending s. 171.081, F.S.;
 19 transferring jurisdiction for petitions on annexation
 20 or contraction of local government boundaries from the
 21 circuit court to the district court of appeal;
 22 amending s. 163.3215, F.S.; transferring jurisdiction
 23 for appeals on development orders from the circuit
 24 court to the district court of appeal; amending s.
 25 189.041, F.S.; transferring jurisdiction of challenges
 26 of urban area maps adopted by special districts from
 27 the circuit court to the district court of appeal;
 28 amending s. 190.046, F.S.; transferring jurisdiction
 29 of petitions seeking review of transfer plan

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

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30 ordinances adopted by a community development district
 31 from the circuit court to the district court of
 32 appeal; amending s. 255.20, F.S.; transferring
 33 jurisdiction of appeals regarding local bids and
 34 contracts for public construction works from the
 35 circuit court to the district court of appeal;
 36 amending s. 318.16, F.S.; transferring jurisdiction
 37 for appeals of traffic infractions from the circuit
 38 court to the district court of appeal; amending s.
 39 318.33, F.S.; modifying provisions regarding the
 40 appeal of traffic infractions to conform to changes
 41 made by the act; amending s. 320.781, F.S.;
 42 transferring jurisdiction of appeals of determinations
 43 of the Department of Highway Safety and Motor Vehicles
 44 on certain claims against mobile home or recreational
 45 vehicle dealers or brokers from the circuit court to
 46 the district court of appeal; amending s. 321.051,
 47 F.S.; transferring jurisdiction of appeals of final
 48 orders of the Department of Highway Safety and Motor
 49 Vehicles regarding the Florida Highway Patrol wrecker
 50 operator system from the circuit court to the district
 51 court of appeal; amending s. 322.272, F.S.; modifying
 52 provisions regarding the filing of petitions for
 53 certiorari to conform to changes made by the act;
 54 amending s. 322.31, F.S.; transferring jurisdiction of
 55 the review of Department of Highway Safety and Motor
 56 Vehicles final orders and rulings from the circuit
 57 court to the district court of appeal; amending s.
 58 322.64, F.S.; conforming a provision to changes made

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

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59 by the act; amending s. 327.73, F.S.; transferring
 60 jurisdiction of appeals of a hearing official's
 61 finding regarding a noncriminal infraction regarding a
 62 vessel from the circuit court to the district court of
 63 appeal; amending s. 333.11, F.S.; transferring
 64 jurisdiction of judicial review of airport zoning
 65 regulations from the circuit court to the district
 66 court of appeal; amending s. 336.41, F.S.;
 67 transferring jurisdiction of appeals of competitive
 68 bidding determinations made by counties from the
 69 circuit court to the district court of appeal;
 70 amending s. 337.14, F.S.; transferring jurisdiction of
 71 appeals of competitive bidding determinations made by
 72 the Department of Transportation from the circuit
 73 court to the district court of appeal; amending s.
 74 337.404, F.S.; transferring jurisdiction of judicial
 75 review of the removal or relocation of utility
 76 facilities from the circuit court to the district
 77 court of appeal; amending s. 376.065, F.S.;
 78 transferring jurisdiction of an appeal of a hearing
 79 official's findings of a violation of discharge
 80 prevention and response certification from the circuit
 81 court to the district court of appeal; amending s.
 82 376.07, F.S.; transferring jurisdiction of an appeal
 83 of a hearing official's finding of inadequate booming
 84 by a terminal facility from the circuit court to the
 85 district court of appeal; amending s. 376.071, F.S.;
 86 transferring jurisdiction of an appeal of a hearing
 87 official's finding of a violation of requirements for

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88 a discharge contingency plan from the circuit court to
 89 the district court of appeal; amending s. 376.16,
 90 F.S.; transferring jurisdiction of an appeal of a
 91 hearing official's finding of a violation of the
 92 Pollutant Discharge Prevention and Control Act from
 93 the circuit court to the district court of appeal;
 94 amending s. 379.401, F.S.; transferring jurisdiction
 95 of appeals of Level One violations from the circuit
 96 court to the district court of appeal; amending s.
 97 379.4015, F.S.; conforming a provision to changes made
 98 by the act; amending s. 379.412, F.S.; transferring
 99 jurisdiction of appeals of violations of certain
 100 prohibitions regarding feeding wildlife and freshwater
 101 fish from the circuit court to the district court of
 102 appeal; amending s. 408.40, F.S.; providing for the
 103 review of the Public Counsel's petition of the Agency
 104 for Health Care Administration by appellate courts;
 105 amending s. 489.127, F.S.; transferring jurisdiction
 106 of appeals of final administrative orders of an
 107 enforcement board or licensing board regulating
 108 contracting or a designated special magistrate from
 109 the circuit court to the district court of appeal;
 110 amending s. 489.531, F.S.; transferring jurisdiction
 111 of appeals of final administrative orders of an
 112 enforcement board or licensing board regulating
 113 electrical or alarm system contracting or a designated
 114 special magistrate from the circuit court to the
 115 district court of appeal; amending s. 556.107, F.S.;
 116 transferring jurisdiction of appeals of noncriminal

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117 infractions under the Underground Facility Damage
 118 Prevention and Safety Act from the circuit court to
 119 the district court of appeal; conforming a provision
 120 to changes made by the act; amending s. 569.005, F.S.;
 121 transferring jurisdiction of appeals of findings of
 122 infractions of operating without a retail tobacco
 123 products dealer permit from the circuit court to the
 124 district court of appeal; amending s. 605.0716, F.S.;
 125 transferring jurisdiction of judicial review of denial
 126 of reinstatement of a limited liability company from
 127 the Circuit Court of Leon County to the First District
 128 Court of Appeal; amending s. 605.09091, F.S.;
 129 transferring jurisdiction of judicial review of denial
 130 of reinstatement of a foreign limited liability
 131 company from the Circuit Court of Leon County to the
 132 First District Court of Appeal; amending s. 607.0126,
 133 F.S.; transferring jurisdiction of appeals of the
 134 Department of State's refusal to file a corporate
 135 document from the Circuit Court of Leon County to the
 136 First District Court of Appeal; amending s. 607.1423,
 137 F.S.; transferring jurisdiction of judicial review of
 138 denial of reinstatement of a corporation from the
 139 Circuit Court of Leon County to the First District
 140 Court of Appeal; amending s. 607.1532, F.S.;
 141 transferring jurisdiction of judicial review of denial
 142 of reinstatement of a foreign corporation from the
 143 Circuit Court of Leon County to the First District
 144 Court of Appeal; amending s. 620.1811, F.S.;
 145 transferring jurisdiction of appeals from the denial

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146 of reinstatement of a limited partnership from the
 147 circuit court to the district court of appeal;
 148 amending s. 717.1242, F.S.; conforming a cross-
 149 reference to changes made by the act; amending s.
 150 723.0612, F.S.; transferring jurisdiction of review of
 151 certain actions of the Florida Mobile Home Relocation
 152 Corporation from the circuit court to the district
 153 court of appeal; amending s. 767.12, F.S.;
 154 transferring jurisdiction of appeals of dangerous dog
 155 classifications and penalties from the circuit court
 156 to the district court of appeal; repealing s. 924.08,
 157 F.S., relating to courts of appeal; providing an
 158 effective date.

159
 160 Be It Enacted by the Legislature of the State of Florida:

161
 162 Section 1. Section 26.012, Florida Statutes, is amended to
 163 read:

164 26.012 Jurisdiction of circuit court.—

165 (1) Circuit courts shall have jurisdiction of appeals from
 166 ~~county courts except:~~

167 ~~(a) Appeals of county court orders or judgments where the~~
 168 ~~amount in controversy is greater than \$15,000. This paragraph is~~
 169 ~~repealed on January 1, 2023.~~

170 ~~(b) Appeals of county court orders or judgments declaring~~
 171 ~~invalid a state statute or a provision of the State~~
 172 ~~Constitution.~~

173 ~~(c) Orders or judgments of a county court which are~~
 174 ~~certified by the county court to the district court of appeal to~~

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~~be of great public importance and which are accepted by the district court of appeal for review.~~

~~Circuit courts shall have jurisdiction of appeals from final administrative orders of local government code enforcement boards.~~

~~(2) They shall have~~ exclusive original jurisdiction:

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

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

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

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

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

(f) In actions of ejectment; and

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

(2)(3) The circuit court may issue injunctions.

(3)(4) The chief judge of a circuit may authorize a county court judge to order emergency hospitalizations pursuant to part I of chapter 394 in the absence from the county of the circuit judge; and the county court judge shall have the power to issue

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all temporary orders and temporary injunctions necessary or proper to the complete exercise of such jurisdiction.

(4)(5) A circuit court is a trial court.

Section 2. Section 26.57, Florida Statutes, is amended to read:

26.57 Temporary designation of county court judge to preside over circuit court cases.—A county court judge may be designated on a temporary basis to preside over circuit court cases by the Chief Justice of the Supreme Court upon recommendation of the chief judge of the circuit. He or she may be assigned to exercise all county and circuit court jurisdiction in the county, ~~except appeals from the county court.~~ In addition, he or she may be required to perform the duties of circuit judge in other counties of the circuit as time may permit and as the need arises, as determined by the chief judge of the circuit. A county court judge designated to preside over circuit court cases shall receive the same salary as a circuit court judge, to the extent that funds are specifically appropriated by law for such purposes.

Section 3. Present subsections (2) and (3) of section 28.241, Florida Statutes, are amended, and present subsections (4) through (7) of that section are renumbered as subsections (3) through (6), respectively, to read:

28.241 Filing fees for trial and appellate proceedings.—

(2) ~~Upon the institution of any appellate proceeding from any lower court to the circuit court of any such county, including appeals filed by a county or municipality as provided in s. 34.041(5), or from the county or circuit court to an appellate court of the state, the clerk shall charge and collect~~

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~~from the party or parties instituting such appellate proceedings a filing fee not to exceed \$280, from which the clerk shall remit \$20 to the Department of Revenue for deposit into the General Revenue Fund, for filing a notice of appeal from the county court to the circuit court and, in addition to the filing fee required under s. 25.241 or s. 35.22, \$100 for filing a notice of appeal from the county or circuit court to the district court of appeal or to the Supreme Court. If the party is determined to be indigent, the clerk shall defer payment of the fee otherwise required by this subsection.~~

~~(3)~~ A filing fee may not be imposed upon a party for responding by pleading, motion, or other paper to a civil or criminal action, suit, or proceeding, ~~or appeal~~ in a circuit court.

Section 4. Section 34.017, Florida Statutes, is repealed.

Section 5. Present subsections (5) and (6) of section 34.041, Florida Statutes, are amended, and present subsections (7) and (8) are renumbered as subsections (6) and (7), respectively, to read:

34.041 Filing fees.—

~~(5) Upon the institution of any appellate proceeding from the county court to the circuit court, including any appeal filed by a county or municipality, the clerk shall charge and collect filing fees as provided in s. 28.241(2) from the party or parties instituting the appellate proceedings. If the party is determined to be indigent, the clerk shall defer payment of the fee.~~

~~(6)~~ A charge or a fee may not be imposed upon a party for responding by pleading, motion, or other paper to a civil or

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criminal action, suit, or proceeding in a county court ~~or to an appeal to the circuit court.~~

Section 6. Section 35.065, Florida Statutes, is repealed.

Section 7. Section 162.11, Florida Statutes, is amended to read:

162.11 Appeals.—An aggrieved party, including the local governing body, may appeal a final administrative order of an enforcement board to the district circuit court of appeal. ~~The~~ Such an appeal may ~~shall~~ not be a hearing de novo but must ~~shall~~ be limited to appellate review of the record created before the enforcement board. An appeal must ~~shall~~ be filed within 30 days after ~~of~~ the execution of the order to be appealed.

Section 8. Section 171.081, Florida Statutes, is amended to read:

171.081 Appeal on annexation or contraction.—

(1) Any party affected who believes that he or she will suffer material injury by reason of the failure of the municipal governing body to comply with the procedures set forth in this chapter for annexation or contraction or to meet the requirements established for annexation or contraction as they apply to his or her property may file a petition in the district circuit court of appeal for the appellate district county in which the municipality or municipalities are located seeking review by certiorari. The action may be initiated at the party's option within 30 days following the passage of the annexation or contraction ordinance or within 30 days following the completion of the dispute resolution process in subsection (2). In any action instituted pursuant to this subsection, the complainant, should he or she prevail, shall be entitled to reasonable costs

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and ~~attorney~~ attorney's fees.

(2) If the affected party is a governmental entity, no later than 30 days following the passage of an annexation or contraction ordinance, the governmental entity must initiate and proceed through the conflict resolution procedures established in chapter 164. If there is a failure to resolve the conflict, no later than 30 days following the conclusion of the procedures established in chapter 164, the governmental entity that initiated the conflict resolution procedures may file a petition in the district circuit court of appeal for the appellate district county in which the municipality or municipalities are located seeking review by certiorari. In any legal action instituted pursuant to this subsection, the prevailing party is entitled to reasonable costs and attorney's fees.

Section 9. Subsection (4) of section 163.3215, Florida Statutes, is amended to read:

163.3215 Standing to enforce local comprehensive plans through development orders.—

(4) If a local government elects to adopt or has adopted an ordinance establishing, at a minimum, the requirements listed in this subsection, the sole method by which an aggrieved and adversely affected party may challenge any decision of local government granting or denying an application for a development order, as defined in s. 163.3164, which materially alters the use or density or intensity of use on a particular piece of property, on the basis that it is not consistent with the comprehensive plan adopted under this part, is by an appeal filed by a petition for writ of certiorari filed in the district circuit court of appeal within no later than 30 days after

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~~following~~ rendition of a development order or other written decision of the local government, or when all local administrative appeals, if any, are exhausted, whichever occurs later. An action for injunctive or other relief may be joined with the petition for certiorari. Principles of judicial or administrative res judicata and collateral estoppel apply to these proceedings. Minimum components of the local process are as follows:

(a) The local process must make provision for notice of an application for a development order that materially alters the use or density or intensity of use on a particular piece of property, including notice by publication or mailed notice consistent with the provisions of ss. 125.66(4)(b)2. and 3. and 166.041(3)(c)2.b. and c., and must require prominent posting at the job site. The notice must be given within 10 days after the filing of an application for a development order; however, notice under this subsection is not required for an application for a building permit or any other official action of local government which does not materially alter the use or density or intensity of use on a particular piece of property. The notice must clearly delineate that an aggrieved or adversely affected person has the right to request a quasi-judicial hearing before the local government for which the application is made, must explain the conditions precedent to the appeal of any development order ultimately rendered upon the application, and must specify the location where written procedures can be obtained that describe the process, including how to initiate the quasi-judicial process, the timeframes for initiating the process, and the location of the hearing. The process may

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include an opportunity for an alternative dispute resolution.

