

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

CS/HB 27 — Judgment Liens

by Regulatory Reform and Economic Development Subcommittee and Rep. Benjamin and others (CS/CS/SB 1574 by Rules Committee; Judiciary Committee; and Senator Rouson)

The bill improves the available remedies that may be used by a judgment creditor to collect a civil judgment from a judgment debtor. The bill:

- Simplifies the process of recording a judgment lien against a motor vehicle or vessel in the records of the Department of Highway Safety and Motor Vehicles. The new process protects the interests of subsequent purchasers of the motor vehicle or vessel.
- Expands the scope of a judgment lien recorded with the Secretary of State to additionally encumber the intangible assets of payment intangibles and accounts and the proceeds thereof.
- Specifies in statute that a judgment creditor may not use self-help measures to take personal property of the judgment debtor except with documented consent of the judgment debtor that is agreed to after attachment of the judgment lien.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2023.

Vote: Senate 38-0; House 114-0

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

CS/SB 50 — Public Records/Judicial Assistants

by Governmental Oversight and Accountability Committee and Senator Wright

The bill creates a public records exemption for current judicial assistants. Judicial assistants provide administrative, secretarial, organizational, and clerical support to judges in the county and circuit courts, district courts of appeal, and the Florida Supreme Court. As of December, 2022, there were 1,022 judicial assistants employed in the state courts.

The bill exempts from public disclosure the following information:

- A current judicial assistant's home address, date of birth, and telephone number.
- The names, home addresses, telephone numbers, dates of birth, and places of employment of a current judicial assistant's spouse and children.
- The names and locations of schools and day care facilities attended by a current judicial assistant's children.

This exemption applies to information held by an agency before, on, or after July 1, 2023.

These provisions are subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2028, unless the provisions are reviewed and saved from repeal by the Legislature.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2023.

Vote: Senate 37-2; House 117-0

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

CS/CS/SB 130 — Domestic Violence

by Rules Committee; Judiciary Committee; and Senators Berman, Book, Hutson, Garcia, Harrell, Yarborough, Passidomo, Albritton, Avila, Baxley, Boyd, Bradley, Brodeur, Broxson, Burgess, Burton, Calatayud, Collins, Davis, DiCeglie, Grall, Gruters, Hooper, Ingoglia, Jones, Martin, Mayfield, Osgood, Perry, Pizzo, Polsky, Powell, Rodriguez, Rouson, Simon, Stewart, Thompson, Torres, Trumbull, and Wright

The bill names the act “Greyson’s Law” in memory of Greyson Kessler, a 4-year-old boy who was shot and killed by his father who then killed himself. The bill refines the descriptions of what constitutes evidence or risks of domestic violence for use in child custody determinations and in domestic violence injunction proceedings.

Parenting and Time-sharing

The bill expands the list of factors a court must consider when determining whether shared parental responsibility, meaning shared authority to make decisions for a child, would be detrimental to a child. The new factors require the court to also consider:

- Evidence of domestic violence;
- Whether a parent, in the past or currently, has reasonable cause to believe that he or she or the minor child is or has been in imminent danger of becoming a victim of domestic violence or sexual violence by the other parent, even if no legal action has been brought or is currently pending in court;
- Whether either parent, in the past or currently, has reasonable cause to believe that the shared minor child is or has been in imminent danger of becoming a victim of abuse, abandonment, or neglect by the other parent, even if no legal action has been brought or is currently pending; and
- Any other relevant factors.

Additionally, when a parental responsibility or time-sharing schedule is established or modified by a court, the “best interest of the child” factors that the court must consider are expanded to include evidence that a parent has or has had reasonable cause to believe that he or she or the minor child is in imminent danger of becoming a victim of domestic violence.

Domestic Violence Injunction

The bill also expands the factors a court must consider when determining whether to issue a domestic violence injunction. The court must consider whether the respondent named in the petition has engaged in a pattern of abusive or threatening behaviors which demonstrates a continuing purpose and which reasonably causes the petitioner to believe that he or she or the minor shared child is in imminent danger of becoming a victim of an act of domestic violence.

The bill allows a petitioner to select a new basis for a domestic violence injunction on the statutory petition form. The additional basis for the injunction is that the respondent has engaged

in a pattern of abusive, threatening, intimidating, or controlling behavior composed of a series of acts over a period of time, however short.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2023.