(b) The local process must provide a clear point of entry consisting of a written preliminary decision, at a time and in a manner to be established in the local ordinance, with the time to request a quasi-judicial hearing running from the issuance of the written preliminary decision; the local government, however, is not bound by the preliminary decision. A party may request a hearing to challenge or support a preliminary decision.

(c) The local process must provide an opportunity for participation in the process by an aggrieved or adversely affected party, allowing a reasonable time for the party to prepare and present a case for the quasi-judicial hearing.

(d) The local process must provide, at a minimum, an opportunity for the disclosure of witnesses and exhibits prior to hearing and an opportunity for the depositions of witnesses to be taken.

(e) The local process may not require that a party be represented by an attorney in order to participate in a hearing.

(f) The local process must provide for a quasi-judicial hearing before an impartial special master who is an attorney who has at least 5 years' experience and who shall, at the conclusion of the hearing, recommend written findings of fact and conclusions of law. The special master shall have the power to swear witnesses and take their testimony under oath, to issue subpoenas and other orders regarding the conduct of the proceedings, and to compel entry upon the land. The standard of review applied by the special master in determining whether a proposed development order is consistent with the comprehensive plan shall be strict scrutiny in accordance with Florida law.

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(g) At the quasi-judicial hearing, all parties must have the opportunity to respond, to present evidence and argument on all issues involved which are related to the development order, and to conduct cross-examination and submit rebuttal evidence. Public testimony must be allowed.

(h) The local process must provide for a duly noticed public hearing before the local government at which public testimony is allowed. At the quasi-judicial hearing, the local government is bound by the special master's findings of fact unless the findings of fact are not supported by competent substantial evidence. The governing body may modify the conclusions of law if it finds that the special master's application or interpretation of law is erroneous. The governing body may make reasonable legal interpretations of its comprehensive plan and land development regulations without regard to whether the special master's interpretation is labeled as a finding of fact or a conclusion of law. The local government's final decision must be reduced to writing, including the findings of fact and conclusions of law, and is not considered rendered or final until officially date-stamped by the city or county clerk.

(i) An ex parte communication relating to the merits of the matter under review may not be made to the special master. An ex parte communication relating to the merits of the matter under review may not be made to the governing body after a time to be established by the local ordinance, which time must be no later than receipt of the special master's recommended order by the governing body.

(j) At the option of the local government, the process may

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require actions to challenge the consistency of a development order with land development regulations to be brought in the same proceeding.

Section 10. Paragraph (b) of subsection (2) of section 189.041, Florida Statutes, is amended to read:

189.041 Elections; special requirements and procedures for districts with governing bodies elected on a one-acre/one-vote basis.—

(2) POPULAR ELECTIONS; REFERENDUM; DESIGNATION OF URBAN AREAS.—

(b) *Designation of urban areas.*—

1. Within 30 days after approval of the election process described in this subsection by qualified electors of the district, the governing body shall direct the district staff to prepare and present maps of the district describing the extent and location of all urban areas within the district. Such determination shall be based upon the criteria contained within paragraph (1)(b).

2. Within 60 days after approval of the election process described in this subsection by qualified electors of the district, the maps describing urban areas within the district shall be presented to the governing body.

3. Any district landowner or elector may contest the accuracy of the urban area maps prepared by the district staff within 30 days after submission to the governing body. Upon notice of objection to the maps, the governing body shall request the county engineer to prepare and present maps of the district describing the extent and location of all urban areas within the district. Such determination shall be based upon the

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criteria contained within paragraph (1)(b). Within 30 days after the governing body request, the county engineer shall present the maps to the governing body.

4. Upon presentation of the maps by the county engineer, the governing body shall compare the maps submitted by both the district staff and the county engineer and make a determination as to which set of maps to adopt. Within 60 days after presentation of all such maps, the governing body may amend and shall adopt the official maps at a regularly scheduled meeting of the governing body.

5. Any district landowner or qualified elector may contest the accuracy of the urban area maps adopted by the governing body within 30 days after adoption by petition to the district circuit court of appeal ~~with jurisdiction over the district~~. Accuracy shall be determined pursuant to paragraph (1)(b). Any petitions so filed shall be heard expeditiously, and the maps shall either be approved or approved with necessary amendments to render the maps accurate and shall be certified to the governing body.

6. Upon adoption by the governing body or certification by the court, the district urban area maps shall serve as the official maps for determination of the extent of urban area within the district and the number of governing body members to be elected by qualified electors and by the one-acre/one-vote principle at the next regularly scheduled election of governing body members.

7. Upon a determination of the percentage of urban area within the district as compared with total area within the district, the governing body shall order elections in accordance

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with the percentages pursuant to paragraph (3)(a). The landowners' meeting date shall be designated by the governing body.

8. The maps shall be updated and readopted every 5 years or sooner in the discretion of the governing body.

Section 11. Subsection (6) of section 190.046, Florida Statutes, is amended to read:

190.046 Termination, contraction, or expansion of district.—

(6) No later than 30 days following the adoption of a transfer plan ordinance, the board of supervisors may file, in the appropriate district circuit court of appeal for the county ~~in which the local general purpose government that adopted the ordinance is located~~, a petition seeking review by certiorari of the factual and legal basis for the adoption of the transfer plan ordinance.

Section 12. Paragraphs (a) and (b) of subsection (1) of section 255.20, Florida Statutes, are amended to read:

255.20 Local bids and contracts for public construction works; specification of state-produced lumber.—

(1) A county, municipality, special district as defined in chapter 189, or other political subdivision of the state seeking to construct or improve a public building, structure, or other public construction works must competitively award to an appropriately licensed contractor each project that is estimated in accordance with generally accepted cost-accounting principles to cost more than \$300,000. For electrical work, the local government must competitively award to an appropriately licensed contractor each project that is estimated in accordance with

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generally accepted cost-accounting principles to cost more than \$75,000. As used in this section, the term "competitively award" means to award contracts based on the submission of sealed bids, proposals submitted in response to a request for proposal, proposals submitted in response to a request for qualifications, or proposals submitted for competitive negotiation. This subsection expressly allows contracts for construction management services, design/build contracts, continuation contracts based on unit prices, and any other contract arrangement with a private sector contractor permitted by any applicable municipal or county ordinance, by district resolution, or by state law. For purposes of this section, cost includes the cost of all labor, except inmate labor, and the cost of equipment and materials to be used in the construction of the project. Subject to the provisions of subsection (3), the county, municipality, special district, or other political subdivision may establish, by municipal or county ordinance or special district resolution, procedures for conducting the bidding process.

(a) Notwithstanding any other law, a governmental entity seeking to construct or improve bridges, roads, streets, highways, or railroads, and services incidental thereto, at a cost in excess of \$250,000 may require that persons interested in performing work under contract first be certified or qualified to perform such work. A contractor may be considered ineligible to bid if the contractor is behind by 10 percent or more on completing an approved progress schedule for the governmental entity at the time of advertising the work. A prequalified contractor considered eligible by the Department of

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Transportation to bid to perform the type of work described under the contract is presumed to be qualified to perform the work described. The governmental entity may provide an appeal process to overcome that presumption with de novo review based on the record below to the district circuit court of appeal.

(b) For contractors who are not prequalified by the Department of Transportation, the governmental entity shall publish prequalification criteria and procedures prior to advertisement or notice of solicitation. Such publications must include notice of a public hearing for comment on such criteria and procedures prior to adoption. The procedures must provide for an appeal process within the authority for making objections to the prequalification process with de novo review based on the record below to the district circuit court of appeal within 30 days.

Section 13. Section 318.16, Florida Statutes, is amended to read:

318.16 Appeals; stay orders; procedures.—

(1) If a person is found to have committed an infraction by the hearing official, he or she may appeal that finding to the district circuit court of appeal. An appeal under this subsection ~~does shall~~ not operate to stay the reporting requirements of s. 318.14(7) or to stay appropriate action by the department upon receipt of that report.

(2) The district circuit court of appeal, upon application by the appellant, may:

(a) Order a stay of any action by the department during pendency of the appeal, but not to exceed a period of 60 days. A copy of the order shall be forwarded to the department.

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(b) Deny the application.

Section 14. Section 318.33, Florida Statutes, is amended to read:

318.33 Appeals.—Decisions of the hearing officer are appealable to the district court of appeal in the manner prescribed by the Florida Rules of Appellate Procedure, ~~under the rules of court, to the circuit court~~. Appeals must ~~shall~~ be based upon the record of the hearing before the hearing officer and may ~~shall~~ not be hearings de novo. Appellants are responsible for producing the record of the hearing beyond that which normally results from the civil traffic infraction hearing process.

Section 15. Subsection (7) of section 320.781, Florida Statutes, is amended to read:

320.781 Mobile Home and Recreational Vehicle Protection Trust Fund.—

(7) Within 90 days after receipt of the application and verified claim, the department shall issue its determination on the claim. The ~~Such~~ determination is ~~shall~~ not be subject to the ~~provisions of~~ chapter 120, but is ~~shall~~ be reviewable only by writ of certiorari in the district court of appeal circuit court ~~in the county in which the claimant resides~~ in the manner and within the time provided by the Florida Rules of Appellate Procedure. The claim must be paid within 45 days after the determination, or, if judicial review is sought, within 45 days after the review becomes final. A person may not be paid an amount from the fund in excess of \$25,000 per mobile home or recreational vehicle, which includes any damages, restitution, payments received as the result of a claim against the surety

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bond, or expenses, including reasonable attorney ~~attorney's~~ fees. Prior to payment, the person must execute an assignment to the department of all the person's rights and title to, and interest in, the unsatisfied judgment and judgment lien or the claim against the dealer or broker and its surety.

Section 16. Subsection (2) of section 321.051, Florida Statutes, is amended to read:

321.051 Florida Highway Patrol wrecker operator system; penalties for operation outside of system.—

(2) The Division of Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles may ~~is authorized to~~ establish within areas designated by the patrol a wrecker operator system using qualified, reputable wrecker operators for removal and storage of wrecked or disabled vehicles from a crash scene or for removal and storage of abandoned vehicles, if in the event the owner or operator is incapacitated or unavailable or leaves the procurement of wrecker service to the officer at the scene. All reputable wrecker operators are ~~shall be~~ eligible to participate ~~for use~~ in the system provided their equipment and drivers meet recognized safety qualifications and mechanical standards set by rules of the Division of Florida Highway Patrol for the size of vehicle it is designed to handle. The division may ~~is authorized to~~ limit the number of wrecker operators participating in the wrecker operator system, which authority shall not affect wrecker operators currently participating in the system established by this section. The division may ~~is authorized to~~ establish maximum rates for the towing and storage of vehicles removed at the division's request, where the ~~such~~ rates have not

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been set by a county or municipality pursuant to s. 125.0103 or s. 166.043. The ~~Such~~ rates are ~~shall not be considered~~ rules for the purpose of chapter 120; however, the department shall establish by rule a procedure for setting the ~~such~~ rates. Any provision in chapter 120 to the contrary notwithstanding, a final order of the department denying, suspending, or revoking a wrecker operator's participation in the system is ~~shall be~~ reviewable in the manner and within the time provided by the Florida Rules of Appellate Procedure only by a writ of certiorari issued by the district ~~circuit~~ court of appeal ~~in the county wherein such wrecker operator resides~~.

Section 17. Section 322.272, Florida Statutes, is amended to read:

322.272 Supersedeas.—The filing of a petition for certiorari to the district ~~circuit~~ court of appeal does not itself stay the enforcement of the suspension, revocation, or cancellation of license. The department may order a stay of enforcement upon appropriate terms and conditions.

Section 18. Section 322.31, Florida Statutes, is amended to read:

322.31 Right of review.—The final orders and rulings of the department by which ~~wherein~~ any person is denied a license, or by which ~~where~~ such license has been canceled, suspended, or revoked, are ~~shall be~~ reviewable in the manner and within the time provided by the Florida Rules of Appellate Procedure only by a writ of certiorari issued by the district ~~circuit~~ court of appeal ~~in the county wherein such person shall reside~~, in the manner prescribed by the Florida Rules of Appellate Procedure, any provision in chapter 120 to the contrary notwithstanding.

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639 Section 19. Subsection (13) of section 322.64, Florida
640 Statutes, is amended to read:

641 322.64 Holder of commercial driver license; persons
642 operating a commercial motor vehicle; driving with unlawful
643 blood-alcohol level; refusal to submit to breath, urine, or
644 blood test.—

645 (13) A person may appeal any decision of the department
646 sustaining the disqualification from operating a commercial
647 motor vehicle by a petition for writ of certiorari to the
648 district circuit court of appeal for the appellate district for
649 in the county in which the wherein such person resides or in
650 which wherein a formal or informal review was conducted pursuant
651 to s. 322.31. However, an appeal does shall not stay the
652 disqualification. This subsection does shall not be construed to
653 provide for a de novo review.

654 Section 20. Subsection (7) of section 327.73, Florida
655 Statutes, is amended to read:

656 327.73 Noncriminal infractions.—

657 (7) If a person is found by the hearing official to have
658 committed an infraction, he or she may appeal that finding to
659 the district circuit court of appeal.

660 Section 21. Subsection (1) of section 333.11, Florida
661 Statutes, is amended to read:

662 333.11 Judicial review.—

663 (1) Any person, political subdivision, or joint airport
664 zoning board affected by a decision of a political subdivision
665 or its administrative agency may apply for judicial relief to
666 the district circuit court of appeal for the appellate district
667 in which in the judicial circuit where the political subdivision

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668 is located within 30 days after rendition of the decision.

669 Review shall be by petition for writ of certiorari, which shall
670 be governed by the Florida Rules of Appellate Procedure.

671 Section 22. Subsection (5) of section 336.41, Florida
672 Statutes, is amended to read:

673 336.41 Counties; employing labor and providing road
674 equipment; accounting; when competitive bidding required.—

675 (5) (a) For contracts in excess of \$250,000, any county may
676 require that persons interested in performing work under the
677 contract first be certified or qualified to do the work. Any
678 contractor prequalified and considered eligible to bid by the
679 department to perform the type of work described under the
680 contract shall be presumed to be qualified to perform the work
681 so described. Any contractor may be considered ineligible to bid
682 by the county if the contractor is behind an approved progress
683 schedule by 10 percent or more on another project for that
684 county at the time of the advertisement of the work. The county
685 may provide an appeal process to overcome such consideration
686 with de novo review based on the record below to the district
687 circuit court of appeal.

688 (b) The county shall publish prequalification criteria and
689 procedures prior to advertisement or notice of solicitation. ~~The~~
690 ~~Such~~ publications must shall include notice of a public hearing
691 for comment on ~~the such~~ criteria and procedures prior to
692 adoption. The procedures must shall provide for an appeal
693 process within the county for objections to the prequalification
694 process with de novo review based on the record below to the
695 district circuit court of appeal.

696 (c) The county shall also publish for comment, prior to

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697 adoption, the selection criteria and procedures to be used by
 698 the county if the such procedures would allow selection of other
 699 than the lowest responsible bidder. The selection criteria must
 700 ~~shall~~ include an appeal process within the county with de novo
 701 review based on the record below to the district circuit court
 702 of appeal.

703 Section 23. Subsection (9) of section 337.14, Florida
 704 Statutes, is amended to read:

705 337.14 Application for qualification; certificate of
 706 qualification; restrictions; request for hearing.—

707 (9) (a) Notwithstanding any other law to the contrary, for
 708 contracts in excess of \$250,000, an authority created pursuant
 709 to chapter 348 or chapter 349 may require that persons
 710 interested in performing work under contract first be certified
 711 or qualified to do the work. Any contractor may be considered
 712 ineligible to bid by the governmental entity or authority if the
 713 contractor is behind an approved progress schedule for the
 714 governmental entity or authority by 10 percent or more at the
 715 time of advertisement of the work. Any contractor prequalified
 716 and considered eligible by the department to bid to perform the
 717 type of work described under the contract shall be presumed to
 718 be qualified to perform the work so described. The governmental
 719 entity or authority may provide an appeal process to overcome
 720 that presumption with de novo review based on the record below
 721 to the district circuit court of appeal.

722 (b) With respect to contractors not prequalified with the
 723 department, the authority shall publish prequalification
 724 criteria and procedures prior to advertisement or notice of
 725 solicitation. The Such publications must shall include notice of

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726 a public hearing for comment on the such criteria and procedures
 727 prior to adoption. The procedures must shall provide for an
 728 appeal process within the authority for objections to the
 729 prequalification process with de novo review based on the record
 730 below to the district circuit court of appeal within 30 days.

731 (c) An authority may establish criteria and procedures
 732 under which contractor selection may occur on a basis other than
 733 the lowest responsible bidder. Prior to adoption, the authority
 734 shall publish for comment the proposed criteria and procedures.
 735 Review of the adopted criteria and procedures shall be to the
 736 district circuit court of appeal, within 30 days after adoption,
 737 with de novo review based on the record below.

738 Section 24. Subsection (3) of section 337.404, Florida
 739 Statutes, is amended to read:

740 337.404 Removal or relocation of utility facilities; notice
 741 and order; court review.—

742 (3) The owner may obtain judicial review of the final order
 743 of the authority within the time and in the manner provided by
 744 the Florida Rules of Appellate Procedure by filing in the
 745 district circuit court of appeal for the appellate district the
 746 county in which the utility was relocated a petition for a writ
 747 of certiorari in the manner prescribed by the appellate said
 748 rules or in the manner provided by chapter 120 if when the
 749 respondent is an agency for purposes of chapter 120.

750 Section 25. Paragraph (g) of subsection (5) of section
 751 376.065, Florida Statutes, is amended to read:

752 376.065 Operation of terminal facility without discharge
 753 prevention and response certificate prohibited; penalty.—

754 (5)

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(g) A person who is found by the hearing official to have committed an infraction may appeal that finding to the district circuit court of appeal.

Section 26. Paragraph (f) of subsection (3) of section 376.07, Florida Statutes, is amended to read:

376.07 Regulatory powers of department; penalties for inadequate booming by terminal facilities.—

(3) The department shall not require vessels to maintain discharge prevention gear, holding tanks, and containment gear which exceed federal requirements. However, a terminal facility transferring heavy oil to or from a vessel with a heavy oil storage capacity greater than 10,000 gallons shall be required, considering existing weather and tidal conditions, to adequately boom or seal off the transfer area during a transfer, including, but not limited to, a bunkering operation, to minimize the escape of such pollutants from the containment area. As used in this subsection, the term “adequate booming” means booming with proper containment equipment which is employed and located for the purpose of preventing, for the most likely discharge, as much of the pollutant as possible from escaping out of the containment area.

(f) A person who is found by the hearing official to have committed an infraction may appeal that finding to the district circuit court of appeal.

Section 27. Paragraph (g) of subsection (2) of section 376.071, Florida Statutes, is amended to read:

376.071 Discharge contingency plan for vessels.—

(2)

(g) A person who is found by the hearing official to have

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committed an infraction may appeal that finding to the district circuit court of appeal.

Section 28. Subsection (10) of section 376.16, Florida Statutes, is amended to read:

376.16 Enforcement and penalties.—

(10) A person who is found by a hearing official to have committed an infraction may appeal that finding to the district circuit court of appeal.

Section 29. Paragraph (h) of subsection (1) of section 379.401, Florida Statutes, is amended to read:

379.401 Penalties and violations; civil penalties for noncriminal infractions; criminal penalties; suspension and forfeiture of licenses and permits.—

(1) LEVEL ONE VIOLATIONS.—

(h) A person who elects to appear before the county court or who is required to appear before the county court shall be deemed to have waived the limitations on civil penalties provided under paragraphs (c) and (d). After a hearing, the county court shall determine if a Level One violation has been committed, and if so, may impose a civil penalty of not less than \$50 for a first-time violation, and not more than \$500 for subsequent violations. A person found guilty of committing a Level One violation may appeal that finding to the district circuit court of appeal. The commission of a violation must be proved beyond a reasonable doubt.

Section 30. Paragraph (j) of subsection (1) of section 379.4015, Florida Statutes, is amended to read:

379.4015 Nonnative and captive wildlife penalties.—

(1) LEVEL ONE.—Unless otherwise provided by law, the

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following classifications and penalties apply:

(j) If a person is found by the hearing official to have committed an infraction, she or he may appeal that finding to the district circuit court of appeal.

Section 31. Paragraph (a) of subsection (2) of section 379.412, Florida Statutes, is amended to read:

379.412 Penalties for feeding wildlife and freshwater fish.—

(2) A person who violates a prohibition or restriction identified in subsection (1):

(a) For a first violation, commits a noncriminal infraction, punishable by a civil penalty of \$100.

1. A person cited for a violation under this paragraph shall sign and accept a citation to appear before the county court. The issuing officer may indicate on the citation the time and location of the scheduled hearing and shall indicate the applicable civil penalty.

2. A person cited for a violation may pay the civil penalty by mail or in person within 30 days after receipt of the citation. If the civil penalty is paid, the person is deemed to have admitted committing the violation and to have waived his or her right to a hearing before the county court. ~~The Such~~ admission may not be used as evidence in any other proceedings except to determine the appropriate fine for any subsequent violations.

3. A person who refuses to accept a citation, who fails to pay the civil penalty for a violation, or who fails to appear before a county court as required commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s.

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775.083.

4. A person who elects to appear before the county court or who is required to appear before the county court is deemed to have waived the limitations on civil penalties provided under this paragraph. After a hearing, the county court shall determine if a violation has been committed, and if so, may impose a civil penalty of not less than \$100. A person found guilty of committing a violation may appeal that finding to the district circuit court of appeal. The commission of a violation must be proved beyond a reasonable doubt.

Section 32. Paragraph (a) of subsection (2) of section 408.40, Florida Statutes, is amended to read:

408.40 Public Counsel.—

(2) The Public Counsel shall:

(a) Recommend to the agency, by petition, the commencement of any proceeding or action or to appear, in the name of the state or its citizens, in any proceeding or action before the agency and urge therein any position that he or she deems to be in the public interest, whether consistent or inconsistent with positions previously adopted by the agency, and use therein all forms of discovery available to attorneys in civil actions generally, subject to protective orders of the agency, which are ~~shall be reviewable by summary procedure~~ in the appellate circuit courts of this state.

Section 33. Paragraph (j) of subsection (5) of section 489.127, Florida Statutes, is amended to read:

489.127 Prohibitions; penalties.—

(5) Each county or municipality may, at its option, designate one or more of its code enforcement officers, as

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871 defined in chapter 162, to enforce, as set out in this
 872 subsection, the provisions of subsection (1) and s. 489.132(1)
 873 against persons who engage in activity for which a county or
 874 municipal certificate of competency or license or state
 875 certification or registration is required.

876 (j) An aggrieved party, including the local governing body,
 877 may appeal a final administrative order of an enforcement board
 878 or licensing board or designated special magistrate to the
 879 district circuit court of appeal. ~~The Such an~~ appeal ~~may shall~~
 880 not be a hearing de novo but must ~~shall~~ be limited to appellate
 881 review of the record created before the enforcement board or
 882 licensing board or designated special magistrate. An appeal must
 883 ~~shall~~ be filed within 30 days after ~~of~~ the execution of the
 884 order to be appealed.

885 Section 34. Paragraph (j) of subsection (4) of section
 886 489.531, Florida Statutes, is amended to read:

887 489.531 Prohibitions; penalties.—

888 (4) Each county or municipality may, at its option,
 889 designate one or more of its code enforcement officers, as
 890 defined in chapter 162, to enforce, as set out in this
 891 subsection, the provisions of subsection (1) against persons who
 892 engage in activity for which county or municipal certification
 893 is required.

894 (j) An aggrieved party, including the local governing body,
 895 may appeal a final administrative order of an enforcement or
 896 licensing board or designated special magistrate to the district
 897 circuit court of appeal. ~~The Such an~~ appeal ~~may shall~~ not be a
 898 hearing de novo but must ~~shall~~ be limited to appellate review of
 899 the record created before the enforcement or licensing board or

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900 designated special magistrate. An appeal must ~~shall~~ be filed
 901 within 30 days of the execution of the order to be appealed.

902 Section 35. Paragraphs (h) and (i) of subsection (1) of
 903 section 556.107, Florida Statutes, are amended to read:

904 556.107 Violations.—

905 (1) NONCRIMINAL INFRACTIONS.—

906 (h) If a person is found by a judge or hearing official to
 907 have committed an infraction, the person may appeal that finding
 908 to the district circuit court of appeal.

909 (i) Sunshine State One-Call of Florida, Inc., may, at its
 910 own cost, retain an attorney to assist in the presentation of
 911 relevant facts and law in the county court proceeding pertaining
 912 to the citation issued under this section. The corporation may
 913 also appear in any case appealed to the district circuit court
 914 of appeal if a county court judge finds that an infraction of
 915 the chapter was committed. An appellant ~~in the circuit court~~
 916 ~~proceeding~~ shall timely notify the corporation of any appeal
 917 under this section.

918 Section 36. Subsection (6) of section 569.005, Florida
 919 Statutes, is amended to read:

920 569.005 Operating without a retail tobacco products dealer
 921 permit; penalty.—

922 (6) If a person is found by the court to have committed the
 923 infraction, that person may appeal that finding to the district
 924 circuit court of appeal.

925 Section 37. Section 605.0716, Florida Statutes, is amended
 926 to read:

927 605.0716 Judicial review of denial of reinstatement.—

928 (1) If the department denies a limited liability company's

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application for reinstatement after administrative dissolution, the department shall serve the company with a notice in a record that explains the reason or reasons for the denial.

(2) Within 30 days after service of a notice of denial of reinstatement, a limited liability company may appeal the denial to the First District Court of Appeal by petitioning the court ~~Circuit Court of Leon County~~ to set aside the dissolution. The petition must be served on the department and contain a copy of the department's notice of administrative dissolution, the company's application for reinstatement, and the department's notice of denial.

(3) The ~~circuit~~ court may order the department to reinstate a dissolved limited liability company or take other action the court considers appropriate.

(4) The ~~circuit~~ court's final decision may be appealed as in other civil proceedings.

Section 38. Section 605.09091, Florida Statutes, is amended to read:

605.09091 Judicial review of denial of reinstatement.—

(1) If the department denies a foreign limited liability company's application for reinstatement after revocation of its certificate of authority, the department shall serve the foreign limited liability company, pursuant to s. 605.0117(7), with a written notice that explains the reason or reasons for the denial.

(2) Within 30 days after service of a notice of denial of reinstatement, a foreign limited liability company may appeal the denial to the First District Court of Appeal by petitioning the court ~~Circuit Court of Leon County~~ to set aside the

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revocation. The petition must be served on the department and must contain a copy of the department's notice of revocation, the foreign limited liability company's application for reinstatement, and the department's notice of denial.

(3) The ~~circuit~~ court may order the department to reinstate the certificate of authority of the foreign limited liability company or take other action the court considers appropriate.

(4) The ~~circuit~~ court's final decision may be appealed as in other civil proceedings.

Section 39. Section 607.0126, Florida Statutes, is amended to read:

607.0126 Appeal from department's refusal to file document.—If the department refuses to file a document delivered to its office for filing, the person who submitted the document for filing may petition the First District Court of Appeal ~~Circuit Court of Leon County~~ to compel filing of the document. The document and the explanation from the department of the refusal to file must be attached to the petition. The court may decide the matter in a summary proceeding, and the court may summarily order the department to file the document or take other action the court considers appropriate. The court's final decision may be appealed as in other civil proceedings.

Section 40. Subsection (2) of section 607.1423, Florida Statutes, is amended to read:

607.1423 Judicial review of denial of reinstatement.—

(2) Within 30 days after service of a notice of denial of reinstatement, a corporation may appeal the denial by petitioning the First District Court of Appeal ~~Circuit Court of Leon County~~ to set aside the dissolution. The petition must be

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served on the department and contain a copy of the department's notice of administrative dissolution, the corporation's application for reinstatement, and the department's notice of denial.