Vote: Senate 39-0; House 117-0

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

CS/HB 133 — Fees in Lieu of Security Deposits

by Judiciary Committee and Rep. Mooney and others (CS/SB 494 by Judiciary Committee and Senators DiCeglie and Calatayud)

The bill amends and expands the Florida Residential Landlord and Tenant Act. The bill provides that a landlord may offer a tenant the option to pay a fee, or monthly fees, in lieu of paying the traditional security deposit for a rental unit. The bill also gives the landlord the option to permit a tenant to pay a security deposit in monthly installments.

If the landlord and tenant agree to a fee in lieu of a deposit, the agreement must disclose that:

- The tenant has the option to pay the security deposit instead of the fee at any time.
- The fee is nonrefundable.
- The landlord's use of the fee to purchase an insurance product does not affect the tenant's liability for rent, damages, or other amounts owed.
- The landlord has exclusive discretion whether to offer tenants the option to pay a fee in lieu of a deposit.
- A landlord may not submit an insurance claim for a tenant's unpaid rent, fees, or other obligations or damages to premises until 15 days after the landlord notifies the tenant of the amounts owed.

The bill applies to rental agreements entered into or renewed on or after July 1, 2023.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2023.

Vote: Senate 31-7; House 89-22

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

SB 144 — Lactation Spaces

by Senator Berman

The bill requires each county courthouse to provide at least one dedicated lactation space, outside of the confines of a restroom, for members of the public to express breast milk or breastfeed in private.

The lactation space must be provided no later than January 1, 2024. It must be hygienic, clean and sanitary, and conducive to maintaining and preventing disease; shielded from public view; free from intrusion while occupied; and contain an electrical outlet.

These requirements do not apply to a courthouse if the person who is responsible for the operation of the courthouse determines that:

- New construction would be required to create the lactation space; and
- The courthouse does not contain a lactation space for employees which may be used by the members of the public, and the courthouse does not have:
 - A space that could be repurposed as a lactation space open to the public; or
 - A space that could be made private at a reasonable cost using portable materials, contingent upon private funding being made available for those costs.

The bill also authorizes the person responsible for the operation of the facility housing each district court of appeal to use state-appropriated funds or private funding to provide a lactation space.

The bill contains a legislative finding that the bill fulfills an important state interest.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2023.

Vote: Senate 39-0; House 112-0

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

CS/CS/HB 213 — Limitation of Actions Involving Real Estate Appraisers and Appraisal Management Companies

by Judiciary Committee; Civil Justice Subcommittee; and Rep. Borrero and others (CS/SB 398 by Judiciary Committee and Senator Rodriguez)

The bill creates s. 95.371, F.S., which contains new and exclusive statutes of limitation and repose governing actions against appraisers or appraisal management companies. The effect of the bill is to overturn the holding in *Llano Financing Group, LLC v. Petit*.

Specifically, the bill:

- Provides that an action to recover damages from an appraiser or appraisal management company based on contract, tort, or other legal theory for an act or omission in the performance of appraisal services or appraisal management services must be brought:
 - Within 2 years after the date that the alleged act or omission is discovered, or should have been discovered.
 - No more than 4 years after the date the appraisal services or appraisal management services were performed, or should have been performed.
- Provides that notwithstanding any other law to the contrary, all actions for damages or other relief brought against an appraiser or appraisal management company will be governed exclusively by the provisions of the new statute.

The bill does not apply to:

- Any administrative proceedings initiated by the Florida Real Estate Appraisal Board or the Department of Business and Professional Regulation.
- Any action founded upon fraud in the provision of appraisal services or appraisal management services by an appraiser or appraisal management company.

The bill provides that plaintiffs having an accrued cause of action have at least 1 year after the effective date of the bill to bring an action for negligence in the provision of appraisal or appraisal management services.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2023.

Vote: Senate 37-0; House 114-0

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

CS/CS/SB 226 — Support for Dependent Adult Children

by Children, Families, and Elder Affairs Committee; Judiciary Committee; and Senator Berman

The bill specifies procedures for effectuating the common law duty of parents to support a dependent adult child. In this context, a dependent adult child is an adult who is dependent on others for care or support because of a mental or physical incapacity that began before the age of 18. This duty of support is detailed in court opinions and is recognized in the Florida Statutes, but the procedures for a dependent adult child to obtain support are not clear.

The bill creates s. 61.1255, F.S., to codify the common law obligation of a parent to support a dependent adult child after he or she reaches the age of majority. The bill specifies who may bring an action to establish such support and provides that support payments should be made directly to the dependent adult child. The bill permits a portion of the support to be placed in a special needs trust or pooled trust for the dependent adult child's benefit and prohibits a court from entering an order for support that would make the dependent adult child ineligible for programs or services the dependent adult child currently participates in, receives, or would be reasonably expected to participate in after reaching the age of majority.