Section 41. Section 607.1532, Florida Statutes, is amended to read:

607.1532 Judicial review of denial of reinstatement.—

(1) If the department denies a foreign corporation's application for reinstatement after revocation of its certificate of authority, the department shall serve the foreign corporation under s. 607.15101 with a written notice that explains the reason or reasons for the denial.

(2) Within 30 days after service of a notice of denial of reinstatement, a foreign corporation may appeal the denial by petitioning the First District Court of Appeal ~~Circuit Court of Leon County~~ to set aside the revocation. The petition must be served on the department and contain a copy of the department's notice of revocation, the foreign corporation's application for reinstatement, and the department's notice of denial.

(3) The ~~circuit~~ court may order the department to reinstate the certificate of authority of the foreign corporation or take other action the court considers appropriate.

(4) The ~~circuit~~ court's final decision may be appealed as in other civil proceedings.

Section 42. Subsection (2) of section 620.1811, Florida Statutes, is amended to read:

620.1811 Appeal from denial of reinstatement.—

(2) Within 30 days after service of the notice of denial, the limited partnership may appeal from the denial of

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reinstatement by petitioning the district circuit ~~circuit~~ court of appeal to set aside the dissolution. The petition must be served on the Department of State and contain a copy of the Department of State's declaration of dissolution, the limited partnership's application for reinstatement, and the Department of State's notice of denial.

Section 43. Subsection (1) of section 717.1242, Florida Statutes, is amended to read:

717.1242 Restatement of jurisdiction of the circuit court sitting in probate and the department.—

(1) It is and has been the intent of the Legislature that, pursuant to s. 26.012(1)(b) ~~s. 26.012(2)(b)~~, circuit courts have jurisdiction of proceedings relating to the settlement of the estates of decedents and other jurisdiction usually pertaining to courts of probate. It is and has been the intent of the Legislature that, pursuant to s. 717.124, the department determines the merits of claims for property paid or delivered to the department under this chapter. Consistent with this legislative intent, any estate or beneficiary, as defined in s. 731.201, of an estate seeking to obtain property paid or delivered to the department under this chapter must file a claim with the department as provided in s. 717.124.

Section 44. Subsection (5) of section 723.0612, Florida Statutes, is amended to read:

723.0612 Change in use; relocation expenses; payments by park owner.—

(5) Actions of the Florida Mobile Home Relocation Corporation under this section are not subject to ~~the provisions~~ of chapter 120 but are reviewable only by writ of certiorari in

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the ~~district circuit~~ court of appeal in the appellate district
~~county~~ in which the claimant resides in the manner and within
the time provided by the Florida Rules of Appellate Procedure.

Section 45. Subsection (4) of section 767.12, Florida
Statutes, is amended to read:

767.12 Classification of dogs as dangerous; certification
of registration; notice and hearing requirements; confinement of
animal; exemption; appeals; unlawful acts.—

(4) Upon a dangerous dog classification and penalty
becoming final after a hearing or by operation of law pursuant
to subsection (3), the animal control authority shall provide a
written final order to the owner by registered mail, certified
hand delivery or service. The owner may appeal the
classification, penalty, or both, to the district circuit court
of appeal in accordance with the Florida Rules of Appellate
Procedure after receipt of the final order. If the dog is not
held by the animal control authority, the owner must confine the
dog in a securely fenced or enclosed area pending resolution of
the appeal. Each applicable local governing authority must
establish appeal procedures that conform to this subsection.

Section 46. Section 924.08, Florida Statutes, is repealed.

Section 47. This act shall take effect January 1, 2021.



The Florida Senate

Committee Agenda Request

To: Senator David Simmons
Committee on Judiciary

Subject: Committee Agenda Request

Date: January 13, 2019

I respectfully request that **Senate Bill #1510**, relating to **Jurisdiction of 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", is written over a horizontal line.

Senator Jeff Brandes
Florida Senate, District 24

OFFICE OF THE STATE COURTS ADMINISTRATOR
2020 JUDICIAL IMPACT STATEMENT

BILL NUMBER: SB 1510

DATE: January 16, 2020

SPONSOR(S): Senator Brandes

STATUTE(S) AFFECTED: ss. 26.012, 26.57, 28.241, 34.017, 34.041, 35.065, 162.11, 171.081, 163.3215, 189.041, 190.046, 255.20, 318.16, 318.33, 320.781, 321.051, 322.272, 322.31, 322.64, 327.73, 333.11, 336.41, 337.14, 337.404, 376.065, 376.07, 376.071, 376.16, 379.401, 379.4015, 379.412, 408.40, 489.127, 489.531, 556.107, 569.005, 605.0716, 605.09091, 607.0126, 607.1423, 607.1532, 620.1811, 717.1242, 723.0612, 767.12, and 924.08 F.S.

COMPANION BILL(S): None

AGENCY CONTACT: Sean Burnfin

TELEPHONE: (850) 922-0358

ASSIGNED OSCA STAFF: Tina White, Andrew Johns, and Melissa Hamilton

I. SUMMARY: The bill amends multiple sections of law to repeal the circuit courts' statutory authority to hear appeals of county court civil and criminal decisions and certain administrative actions. As a result of these amendments, the district courts of appeal (DCAs) will have jurisdiction to hear these appeals as expressly specified in the amendments or pursuant to Article V, § 4(b)(1), Fla. Const., stating that DCAs shall hear appeals from trial courts that are not directly appealable to the circuit court or supreme court. The bill provides an effective date of January 1, 2021.

In January 2019, the Workgroup on Appellate Review of County Court Decisions (Workgroup), was established by the Florida Supreme Court (AOSC19-3) to review circuit court appellate practices. As a result of this review, the Workgroup recommended, and the supreme court approved, the proposal of statutory amendments to transfer the circuit courts' appellate and related extraordinary writ authority to the DCAs in county civil cases, including non-criminal violations, county criminal cases, and administrative cases.

II. EFFECT OF PROPOSED CHANGES:

Present Situation: With respect to appellate jurisdiction, the State Constitution authorizes circuit courts to review appeals as established by general law and petitions for extraordinary writs for cases in which the circuit courts have appellate jurisdiction.¹ State statutes authorize the circuit

¹ Circuit courts "shall have ... jurisdiction of appeals when provided by general law. ... They shall have the power of direct review of administrative action prescribed by general law." [Article V, § 5\(b\)](#), Fla. Const. Circuit courts "shall have the power to issue writs of mandamus, quo warranto, certiorari, prohibition and habeas corpus, and all

courts to review final judgments and certain nonfinal orders from county courts in civil² and criminal³ cases, subject to specified exceptions, and certain administrative actions.⁴

If the above-described statutory circuit court appellate authority did not exist, the DCAs would be authorized to hear the appeal under the provision in the State Constitution stating that DCAs “shall have jurisdiction to hear appeals, that may be taken as a matter of right, from final judgments or orders of trial courts, including those entered on review of administrative action, [that are] not directly appealable to the supreme court or a circuit court.”⁵ In such cases, DCAs may hear appeals of nonfinal orders as provided by rules adopted by the supreme court⁶ and may issue extraordinary writs in cases in which they have appellate jurisdiction.⁷ The State Constitution also provides that DCAs may directly review administrative action as prescribed by general law.⁸

Effect of Bill: The bill amends multiple sections of law to repeal the circuit courts’ statutory authority to hear appeals of county court civil and criminal decisions and certain administrative actions. As a result of these amendments, the DCAs will have jurisdiction to hear these appeals as expressly specified in the amendments or pursuant to Article V, § 4(b)(1), Fla. Const., stating that DCAs shall hear appeals from trial courts that are not directly appealable to the circuit court or supreme court. Specifically, the bill:

- Repeals the authority in § 26.012, F.S., for circuit courts to hear certain civil appeals from county courts and from final administrative orders of local government code enforcement boards.
- Amends § 162.11, F.S., to specify that appeals from final administrative orders of local government code enforcement boards may be filed in the DCA, rather than the circuit court.
- Amends § 171.081, F.S., to specify that petitions for certiorari relating to annexation or contraction of local government boundaries may be filed in the DCA, rather than the circuit courts.

writs necessary or proper to the complete exercise of their jurisdiction.” *Id.*; see [Wovas v. Touse Homes, Inc.](#), 940 So. 2d 1166, 1167 (Fla. 2d DCA 2006) (stating “A circuit court may issue an extraordinary writ only where it has original or appellate jurisdiction.”); Philip J. Padovano, [Fla. Appellate Practice](#) § 5.6.

² Circuit courts have jurisdiction of appeals from county subject to three exceptions. § 26.012(1), Fla. Stat.

³ Circuit courts have jurisdiction of appeals from final judgments, and appeals by the state of certain nonfinal orders, in misdemeanor cases. §§ 924.07, 924.071, and 924.08, Fla. Stat.; [State v. Ratner](#), 948 So. 2d 700, 704 (Fla. 2007).

⁴ State statutes do not generally confer appellate jurisdiction to the circuit courts over administrative actions; instead, they grant such authority based on the type of action or entity taking action. For example, §§ 26.012(1) and 162.11, Fla. Stat., authorize appeals of final administrative orders entered by local government code enforcement boards.

⁵ [Article V, § 4\(b\)\(1\)](#), Fla. Const.

⁶ *Id.*; see Fla. R. App. P. 9.030(b)(1)(b), 9.130, and 9.140 (specifying categories of nonfinal orders by circuit courts that may be appealed to the DCAs), and Fla. R. App. P. 9.030(b)(2)(A) (providing that nonfinal orders by lower tribunals that are not specified in court rule may be reviewed by the DCAs pursuant to their constitutional certiorari jurisdiction).

⁷ [Article V, § 4\(b\)\(3\)](#), Fla. Const.; and Padovano, [Fla. Appellate Practice](#) § 5.6.

⁸ [Article V, § 4\(b\)\(2\)](#), Fla. Const.; see, e.g., §§ 120.68, 350.128, and 440.271, Fla. Stat. (authorizing DCAs to review final agency action under the Administrative Procedure Act and the First DCA to review certain actions of the Public Service Commission actions and orders of judges of compensation claims, respectively).

- Amends § 163.3215, F.S., to specify that petitions for certiorari relating to certain decisions of local governments granting or denying applications for development orders may be filed in the DCA, rather than the circuit court.
- Amends § 189.041, F.S., to specify that petitions to contest the accuracy of certain urban area maps may be filed in the DCA, rather than the circuit court.
- Amends § 190.046, F.S., to specify that petitions for certiorari relating to the adoption certain transfer plan ordinances may be filed in the appropriate DCA, rather than the circuit court.
- Amends § 255.20, F.S., to specify that appeals relating to certain local bids and contracts for public construction works may be filed in the DCA, rather than the circuit court.
- Amends § 318.16, F.S., to specify that appeals of findings by a judge that a person committed a noncriminal traffic infraction may be filed in the DCA, rather than the circuit court.
- Amends § 318.33, F.S., to specify that appeals of decisions by civil traffic infraction hearing officers may be filed in the DCA, rather than the circuit court.
- Amends § 320.781, F.S., to specify that decisions by the Department of Highway Safety and Motor Vehicles (DHSMV) relating to certain claims against mobile home or recreational vehicle dealers or brokers are reviewable only by a writ of certiorari in the DCA, rather than the circuit court.
- Amends § 321.051, F.S., to specify that final orders by the DHSMV relating to the Florida Highway Patrol wrecker operator system are reviewable only by a writ of certiorari issued by the DCA, rather than the circuit court.
- Amends § 322.31, F.S., to specify that final orders and rulings of the DHSMV relating to denials, cancellations, suspensions, or revocations are reviewable only by a writ of certiorari issued by the DCA, rather than the circuit court.
- Amends § 322.64, F.S., to specify that the decision of the DHSMV sustaining the disqualification from operating a commercial motor vehicle may be appealed by a writ certiorari filed in the DCA, rather than the circuit court.
- Amends § 327.73, F.S., to specify that findings by a hearing official that a person committed a noncriminal infraction related to a vessel may be appealed to the DCA, rather than the circuit court.
- Amends § 331.11, F.S., to specify that petitions for writ of certiorari relating to decisions by a political subdivision or its administrative agency with respect to airport zoning regulations may be filed in the DCA, rather than the circuit court.
- Amends § 336.41, F.S., to specify that certain appeal processes relating to county contracts for road work in excess of \$250,000 shall occur in the DCA, rather than the circuit court.
- Amends § 337.14, F.S., to specify that certain appeal processes relating to construction contracts in excess of \$250,000 by certain authorities shall occur in the DCA, rather than the circuit court.
- Amends § 337.404, F.S., to specify that final orders of certain authorities relating to the performance of work to address the unreasonable interference of a utility may be reviewed by filing a petition for a writ of certiorari in the DCA, rather than the circuit court.
- Amends §§ 376.065, 376.07, 376.071, and 376.16 F.S., to specify that appeals of hearing

official findings that a person committed a noncriminal infraction relating to the operation of a terminal facility, inadequate booming by a terminal facility, a discharge contingency plan for vessels, or the Pollutant Discharge Prevention and Control Act, respectively, may be filed in the DCA, rather than the circuit court.

- Amends §§ 379.401, 379.4015, and 379.412, F.S., to specify that appeals of findings that person committed a noncriminal infraction relating to certain rules or orders of the Fish and Wildlife Conservation Commission, certain regulations relating to hunting, fishing, and trapping, or certain prohibitions against or restrictions on feeding wildlife or freshwater fish may be filed in the DCA, rather than the circuit court.
- Amends § 408.40, F.S., which appears to specify that a petition by the Public Counsel to recommend to the Agency for Healthcare Administration the commencement of certain proceedings or actions or to appear before the agency is reviewable by summary procedure in the circuit court, to instead provide that the agency's protective orders are reviewable by the appellate courts of this state.
- Amends §§ 489.127 and 489.531, F.S., to specify that appeals of final administrative orders of an enforcement or licensing board or designated special magistrate relating to violations of certain construction, electrical, or alarm system contractor prohibitions may be filed in the DCA, rather than the circuit court.
- Amends § 556.107, F.S., to specify that appeals of findings by a judge or hearing official that a person committed a noncriminal infraction by violating certain provisions of the Underground Facility Damage Prevention and Safety Act may be filed in the DCA, rather the circuit court.
- Amends § 569.005, F.S., to specify that appeals of a finding by the court that a person has committed a noncriminal infraction by retailing tobacco products without a permit may be filed in the DCA, rather than the circuit court.
- Amends §§ 605.0716, 605.09091, 607.1423, 607.1532, and 620.1811, F.S., to specify that appeals of denials of reinstatements by the Department of State (DOS) with respect to limited liability companies, foreign limited liability companies, corporations, foreign corporations, and limited partnerships, respectively, may be filed in the First DCA, rather than the Circuit Court of Leon County (CCLC).
- Amends § 607.0126, F.S., to specify that petitions to compel the filing of a document by the DOS may be filed in the First DCA, rather than the CCLC.
- Amends § 723.0612, F.S., to specify that actions of the Florida Mobile Home Relocation Corporation are reviewable only by a writ of certiorari in the DCA, rather than the circuit court.
- Amends § 767.12, F.S., to specify that appeals of a written final order relating to a dangerous dog classification or penalty may be filed in the DCA, rather than the circuit court.

The bill also amends §§ 26.57, 28.241, 34.017, 34.041, 35.065, 322.272, and 717.1242, F.S., to conform these sections to the appellate jurisdictional changes described above.

III. ANTICIPATED JUDICIAL OR COURT WORKLOAD IMPACT: The overall workload impact of the transfer of the circuit courts' appellate and related extraordinary writ authority to the DCAs in county civil cases, including non-criminal violations, county criminal cases, and administrative cases, is indeterminate. Complete and reliable data are not available for the total

number of appeals and petitions for writs that are filed in the circuit courts. Based on the data that is available from the Summary Reporting System (SRS), an average of 1,867 cases were appealed to the circuit courts annually during the past 10 years. However, this data includes only appeals of county court civil decisions and appeals of and petitions for writs in county court criminal decisions. The data does not include administrative appeals or petitions for writs in civil appellate cases. Further, when reviewing a subset of the available SRS data for fiscal year 2016-17, circuit-level appellate data discrepancies between the SRS, clerk, and court administration data were uncovered. Specifically, slight variations in the numbers of county court appeals were recorded across nearly all circuits, and significant variations in the numbers of county court appeals were noted in the South Florida judicial circuits (11th, 15th, and 17th judicial circuits).

For its final report and recommendations, the Workgroup on Appellate Review of County Court Decisions (Workgroup), using the limited data described above, considered the additional judicial workload that will be experienced by the DCAs due to the transfer of appellate jurisdiction from the circuit courts. A projected appellate judge certification impact is provided in the table below. A preliminary estimate, based on data that does not include administrative appeals and civil writ petitions, showed that the Fourth DCA may need three new judges to address the increase in workload. The Workgroup's estimate projected that all other DCAs could absorb the impact within current judicial resources.

Since the Workgroup's report and based on further consultation with the DCAs, an alternative approach to addressing the increase in DCA workload has been considered, in lieu of providing three additional DCA judges and their supporting staff. The alternative approach proposes five appellate staff attorneys and a deputy clerk⁹, on an Other Personal Services (OPS) basis, for an annual total of \$418,436 (recurring). See Section V. This approach could provide a less expensive option to address the workload increase. OPS could be utilized to address the increase in workload until a full impact from the transfer can be determined. Temporary staffing was successfully used in the foreclosure initiative to manage the influx of filings occurring at that time. This approach assumes that county court appeals transferred to the DCAs would be less complex, thus requiring less judicial involvement and associated workload.

Additionally, because the overall statewide workload impact of the transfer of the circuit courts' appellate authority to the DCAs is indeterminate, it is possible that additional DCA deputy clerks and appellate staff attorneys will be needed based on implementation experience.

Over time, it is anticipated that the number of appeals of county court and administrative decisions will decrease as intra- and inter-circuit conflict is eliminated and issues are resolved by the DCAs through the transfer of circuit court appellate jurisdiction. As appeals are shifted from circuit courts to the DCAs, a corresponding decrease in circuit court workload will be experienced. In addition, circuit court workload is anticipated to also decrease with the increase of county court jurisdiction to \$30,000 on January 1, 2020. While the precise impact of the bill is unknown, the possible change in judicial workload and judge need will be reflected in the Florida Supreme Court's annual certification of need for additional judges.

⁹ Based on consultation with the DCAs, three appellate staff attorneys and a deputy clerk III would be assigned to the Fourth DCA, one appellate staff attorney would be assigned to the Second DCA, and one appellate staff attorney would be assigned to the Fifth DCA.

Possible implementation impacts for this bill include:

- Operational changes will be required in both the circuit and appellate courts to accommodate the new flow of cases. Circuit court clerks and DCA appellate clerks will have workload impacts as the workload is shifted. The circuit court clerks would have a potential reduction in workload with an appellate jurisdiction transfer to the DCAs.
- Litigants will incur a fiscal impact if the Legislature maintains the current filing fees. The appellate filing fee for circuit courts costs \$281.00 while the filing fee for DCAs costs \$400.00.
- Self-represented litigants and other parties who have grown accustomed to appeals being heard within the same local courthouse may be resistant to litigating in a DCA or may be affected by a DCA courthouse location that is farther away. Given e-Filing, however, these parties should be affected by the location issue only when required to attend an oral argument, which is infrequently ordered.

IV. IMPACT TO COURT RULES/JURY INSTRUCTIONS: If the legislation is enacted, conforming amendments to the Florida Rules of Civil Procedure, Appellate Procedure, Judicial Administration, and other rules of court will be required.

V. ESTIMATED FISCAL IMPACTS ON THE JUDICIARY:

- A. Revenue: As discussed above, it presently costs \$281 to file an appeal in the circuit court and \$400 to file an appeal in the DCA. The filing fee revenues for each of these fees are distributed differently. If all appeals are transferred to the DCAs, the clerks of court will experience a negative fiscal impact and the State Courts Revenue Trust Fund and general revenue will experience positive fiscal impacts (see table and bullets below).

Revenue Impact Estimate from Shifting County Court Appeals from Circuit Court to District Court		
	Fee Distribution	Revenue Impact Based on 1,609 Civil Appellate Cases
Revenue Generating Appellate Cases Filed in DCAs		
Clerks of Court	\$80.00	\$128,720
State Courts Revenue Trust Fund	\$50.00	\$80,450
General Revenue	\$270.00	\$434,430
Total	\$400.00	\$643,600
Revenue Generating Appellate Cases Filed in Circuit Courts		
Clerks of Court	\$260.00	\$418,340
State Courts Revenue Trust Fund	\$1.00	\$1,609
General Revenue	\$20.00	\$32,180
Total	\$281.00	\$452,129
Difference		
Clerks of Court		-\$289,620
State Courts Revenue Trust Fund		\$78,841
General Revenue		\$402,250
Total		\$191,471

- Based on the estimates of appellate cases filed in fiscal year 2018-19 (1,609 civil cases, which required a filing fee), the fiscal impact above details the difference in total revenue collected and distribution of the revenue if civil cases originating in the county court were appealed to the DCAs.
- The number of administrative appeals and petitions for writs filed in circuit court are indeterminate.; therefore, a fiscal impact from a change in the distribution of revenue from those filings is also indeterminate.

B. Expenditures: The total fiscal impact of the bill is indeterminate due to lack of data to fully quantify the changes in judicial workload and other potential impacts of the bill on court operations, as discussed in Section III. above. The narrative below provides information on a recurring OPS staffing approach to address the potential increase in workload. Any judicial workload changes in the future as a result of this bill will be reflected in the Supreme Court's annual opinion on certification of need for additional judges.

Following an analysis of actual workload data, or with the availability of more accurate workload estimates, additional DCA deputy clerks and appellate staff attorneys may be needed in all DCAs. For this analysis, five appellate staff attorneys and one deputy clerk III

are used to estimate initial staffing needs, and the costs are as follows:

- Six-Month Funding Need (based on a January 1, 2021, implementation date)
Six OPS Positions (five appellate staff attorneys and one deputy clerk III)
RATE = 151,104
Salaries & Benefits: \$208,711
HR Services: \$1,015
Total: \$209,726

This expenditure data reflects the costs associated with six-month funding for the new OPS positions and includes health insurance. The fee for Human Resource Services is calculated at \$203 for each position, as outlined in the FY 2020-21 Legislative Budget Request Instructions.

- 12-Month Funding Need
Six OPS Positions (five appellate staff attorneys and one deputy clerk III)
RATE = 302,208
Salaries & Benefits: \$417,421
HR Services: \$1,015
Total: \$418,436 (recurring)

This expenditure data reflects the costs associated with 12-month funding for the new OPS positions and includes health insurance. Human Resource Services fee is calculated at \$203 for each position, as outlined in the FY 2020-21 Legislative Budget Request Instructions.

THE FLORIDA SENATE
APPEARANCE RECORD

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

January 21, 2020

Meeting Date

SB 1510

Bill Number (if applicable)

Topic Jurisdiction of Courts

Amendment Barcode (if applicable)

Name Robert Morris

Job Title Judge, Second District Court 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/Workgroup on Appellate Review of County Court Decisions

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)

JAN 21, 2020

Meeting Date

1510

Bill Number (if applicable)

Topic COUNTY ADJUDICATING A CIRCUIT CASE AGAINST THEMSELVES

Amendment Barcode (if applicable)

Name DAVID BALLARD GEDDIS JR

Job Title

Address 802 GEORGIA AVENUE

Street

PALM HARBOR

City

FL

State

34683

Zip

Phone 727-483-1330

Email MY A BRIDGE POINT @

GMAIL.COM

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.

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

D. B. [Signature]

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)

January 21, 2020
Meeting Date

1510
Bill Number (if applicable)

Topic Jurisdiction of Courts

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Govt. Affairs

Address 136 S. Bronough St.
Street

Phone _____

Tallahassee FL
City State Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Chamber of Commerce

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)

January 21, 2020
Meeting Date

1510
Bill Number (if applicable)

334674
Amendment Barcode (if applicable)

Topic Jurisdiction of Courts

Name Josh Aubuchon

Job Title Attorney

Address 315 South Calhoun
Street

Phone 224-7006

Tallahassee FL
City State Zip

Email _____

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
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: SB 1362

INTRODUCER: Senator Rodriguez

SUBJECT: Rental Agreements

DATE: January 17, 2020

REVISED: _____

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

I. Summary:

SB 1362 provides for the protections of the federal Protecting Tenants at Foreclosure Act (PTFA) to take effect as a state law if the federal act is repealed.

Under the PTFA, a person who acquires a foreclosure property (“successor in interest”) must give the tenant at least 90 days’ notice before evicting him or her. And if the tenant had signed a “bona fide” lease before foreclosure, the successor in interest must allow him or her to remain for the term of the lease, even if that exceeds 90 days, unless the successor in interest sells to a person who intends to occupy the property as a primary residence.

Additionally, the bill repeals this state’s current foreclosure-tenant-rights statute, which affords less protection than the federal statute.

II. Present Situation:

Overview

The rights of a tenant to remain in a foreclosed property are provided in both federal and state statutes. The federal statute grants tenants a longer period of protection from eviction and thus preempts the state statute.¹

¹ See *Mik v. Federal Home Loan Mortg. Corp.*, 743 F.3d 149 (6th Cir. 2014).

Foreclosure

A foreclosure is a civil action in which a mortgagor seeks to have

the mortgaged property sold under an order of the court and the proceeds applied in payment of the debt. The primary purpose of the suit is to subject the mortgaged property to the payment of the debt.²

Federal Law

Under the federal Protecting Tenants at Foreclosure Act, a successor in interest to a foreclosure property obtains the property subject to the tenant's rights.³ Accordingly, the successor in interest must give the tenant at least 90 days' notice before evicting the tenant, regardless of whether the tenant had a lease or when the lease terminates.⁴ And if the tenant had signed a "bona fide" lease before foreclosure, the successor in interest must allow him or her to remain for the term of the lease, even if that exceeds 90 days, unless the successor in interest sells to a person who intends to occupy the property as a primary residence.⁵

A lease or tenancy is bona fide if:

- The mortgagor or the child, spouse, or parent of the mortgagor under the contract is not the tenant;
- The lease or tenancy was the result of an arms-length transaction; and
- The rent due under the lease is at or near fair-market value or the rent is subsidized under a housing welfare program.⁶

In addition to the generally applicable provisions described above, tenants with Section 8 housing choice voucher assistance enjoy other protections.⁷ Particularly, they may retain their Section 8 lease and the successor-in-interest must assume the housing assistance payment contract associated with that lease.⁸

Florida Law

Section 83.561, F.S., is this state's version of the PTFA. Under s. 83.561, F.S., however, a successor in interest may evict a tenant on 30 days' notice, instead of 90 days'. Moreover, this timeframe is not subject to the terms of a lease under which the tenant inhabits the foreclosed property.

² *Georgia Cas. Co. v. O'Donnell*, 147 So. 267, 268 (1933).

³ Pub. L. 111-22 Sec. 702. This Act was repealed by its sunset provision in 2014, but was reenacted permanently in 2015. *See* Pub. L. 115-174 Sec. 304.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ Pub. L. 111-22 Sec. 703.

⁸ *Id.*

III. Effect of Proposed Changes:

The bill provides that if the federal Protecting Tenants at Foreclosure Act (PTFA) is repealed, a state law providing most of the same rights to tenants in foreclosed properties will take effect.

Under the PTFA, a successor in interest, which will likely be the purchaser of a property at a foreclosure sale, must give a tenant at least 90 days' notice before evicting him or her. And if the tenant signed a "bona fide" lease before foreclosure, the successor in interest must allow him or her to remain for the term of the lease, even if that exceeds 90 days. However, the successor in interest does not have to honor the term of a bona fide lease if the successor in interest sells the property to a person who intends to occupy the property as a primary residence.

Additionally, the bill repeals this state's current foreclosure-tenant-rights statute, which affords less protection than the federal statute.

The bill takes effect on July 1, 2020, but the provisions providing for the rights under the PTFA to become state law take effect upon the repeal of the PFTA.

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 83.5615 of the Florida Statutes.

This bill repeals section 83.561 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Rodriguez

37-01135B-20

20201362__

A bill to be entitled

An act relating to rental agreements; repealing s. 83.561, F.S., relating to the termination of a rental agreement upon foreclosure; creating s. 83.5615, F.S.; providing a short title; providing for the assumption of interest in certain foreclosures on dwellings or residential real property; providing construction; defining the term "federally-related mortgage loan"; requiring the director of the Division of Consumer Services of the Department of Agriculture and Consumer Services to notify the Division of Law Revision of the repeal of the Protecting Tenants at Foreclosure Act of 2009 within a specified timeframe; providing effective dates, including a contingent effective date.

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

Section 1. Section 83.561, Florida Statutes, is repealed.

Section 2. Effective upon the repeal of the federal Protecting Tenants at Foreclosure Act, Pub. L. No. 111-22, section 83.5615, Florida Statutes, is created to read:

83.5615 Protecting Tenants at Foreclosure Act.—

(1) This section may be cited as the "Protecting Tenants at Foreclosure Act."

(2) In the case of any foreclosure on a federally-related mortgage loan or on any dwelling or residential real property after the effective date of this section, any immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to:

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

37-01135B-20

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(a) The successor in interest providing a notice to vacate to any bona fide tenant at least 90 days before the effective date of the notice; and

(b) The rights of any bona fide tenant:

1. Under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the tenant receiving the 90-day notice under paragraph (a); or

2. Without a lease or with a lease terminable at will, subject to the tenant receiving the 90-day notice under paragraph (a).

This subsection does not affect the requirements for termination of any federal- or state-subsidized tenancy or of any state or local law that provides more time or other additional protections for tenants.

(3) For the purposes of this section:

(a) A lease or tenancy shall be considered bona fide only if:

1. The mortgagor or the child, spouse, or parent of the mortgagor under the contract is not the tenant;

2. The lease or tenancy was the result of an arms-length transaction; and

3. The lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property or the unit's rent is reduced or subsidized due to a federal,

Page 2 of 3

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20201362__

59 state, or local subsidy.

60 (b) The term "federally-related mortgage loan" has the same
61 meaning as in 12 U.S.C. s. 2602.

62 (c) The date of a notice of foreclosure shall be deemed to
63 be the date on which complete title to a property is transferred
64 to a successor entity or person as a result of an order of a
65 court or pursuant to provisions in a mortgage, deed of trust, or
66 security deed.

67 Section 3. If the Protecting Tenants at Foreclosure Act of
68 2009, Pub. L. No. 111-22, is repealed, the director of the
69 Division of Consumer Services of the Department of Agriculture
70 and Consumer Services shall notify the Division of Law Revision
71 within 10 days after the repeal.

72 Section 4. Except as otherwise expressly provided in this
73 act, this act shall take effect July 1, 2020.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, Vice Chair
Appropriations Subcommittee on Agriculture,
Environment and General Government
Ethics and Elections
Rules

SENATOR JOSE JAVIER RODRIGUEZ
37th District

January 14th, 2020

Chair Simmons
Committee on Judiciary
404 S. Monroe Street
Tallahassee, FL 32399-1100
Sent via email to simmons.david@flsenate.gov

Chair Simmons,

I respectfully request that you place SB 1362 Rental Agreements on the agenda of the Committee on Judiciary at your earliest convenience.

Should you have any questions or concerns, please feel free to contact me or my office. Thank you in advance for your consideration.

Thank you,



Senator José Javier Rodríguez
District 37

CC:
Tom Cibula, Staff Director
Joyce Butler, Administrative Assistant
Valerie Clarke, Legislative Assistant to Senator
Carolyn Grzan, Legislative Assistant to Senator
Diane Suddes, Legislative Assistant to Senator

REPLY TO:

- 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 854-0365
- 220 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5037

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

1-21-2020

Meeting Date

1362

Bill Number (if applicable)

Topic Tenant Rights

Amendment Barcode (if applicable)

Name Pete Dunbar

Job Title _____

Address 215 S. Monroe

Phone 939-4100

Street

Tallahassee

City

State

Zip

Email p.dunbar@clearview.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Real Property Probate & Trust Law Section

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)

1/21/20

Meeting Date

1362

Bill Number (if applicable)

Topic Rental Agreements

Amendment Barcode (if applicable)

Name Alice Vickers

Job Title Attorney

Address 623 Beard St.

Phone 850 556 3121

Street

City

State

Zip

Tally

FL

32303

Email alievickers@flaap.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Alliance for Consumer Protection

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
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: SB 1298

INTRODUCER: Senator Simmons

SUBJECT: Office of the Judges of Compensation Claims

DATE: January 17, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Stallard	Cibula	JU	Favorable
2. _____	_____	AEG	_____
3. _____	_____	AP	_____

I. Summary:

SB 1298 appropriates \$1,159,440 in recurring funds from the Division of Administrative Hearing's Operating Trust Fund for the purpose of increasing the salaries of the judges of compensation claims. Until 1994, the law required the salaries of the judges of compensation claims to be equal to that of circuit court judges, who are now paid \$35,000 more per year than judges of compensations claims. Since 1994, the judges of compensation claims have received only those pay increases applied to all state employees.

Under the bill, the Deputy Chief Judge must recommend the salary increase, which, if approved, must be paid out of the Worker's Compensation Administration Trust Fund, into the Operating Trust Fund, and in turn used to pay for the salary increases.

II. Present Situation:

Overview

Judges of compensation claims are paid \$124,564.20 per year, except the Deputy Chief Judge, who is paid \$127,422.12 per year.

Judges of Compensation Claims

The judges of compensation claims have exclusive jurisdiction over workers' compensation cases.¹ When an employer disputes an employee's claim for workers' compensation, the employee may initiate litigation of the matter by filing a petition with the Office of the Judges of Compensation Claims (OJCC). Even after a petition is filed, a workers' compensation dispute

¹ See *Sanders v. City of Orlando*, 997 So. 2d 1089, 1094 (Fla. 2008).

may be resolved through mediation² or arbitration.³ But, when necessary, a judge of compensation claims may hold a hearing to resolve the matter.⁴ Upon conclusion of the hearing, the judge's order may be appealed to the First District Court of Appeal, which has sole appellate jurisdiction.⁵

The OJCC is headed by the Deputy Chief Judge, who reports to the director and Chief Judge of the Division of Administrative Hearings.⁶

Judges of compensation claims are nominated by a statewide nominating commission and appointed by the Governor to a 4-year term. The Governor may re-appoint a judge to successive 4-year terms and may remove a judge for cause during any term.⁷

The Annual Salary of the Judges of Compensation Claims

Judges of compensation claims are paid \$124,564.20 per year, except the Deputy Chief Judge, who is paid \$127,422.12 per year.⁸

These salaries are roughly equivalent to those of administrative law judges (ALJs), who preside at the Division of Administrative Hearings. The standard ALJ salary is \$123,070 per year, while Senior ALJs are paid \$124,320 per year and the Deputy Chief ALJ is paid \$125,820 per year.⁹ The Chief Judge determines these salaries, except for his own, which is \$131,409.36, and was set by the Florida Cabinet upon his hiring.¹⁰

Until January 1, 1994, the salary of the judges of compensation claims was linked to the salary of Circuit Court judges, who are now paid \$160,688.04 annually.¹¹ But since 1994, the salary of judges of compensation claims has increased only when the Legislature has appropriated general state-employee salary increases. The salaries and other expenses of the OJCC are paid from the Workers' Compensation Administration Trust Fund.¹²

III. Effect of Proposed Changes:

The bill appropriates \$1,159,440 in recurring funds from the Division of Administrative Hearing's Operating Trust Fund for the purpose of adjusting the salaries of the judges of compensation claims. Accordingly, the Deputy Chief Judge must recommend the adjustment,

² See s. 440.25, F.S.

³ See s. 440.1926, F.S.

⁴ See s. 440.25(4), F.S.

⁵ Section 440.271, F.S.

⁶ The DOAH Chief Judge acts as the OJCC's "agency head for all purposes." Section 440.45(1)(a), F.S. DOAH and the OJCC exist within the Department of Management Services, but the department may not direct DOAH or the OJCC in any way. Instead the department must "provide administrative support and service to the office to the extent requested by the director of the Division of Administrative Hearings." Section 440.45(1)(a), F.S.

⁷ *Id.*

⁸ Div. of Admin. Hearings, *Analysis of House Bill 1049* (Jan. 3, 2020) (on file with the Senate Committee on Judiciary).

⁹ Newly hired ALJs are paid \$121,320 for their first year, before being raised to the standard rate. Conversation with Cindy Ardoin, Budget Officer, Florida Division of Administrative Hearings (Jan. 14, 2020).

¹⁰ *Id.*

¹¹ Ch. 2018-9, s. 8, Laws of Fla.

¹² Div. of Admin. Hearings, *Analysis of Senate Bill 780* (Feb. 11, 2019) (on file with the Senate Committee on Judiciary).

which, if approved, must be paid out of the Worker's Compensation Administration Trust Fund into the Operating Trust Fund, and in turn used to pay for the salary increases.

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in Article VII, s. 18 of the Florida Constitution.

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 bill requires a recurring appropriation of \$1,159,440 from the Operating Trust Fund of the Division of Administrative Hearings. The bill specifies that the salary adjustments provided in the bill are to be paid out of the Workers' Compensation Administration Trust Fund.

VI. Technical Deficiencies:

The bill does not specify to whom the Deputy Chief Judge shall recommend salary adjustments, or who, if anyone, would need to give final approval of the adjustments. The Legislature may wish to amend the bill accordingly.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 440.45 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

None.

B. Amendments:

None.

By Senator Simmons

9-01564-20

20201298__

A bill to be entitled

An act relating to the Office of the Judges of Compensation Claims; amending s. 440.45, F.S.; providing an appropriation to the Division of Administrative Hearings for adjustments to salaries of the judges of compensation claims; requiring the Deputy Chief Judge to recommend such salary adjustments within the appropriated amount; requiring that such salary adjustments be paid out of a specified trust fund; providing an effective date.

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

Section 1. Paragraph (f) is added to subsection (2) of section 440.45, Florida Statutes, to read:

440.45 Office of the Judges of Compensation Claims.—

(2)

(f) Beginning with the 2020-2021 fiscal year, the sum of \$1,159,440 in recurring funds from the Operating Trust Fund is appropriated to the Division of Administrative Hearings, and the associated salary rate of 870,392 is authorized, for the purpose of making adjustments to salaries of the judges of compensation claims. The Deputy Chief Judge shall recommend adjustments to the salaries of the judges of compensation claims within the amount appropriated by this paragraph. The salary adjustments must be paid out of the Workers' Compensation Administration Trust Fund established under s. 440.50.

Section 2. This act shall take effect July 1, 2020.

To: Florida House of Representatives
420 The Capitol
Tallahassee, FL 32399

Date: January __, 2020

From:

Agency Affected: Division of Administrative Hearings
Program Manager: John MacIver, Chief Judge
Agency Contact: Cindy Ardoin
Respondent: _____

Telephone: (850) 488-9675

Telephone: (850) 488-9675

Telephone: (850) 404-5423

Telephone: _____

RE: HOUSE BILL # 1049

(Note if analysis is for a committee substitute or a bill with amendments.)

I. SUMMARY

Provides appropriations for the Division of Administrative Hearings (DOAH); requires Deputy Chief Judge of Compensation Claims (DCJCC) to recommend salary adjustments to judges of compensation claims (JCC). Effective Date: July 1, 2020

II. PRESENT SITUATION

The current JCC salary is equal to the FY 1993-1994 salary amount plus any state employee increases appropriated by the Legislature since that time. Therefore, the JCC current annual salary is \$124,564.20 and the DCJCC current annual salary is \$127,422.12.

The funding source for the Office of the Judges of Compensation claims is the Workers' Compensation Administration Trust Fund.

III. EFFECT OF PROPOSED CHANGES

Effective July 1, 2020, the bill would appropriate \$1,159,440 in recurring funds and \$870,392 in rate to the Division so that the DCJCC will recommend adjustments to the JCC salaries.

IV. ESTIMATED FISCAL IMPACTS ON STATE AGENCIES:

	(FY 20-21) Amount / FTE	(FY 21-22) Amount / FTE	(FY 22-23) Amount / FTE
A. Revenues			
1. Recurring			
2. Non-Recurring			
B. Expenditures			
1. Recurring	\$1,159,440	\$1,159,440	\$1,159,440
2. Non-Recurring			

V. ESTIMATED FISCAL IMPACTS ON LOCAL GOVERNMENTS:

None

VI. ESTIMATED IMPACTS ON PRIVATE SECTOR:

None

VII. LEGAL ISSUES

A. Does the proposed legislation conflict with existing federal law or regulations? If so, what laws and/or regulations? *No*

B. Does the proposed legislation raise significant constitutional concerns under the U.S. or Florida Constitutions (e.g. separation of powers, access to the courts, equal protection, free speech, establishment clause, impairment of contracts)? *No*

C. Is the proposed legislation likely to generate litigation and, if so, from what interest groups or parties? *No*

D. Other:

VIII. COMMENTS:

It would be more appropriate for the salary changes to be recommended by the Director and Chief Judge of the Division, as agency head.

The bill language is unclear as to who would have final approval over the recommended salaries.

To: Florida Senate Appropriations Committee
201 The Capitol
Tallahassee, FL 32399-1100
Email to: **Senate.FiscalNote@LASPBS.state.fl.us**

Date: February 11, 2019

From:

Agency Affected:	<u>Division of Administrative Hearings</u>	Telephone: (850) 488-9675
Program Manager:	<u>Robert Cohen, Chief Judge</u>	Telephone: (850) 488-9675
Agency Contact:	<u>Cindy Ardoin</u>	Telephone: (850) 488-9675 ext. 112
Respondent:	_____	Telephone: _____

RE: SENATE BILL # 0780

(Note if analysis is for a committee substitute or a bill with amendments.)

I. SUMMARY

Office of The Judges of Compensation Claims; Specifying the salaries of full-time judges of compensation claims and the Deputy Chief Judge; requiring that salaries be paid out of the Workers' Compensation Administration Trust Fund, etc. Effective Date: 7/1/2019

II. PRESENT SITUATION

Effective January 1, 1994, the Judges of Compensation Claims (JCC) salary was no longer tied to the Circuit Court Judge salary. Therefore, the current JCC salary is the FY 93-94 salary amount plus any state employee increases appropriated by the Legislature since then. Therefore, the JCC current annual salary is \$124,564.20 and the Deputy Chief Judge of Compensation Claims' current annual salary is \$127,422.12.

Over the years, as the salary discrepancy has become more pronounced, the number of qualified applicants for vacant JCC positions has significantly declined. By statute, the Statewide Nominating Commission for Judges of Compensation Claims is required to nominate three applicants for each vacancy from which the Governor selects a new judge. With many of the applicants coming from the private sector, where salaries are generally much higher than the current salary of a JCC, the number of applicants often is barely more than the minimum number of names required to be submitted. In fact, in 2017, only one name was submitted for a vacancy in Tallahassee which resulted in the position being reopened to solicit additional names. This caused a delay in filling the position for a retiring judge. It has been rare to receive more than 5-6 applications for an opening, unlike the number of applicants for county and circuit court vacancies, which generally number 20-30 applicants when a vacancy occurs.

The funding source for the Office of the Judges of Compensation claims is the Workers' Compensation Administration Trust Fund.

III. EFFECT OF PROPOSED CHANGES

Effective July 1, 2019, the bill would establish a tie to the County Court Judge salary in s. 440.45, Florida Statutes. Each full-time JCC salary would be equal to the annual salary paid to a County Court Judge, which is currently \$151,822. The Deputy Chief Judge of Compensation Claims' salary would be \$1,000 more than the JCC salary.

An increase in salary should result in more individuals being willing to apply for JCC vacancies and, if selected, shut down a private practice to enter the public sector.

IV. ESTIMATED FISCAL IMPACTS ON STATE AGENCIES:

	(FY 19-20) Amount / FTE	(FY 20-21) Amount / FTE	(FY 21-22) Amount / FTE
A. Revenues			
1. Recurring			
2. Non-Recurring			
B. Expenditures			
1. Recurring	\$1,097,126	\$1,097,126	\$1,097,126
2. Non-Recurring			

V. ESTIMATED FISCAL IMPACTS ON LOCAL GOVERNMENTS:

None

VI. ESTIMATED IMPACTS ON PRIVATE SECTOR:

None

VII. LEGAL ISSUES

A. Does the proposed legislation conflict with existing federal law or regulations? If so, what laws and/or regulations? *No*

B. Does the proposed legislation raise significant constitutional concerns under the U.S. or Florida Constitutions (e.g. separation of powers, access to the courts, equal protection, free speech, establishment clause, impairment of contracts)? *No*

C. Is the proposed legislation likely to generate litigation and, if so, from what interest groups or parties? *No*

D. Other:

VIII. COMMENTS:

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/21/20

Meeting Date

SB 1298

Bill Number (if applicable)

Topic JUDGE OF COMPENSATION CLAIMS - SALARY

Amendment Barcode (if applicable)

Name RICHARD CHAIT

Job Title ATTORNEY - CO-CHAIR WORKERS COMP SECTION OF FL BAR

Address 2030 S. DOUGLAS ROAD - SUITE 217

Phone 305. 442. 2318

Street

CORAL GABLES

FL

33134

City

State

Zip

Email RICHARD.CHAIT@

FOR THE WORKERS.COM

Speaking: ☒ For ☐ Against ☐ Information

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

Representing WORKERS' COMPENSATION SECTION OF FLORIDA BAR

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*FOR FLORIDA WORKERS' ADVOCATES

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)

Meeting Date

11/21/20

Topic

JCC

Name

Leslie Dughi

Job Title

Address

101 E College Ave

Street

1111

City

State

Zip

Phone

Email

Representing

Florida Insurance Council

Speaking:

☒ For

☐ Against

☐ Information

Waive Speaking: ☒ In Support

☐ Against

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

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.

Bill Number (if applicable)

1298

Amendment Barcode (if applicable)

THE FLORIDA SENATE
APPEARANCE RECORD

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

January 21, 2020
Meeting Date

1298
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Office of Judges/Comp. Claims
Name Carolyn Johnson
Job Title Govt. Affairs
Address 136 S. Brownugh St
City Tallahassee State FL Zip _____
Email _____ Phone _____

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

Representing Florida Chamber of Commerce

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: CS/SB 1392

INTRODUCER: Judiciary Committee and Senator Simmons

SUBJECT: Official Headquarters of Judicial Officers

DATE: January 22, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Stallard	Cibula	JU	Fav/CS
2. _____	_____	ACJ	_____
3. _____	_____	AP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1392 provides that a District Court of Appeal judge who lives more than 50 miles from his or her DCA's courthouse or other headquarters is eligible to have an alternative official headquarters and to be reimbursed for trips between these locations. Additionally, the bill expands the list of work-travel expenses for which a Supreme Court justice may be reimbursed.

A DCA judge who is approved for an alternative headquarters is eligible for reimbursement of the cost of the travel, lodging, and meals necessitated by travel to the DCA courthouse.

The alternative headquarters, which may serve only as judicial chambers and be used for official judicial business, may be in any appropriate facility, including a county courthouse. However, the bill expressly provides that no county is required to provide space to a DCA judge for his or her headquarters. And though the district court of appeal may enter into an agreement with a county regarding the use of courthouse space, the bill prohibits the payment of state funds for use of the space.

As to Supreme Court justices, the bill provides for reimbursement of additional expenses incurred on work-related trips compared to what is authorized under current law. These additional expenses include taxi fare, toll fees, and parking fees. Also, with the approval of the Chief Justice, a justice may choose between reimbursement for meals and lodging at the rates set forth in the main state-employee-reimbursement statute or at a fixed rate prescribed by the Chief Justice.

II. Present Situation:

Overview

A DCA judge is entitled to reimbursement for expenses incurred in work-related trips away from his or her headquarters—which by default is each judge’s DCA courthouse. Additionally, a DCA may designate alternative official headquarters for its judges. So, for example, a First DCA judge whose official headquarters is the Escambia County Courthouse is entitled to reimbursement for trips to the DCA courthouse in Tallahassee.

However, relative to the alternative headquarters option for Supreme Court Justices, the law provides little guidance for this option for DCA judges.

DCA Headquarters

Section 35.05(1), F.S., provides the following official headquarters for the five DCAs:

- First DCA: Second Judicial Circuit, Tallahassee, Leon County.
- Second DCA: Tenth Judicial Circuit, Lakeland, Polk County.
- Third DCA: Eleventh Judicial Circuit, Miami-Dade County.
- Fourth DCA: Fifteenth Judicial Circuit, Palm Beach County.
- Fifth DCA: Seventh Judicial Circuit, Daytona Beach, Volusia County.

However, s. 35.05(2), F.S., provides that a “district court of appeal may 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.”¹

State Employee and Officer Reimbursement for Work-Related Travel

Section 112.061, F.S., is the main statute governing state employee and officer reimbursement for work-related travel. This section provides for reimbursement of travel, subsistence, and lodging in differing amounts based on the several factors, including the duration and distance of a trip.

Additionally, s. 112.061(1)(b)1., F.S., provides that:

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.

¹ Emphasis added.

Alternative Official Headquarters for Supreme Court Justices

In 2019, the Legislature enacted s. 25.025, F.S., authorizing alternative official headquarters for justices who reside outside of Leon County. More particularly, under this statute a justice who resides outside of Leon County may:

- Request that a district court of appeal courthouse, a county courthouse, or other appropriate facility in the justice's district be designated as his or her official headquarters and serve as the justice's private chambers; and
- Be reimbursed for travel and subsistence while in Tallahassee to the extent funding is available, as determined by the Chief Justice.

Section 25.025, F.S., also provides that the Chief Justice is required to coordinate with the justice seeking private chambers in his or her district and any state and local officials as necessary. 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.

III. Effect of Proposed Changes:

The bill provides that a District Court of Appeal judge who lives more than 50 miles from his or her DCA's courthouse or other headquarters is eligible to have an alternative official headquarters and to be reimbursed for trips between these locations. Additionally, the bill expands the list of work-travel expenses for which a Supreme Court justice may be reimbursed.

A DCA judge who is approved for an alternative headquarters is eligible for reimbursement of the cost of the travel, lodging, and meals necessitated by travel to the DCA courthouse.

The alternative headquarters, which may serve only as judicial chambers and be used for official judicial business, may be in any appropriate facility, including a county courthouse. However, the bill expressly provides that no county is required to provide space to a DCA judge for his or her headquarters. And though the district court of appeal may enter into an agreement with a county regarding the use of courthouse space, the bill prohibits the payment of state funds for use of the space.

As to Supreme Court justices, the bill provides for reimbursement of additional expenses incurred on work-related trips compared to what is authorized under current law. These additional expenses include taxi fare, toll fees, and parking fees. Also, with the approval of the Chief Justice, a justice may choose between reimbursement for meals and lodging at the rates set forth in the main state-employee-reimbursement statute or at a fixed rate prescribed by the Chief Justice.

The bill takes effect July 1, 2020.

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 bill provides that a DCA judge who lives more than 50 miles from his or her DCA headquarters is eligible for an alternative, personal headquarters and for reimbursement for trips between his or her personal headquarters and the courthouse. Depending on how many judges are eligible, interested, and approved for this opportunity, the bill could result in a significant expenditure of state funds. Additional funding will also be required for Supreme Court justices.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 25.025 of the Florida Statutes.
This bill creates section 35.051 of the 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 January 21, 2020:

The committee substitute authorizes the Chief Justice to set policies and parameters for the use of alternative headquarters and travel reimbursement by eligible justices. Additionally, the committee substitute specifies that its provisions control over any conflicting provision in the travel-reimbursement statute that applies to all state employees and officers.

- B. **Amendments:**

None.



668414

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Simmons) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 25.025, Florida Statutes, is amended to
read:

25.025 Headquarters.—

(1)(a) A Supreme Court justice who permanently resides
outside Leon County is eligible for the designation of ~~shall, if~~
~~he or she so requests, have~~ a district court of appeal
courthouse, a county courthouse, or another appropriate facility



668414

in his or her district of residence ~~designated~~ as his or her official headquarters for purposes of ~~pursuant to~~ s. 112.061. This official headquarters may serve only as the justice's private chambers.

(b)1. 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 headquarters of the Supreme Court to Building for the conduct court of the business, as authorized by the Chief Justice ~~of the court~~. The Chief Justice may authorize a justice to choose between subsistence based on lodging at a single-occupancy rate and meal reimbursement as provided in s. 112.061 and subsistence at a fixed rate prescribed by the Chief Justice.

2. In addition to ~~the~~ subsistence allowance, a justice is eligible for reimbursement for travel ~~transportation~~ expenses as provided in s. 112.061(7) and (8) for travel between the justice's official headquarters and the headquarters of the Supreme Court to Building for the conduct court of the business ~~of the court~~.

(c) Payment of subsistence and reimbursement for travel ~~transportation~~ expenses ~~relating to travel~~ between a justice's official headquarters and the headquarters of the Supreme Court shall 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 subsection (1) ~~paragraph (1)(a)~~.



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

(4) The Chief Justice may establish parameters governing the authority provided in this section, including, but not limited to, specifying minimum operational requirements for the designated headquarters, limiting the number of days for which subsistence and travel reimbursement may be provided, and prescribing activities that qualify as the conduct of court business.

(5) If any term of this section conflicts with s. 112.061, this section shall control to the extent of the conflict.

Section 2. Section 35.051, Florida Statutes, is created to read:

35.051 Subsistence and travel reimbursement for judges with alternate headquarters.—

(1) (a) A district court of appeal judge is eligible for the designation of a county courthouse or another appropriate facility in his or her county of residence as his or her official headquarters for purposes of s. 112.061 if the judge permanently resides more than 50 miles from:

1. The appellate district's headquarters as prescribed under s. 35.05(1), if the judge is assigned to such headquarters; or



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2. The appellate district's branch headquarters established under s. 35.05(2), if the judge is assigned to such branch headquarters.

The official headquarters may serve only as the judge's private chambers.

(b)1. A district court of appeal judge for whom an official headquarters is designated in his or her county 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 judge is at the headquarters or branch headquarters of his or her appellate district to conduct court business, as authorized by the chief judge of that district court of appeal. The Chief Justice may authorize a judge to choose between subsistence based on lodging at a single-occupancy rate and meal reimbursement as provided in s. 112.061 and subsistence at a fixed rate prescribed by the Chief Justice.

2. In addition to subsistence, a district court of appeal judge is eligible for reimbursement for travel expenses as provided in s. 112.061(7) and (8) for travel between the judge's official headquarters and the headquarters or branch headquarters of the appellate district to conduct court business.

(c) Payment of subsistence and reimbursement for travel expenses between the judge's official headquarters or branch headquarters and the headquarters of his or her appellate district shall 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



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district court of appeal judge and other state and local
officials as necessary to implement subsection (1).

(3) (a) This section does not require a county to provide
space in a county courthouse for a district court of appeal
judge. A county may enter into an agreement with a district
court of appeal governing the use of space in a county
courthouse.

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

(4) The Chief Justice may establish parameters governing
the authority provided in this section, including, but not
limited to, specifying minimum operational requirements for the
designated headquarters, limiting the number of days for which
subsistence and travel reimbursement may be provided, and
prescribing activities that qualify as the conduct of court
business.

(5) If any term of this section conflicts with s. 112.061,
this section shall control to the extent of the conflict.

Section 3. This act shall take effect July 1, 2020.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to official headquarters of judicial
officers; amending s. 25.025, F.S.; revising



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provisions governing the payment of subsistence and travel reimbursement for Supreme Court justices who designate an official headquarters other than the headquarters of the Supreme Court; authorizing the Chief Justice of the Supreme Court to establish certain parameters in administering the act; providing for construction; creating s. 35.051, F.S.; authorizing district court of appeal judges who meet certain criteria to have an appropriate facility in their county of residence designated as their official headquarters; providing restrictions; specifying eligibility for subsistence and travel reimbursement, subject to the availability of funds; requiring the Chief Justice to coordinate with certain officials in implementing the act; providing that a county is not required to provide space for a judge in a county courthouse; authorizing counties to enter into agreements with a district court of appeal for use of county courthouse space; prohibiting a district court of appeal from using state funds to lease space to establish a judge's official headquarters; authorizing the Chief Justice to establish certain parameters in administering the act; providing for construction; providing an effective date.

By Senator Simmons

9-01630-20

20201392__

A bill to be entitled

An act relating to official headquarters of judicial officers; amending s. 25.025, F.S.; revising provisions governing the payment of subsistence and travel reimbursement for Supreme Court justices who designate an official headquarters other than the headquarters of the Supreme Court; amending s. 35.05, F.S.; conforming a provision to changes made by the act; creating s. 35.051, F.S.; authorizing district court of appeal judges who meet certain criteria to have an appropriate facility in their county of residence designated as their official headquarters; providing restrictions; specifying eligibility for subsistence and travel reimbursement, subject to the availability of funds; requiring the Chief Justice to coordinate with certain officials in implementation of the act; providing that a county is not required to provide space for a judge in a county courthouse; authorizing counties to enter into agreements with a district court of appeal for use of county courthouse space; prohibiting a district court of appeal from using state funds to lease space to establish a judge's official headquarters; authorizing the Chief Justice of the Supreme Court to establish certain parameters in administering the act; providing an effective date.

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

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

9-01630-20

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Section 1. Section 25.025, Florida Statutes, is amended to read:

25.025 Headquarters.—

(1) (a) A Supreme Court justice who permanently resides outside Leon County ~~is eligible for the designation of~~ shall, if he or she so requests, have a district court of appeal courthouse, a county courthouse, or another 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) 1. 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 headquarters of the Supreme Court Building to for the conduct court of the business, as authorized by the Chief Justice of the court. The Chief Justice may authorize a justice to choose between subsistence based on lodging at a single-occupancy rate and meal reimbursement as provided in s. 112.061 or subsistence at a fixed rate prescribed by the Chief Justice.

2. In addition to ~~the~~ subsistence allowance, a justice is eligible for reimbursement for travel ~~transportation~~ expenses as provided in s. 112.061(7) and (8) for travel between the justice's official headquarters and the headquarters of the Supreme Court to Building for the conduct court of the business of the court.

(c) Payment of subsistence and reimbursement for travel ~~transportation~~ expenses ~~relating to travel~~ between a justice's

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

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official headquarters and the headquarters of 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 subsection (1) 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 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. Subsection (2) of section 35.05, Florida Statutes, is amended to read:

35.05 Headquarters.—

(2) A district court of appeal may 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. 35.051 or s. 112.061, as applicable.

Section 3. Section 35.051, Florida Statutes, is created to read:

35.051 Subsistence and travel reimbursement for judges with alternate headquarters.—

(1)(a) A district court of appeal judge who permanently resides more than 50 miles from his or her appellate district's headquarters is eligible for the designation of a county

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courthouse, or another appropriate facility in his or her county of residence, as his or her official headquarters for purposes of s. 112.061. This official headquarters may serve only as the judge's private chambers.

(b)1. A district court of appeal judge for whom an official headquarters is designated in his or her county 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 judge is at the headquarters of his or her appellate district to conduct court business, as authorized by the Chief Judge of that district court of appeal. The Chief Justice may authorize a judge to choose between subsistence based on lodging at a single-occupancy rate and meal reimbursement as provided in s. 112.061 and subsistence at a fixed rate prescribed by the Chief Justice.

2. In addition to subsistence, a district court of appeal judge is eligible for reimbursement for travel expenses as provided in s. 112.061(7) and (8) for travel between the judge's official headquarters and the headquarters of the appellate district to conduct court business.

(c) Payment of subsistence and reimbursement for travel expenses between the judge's official headquarters and the headquarters of his or her appellate district shall 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 district court of appeal judge and other state and local officials as necessary to implement subsection (1).

(3)(a) This section does not require a county to provide

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space in a county courthouse for a district court of appeal judge. A county may enter into an agreement with a district court of appeal governing the use of space in a county courthouse.

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

(4) The Chief Justice may establish parameters governing the authority provided in this section, including specifying minimum operational requirements for the designated headquarters, limiting the number of days for which subsistence and travel reimbursement may be provided, and prescribing activities that qualify as the conduct of court business.

Section 4. This act shall take effect July 1, 2020.

THE FLORIDA SENATE
APPEARANCE RECORD

January 21, 2020

Meeting Date

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

SB 1392

*Bill Number (if applicable)*Topic Official Headquarters of Judicial Officers*Amendment Barcode (if applicable)*Name L. Clayton "Clay" RobertsJob Title Judge, First District Court of AppealAddress 2000 Drayton Drive*Street*Tallahassee*City*FL*State*32399*Zip*Phone 850-487-1000

Email _____

Speaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing State Courts System/District Court of Appeal Budget CommissionAppearing at request of Chair: ☐ Yes ☒ NoLobbyist 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

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development, *Chair*
Appropriations
Appropriations Subcommittee on Agriculture,
Environment, and General Government
Commerce and Tourism
Infrastructure and Security
Innovation, Industry, and Technology
Judiciary
Rules

SENATOR TRAVIS HUTSON
7th District

January 16, 2020

The Honorable David Simmons
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Simmons,

I am writing to request to be excused from the Judiciary meeting on January 21st, 2020 at 12:00pm due to the birth of my child. Thank you for your consideration of this request.

Respectfully,

A handwritten signature in black ink that reads "Travis J. Hutson". The signature is written in a cursive style with a long horizontal line extending from the end.

REPLY TO:

☐ 4875 Palm Coast Parkway, NW, Suite 5, Palm Coast, Florida 32137 (386) 446-7610 FAX: (888) 263-3475
☐ 314 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5007

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

CourtSmart Tag Report

Room: EL 110

Case No.:

Type:

Caption: Senate Judiciary Committee

Judge:

Started: 1/21/2020 12:02:56 PM

Ends: 1/21/2020 1:29:29 PM **Length:** 01:26:34

12:02:55 PM Meeting called to order by Chair Simmons

12:02:57 PM Roll call by AA Joyce Butler

12:03:02 PM Quorum present

12:03:13 PM Comments from Chair Simmons, Senator Hutson is excused from meeting

12:04:07 PM Introduction of Tab 1 by Chair Simmons (will come back to it)

12:04:22 PM Introduction of Tab 6 by Chair Simmons

12:04:51 PM Explanation of SB 1510, Jurisdiction of Courts by Senator Brandes

12:05:33 PM Introduction of Late-filed Amendment Barcode No. 334674

12:06:06 PM Explanation of Amendment by Senator Brandes

12:06:47 PM Closure waived

12:06:57 PM Amendment adopted

12:07:16 PM Judge Robert Morris, State Courts System/Workgroup on Appellate Review of County Court Decisions waives in support

12:07:35 PM Speaker David Ballard Geddis

12:08:38 PM Carolyn Johnson, Government Affairs, Florida Chamber of Commerce waives in support

12:08:51 PM Josh Aubuchon, Florida Justice Reform Institute waives in support

12:09:12 PM Senator Brandes in closure

12:09:31 PM Roll call by AA

12:09:48 PM CS/SB 1510 reported favorably

12:10:07 PM Comments from Chair Simmons

12:11:07 PM Closure waived

12:11:11 PM Roll call by AA

12:11:31 PM CS/SB 1510 reported favorably

12:11:53 PM Introduction of Tab 2 by Chair Simmons

12:12:07 PM Explanation of SB 1262, 1920 Ocoee Election Day Riots by Senator Bracy

12:15:20 PM Question from Senator Stargel

12:15:38 PM Response from Senator Bracy

12:16:03 PM Follow-up question from Senator Stargel

12:16:09 PM Response from Senator Bracy

12:16:29 PM Comments from Chair Simmons

12:16:40 PM Introduction of Amendment Barcode No. 202544 by Chair Simmons

12:16:57 PM Explanation of Amendment by Senator Bracy

12:17:07 PM Closure waived

12:17:35 PM Amendment adopted

12:17:53 PM Speaker Seber Newsome III in opposition

12:21:04 PM Senator Stargel in debate

12:22:15 PM Senator Bracy in closure

12:23:34 PM Roll call by AA

12:23:54 PM CS/SB 1262 reported favorably

12:24:17 PM Introduction of Tab 3 by Chair Simmons

12:24:30 PM Explanation of SB 1264, Ocoee Election Day Riots Descendant Compensation Trust Fund/Department of Legal Affairs by Senator Bracy

12:25:10 PM Introduction of Amendment Barcode No. 300816 by Chair Simmons
12:25:22 PM Explanation of Amendment by Senator Bracy
12:26:08 PM Closure waived
12:26:20 PM Amendment adopted
12:26:48 PM Closure waived
12:26:50 PM CS/SB 1264 reported favorably
12:27:23 PM Introduction of Tab 4 by Chair Simmons
12:27:34 PM Explanation of SB 1302, Sovereign Immunity by Senator Flores
12:29:20 PM Comments from Chair Simmons
12:29:30 PM Introduction of Amendment Barcode No. 423226 by Chair Simmons
12:29:48 PM Explanation of Amendment by Senator Flores
12:30:04 PM Speaker Bob Harris, PAEC in opposition
12:31:39 PM Senator Baxley in debate on the Amendment
12:32:25 PM Closure waived
12:32:29 PM Amendment adopted
12:33:05 PM Speaker Laura Youmans, Legislative Counsel, Florida Association of Counties in opposition
12:34:36 PM Speaker David Cruz, Legislative Counsel, Florida League of Cities in opposition
12:38:03 PM Ben Whitman, Reynaldo Lopez waives in support
12:38:16 PM Cameron Kennedy, Searcy, Denney, Scarola, Barnhart & Shipley waives in support
12:38:40 PM Edward Labrador, Legislative Counsel, Broward County waives in opposition
12:38:59 PM Bob Harris, PAEC waives in opposition
12:39:21 PM Senator Gibson in debate
12:41:18 PM Senator Rodriguez in debate
12:43:12 PM Senator Baxley in debate
12:44:03 PM Senator Flores in closure
12:46:02 PM Roll call by AA
12:47:02 PM CS/SB 1302 reported favorably
12:47:17 PM Introduction of Tab 1 by Chair Simmons
12:47:52 PM Explanation of SM 978, Juneteenth Independence Day by Senator Pizzo
12:48:54 PM Closure waived
12:48:58 PM Roll call by AA
12:49:04 PM SM 978 reported favorably
12:49:23 PM Introduction of Tab 7 by Chair Simmons
12:50:04 PM Explanation of SB 1362, Rental Agreements by Senator Rodriguez
12:50:58 PM Pete Dunbar waives in support
12:51:12 PM Alice Vickers, FL Alliance for Consumer Protection waives in support
12:51:28 PM Closure waived
12:51:44 PM Roll call by AA
12:51:49 PM SB 1362 reported favorably
12:52:01 PM Chair turned to Vice Chair Rodriguez
12:52:38 PM Introduction of Tab 8 by Chair Rodriguez
12:52:53 PM Explanation of SB 1298, Office of Judges of Compensation Claims by Senator Simmons
12:53:44 PM Speaker Richard Chait, Attorney, Worker's Compensation Section of Florida Bar in support
12:56:20 PM Carolyn Johnson, Government Affairs, Florida Chamber of Commerce waives in support
12:56:36 PM Question from Senator Baxley to Mr. Chait
12:56:54 PM Response from Mr. Chait
12:57:29 PM Leslie Dughi, Florida Insurance Council waives in support
12:57:47 PM Closure waived
12:57:50 PM Roll call by AA
12:57:55 PM SB 1298 reported favorably

12:58:12 PM Introduction of Tab 9 by Chair Rodriguez
12:58:27 PM Explanation of SB 1392, Official Headquarters of Judicial Officers by Senator Simmons
12:58:55 PM Introduction of Amendment Barcode No. 668414 by Chair Rodriguez
12:59:12 PM Explanation of Amendment by Senator Simmons
12:59:35 PM Closure waived
12:59:38 PM Amendment adopted
12:59:49 PM Judge L. Clayton Roberts, First District Court of Appeal, State Courts System/District Court of Appeal Budget Commission waives in support
1:00:09 PM Closure waived
1:00:11 PM Roll call by AA
1:00:15 PM CS/SB 1392 reported favorably
1:00:37 PM Chair passed to Chair Simmons
1:00:51 PM Introduction of Tab 5 (Workshop) by Chair Simmons
1:01:24 PM Explanation of SB 1328, Fines and Fees by Senator Wright
1:03:33 PM Question from Senator Gibson
1:03:42 PM Response from Senator Wright
1:04:32 PM Follow-up question from Senator Gibson
1:04:40 PM Response from Senator Wright
1:05:21 PM Follow-up question from Senator Gibson
1:05:31 PM Response from Senator Wright
1:06:00 PM Additional question from Senator Gibson
1:06:07 PM Response from Senator Wright
1:06:34 PM Follow-up question from Senator Gibson
1:06:41 PM Response from Senator Wright
1:07:16 PM Question from Senator Rodriguez
1:07:24 PM Response from Senator Wright
1:09:02 PM Question from Senator Baxley
1:09:13 PM Comments from Chair Simmons
1:09:54 PM Speaker Ashley Thomas, Florida State Director, Fines & Fees Justice Center in support
1:12:50 PM Additional comments from Ms. Thomas
1:13:29 PM Speaker Tom Bexley, Clerk of the Circuit Court & Comptroller, Flagler County in opposition
1:18:03 PM Question from Chair Simmons
1:18:07 PM Response from Mr. Bexley
1:19:01 PM Question from Chair Simmons
1:19:05 PM Response from Mr. Bexley
1:21:23 PM Comments/question from Chair Wright
1:21:39 PM Response from Mr. Bexley
1:22:07 PM Comments from Chair Simmons
1:22:25 PM Question from Senator Gibson
1:22:31 PM Response from Mr. Bexley
1:22:50 PM Follow-up question from Senator Gibson
1:23:03 PM Response from Mr. Bexley
1:23:18 PM Follow-up question from Senator Gibson
1:23:24 PM Response from Mr. Bexley
1:24:30 PM Comments from Senator Gibson
1:25:39 PM Ken K, Florida Conference of Catholic Bishop waives in support
1:26:40 PM Dan Hendrickson, President, Tallahassee Veterans Legal Collaborative waives in support
1:27:10 PM Carlos Martinez, Public Defender, 11th Judicial Circuit, Florida Public Defender Association waives in support
1:27:21 PM Diego Echeverri, Legislative Liaison, Americans for Prosperity waives in support

1:27:49 PM Senator Stargel would like to shown as voting in the affirmative on SB 978 and CS/SB 1302, in opposition on CS/SB 1264 and SB 1362

1:28:28 PM Senator Baxley would like to be shown as voting in the affirmative SB 1510

1:29:01 PM Comments from Chair Simmons

1:29:06 PM Senator Stargel moves to adjourn, meeting adjourned