The bill also creates s. 61.31, F.S., to establish new support guidelines for courts to use in support calculations for a dependent adult child. The bill permits a petition to appoint a guardian advocate to request authority to file a civil suit to establish support payments on behalf of the dependent adult child. Under the bill, any modifications and enforcement of support for a dependent adult child must be made in accordance with the requirements established for regular child support under ch. 61, F.S. The bill assigns jurisdiction over a dependent adult child and defines the court's role in such a proceeding.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2023.

Vote: Senate 39-0; House 115-0

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

CS/CS/SB 264 — Interests of Foreign Countries

by Rules Committee; Judiciary Committee; and Senators Collins and Avila

The bill (Chapter 2023-33, L.O.F.) generally restricts the issuance of government contracts or economic development incentives to, or real property ownership by, foreign principals, which are certain individuals and entities associated with foreign countries of concern. Foreign countries of concern include the People’s Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People’s Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, and the Syrian Arab Republic.

With respect to conveyances of real property in this state, the bill generally:

- Prohibits foreign principals from owning or acquiring agricultural land in the state.
- Prohibits foreign principals from owning or acquiring any interest in real property within 10 miles of any military installation or critical infrastructure in the state.
- Prohibits China, Chinese Communist Party or other Chinese political party officials or members, Chinese business organizations, and persons domiciled in China, but who are not citizens or lawful permanent residents of the U.S., from purchasing or acquiring any interest in real property in the state.
- Provides limited exceptions from the ownership restrictions for the purchase of one residential property that is not on or within 5 miles of any military installation in the state.

The bill also amends:

- The Florida Electronic Health Records Act, to require that the offsite storage of certain personal medical information be physically maintained in the continental U.S., U.S. territories, or Canada.
- The Health Care Licensing Procedures Act, to require licensees to sign affidavits attesting that all patient information stored by them is being physically maintained in the continental U.S., U.S. territories, or Canada.

Finally, the bill amends the statute criminalizing threats and extortion, to provide that a person who commits a violation of the statute, and at the time is acting as a foreign agent with the intent of benefitting a foreign country of concern, commits a first degree felony.

These provisions were approved by the Governor and take effect July 1, 2023.

Vote: Senate 31-8; House 95-17

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

CS/SB 360 — Causes of Action Based on Improvements to Real Property
by Judiciary Committee and Senator Hutson

The bill (Chapter 2023-22, L.O.F.) amends existing law with respect to causes of action based on improvements to real property. The bill shortens the timeframes within which a property owner may bring a cause of action against a builder for alleged construction defects. It also narrows the scope of certain statutory civil actions against builders for Florida Building Code violations.

Specifically, the bill:

- Revises the commencement of the 4-year statute of limitations by changing the listed potential commencement dates and causing the statute to run based upon whichever date is earliest instead of latest;
- Shortens the 10-year statute of repose to 7 years;
- Revises the commencement of the 7-year (currently 10-year) statute of repose by changing the listed potential commencement dates and causing the statute to run based upon whichever date is earliest instead of latest;
- Provides that if a newly constructed single-dwelling residential building is used as a model home, the time to bring a construction defect action begins to run from the date that a deed is recorded first transferring title to another party;
- Provides that if a project involves the construction of multiple buildings, each individual building must be considered its own improvement for purposes of determining the limitations period in the bill;
- Provides a definition for “material violations” in connection with statutory civil actions against builders for alleged Florida Building Code violations, and amends existing law to limit recovery for material violations only; and
- Includes a savings clause to ensure that claimants having time remaining under the existing statute of limitations have at least 1 year from the effective date of the bill to initiate a construction defect action.

These provisions became law upon approval by the Governor on April 13, 2023.

Vote: Senate 31-7; House 89-8

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

HB 441 — Removal of Unknown Parties in Possession

by Rep. Brackett and others (CS/SB 522 by Judiciary Committee and Senator Grall)

The bill clarifies the procedures for service of process in a civil case where possession of real property is an issue. A defendant or defendants who are unknown to the plaintiff and thus are an unknown party in possession of real property may be served process using a single summons. Similarly, a single writ of possession may be used to evict all unknown parties in possession where the identity of unknown persons is not determined.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2023.

Vote: Senate 40-0; House 116-0

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

SB 508 — Problem-solving Courts

by Senator Rouson

The bill revises three statutes that govern admission to, and participation in, the state’s “problem-solving courts.” The problem-solving courts are pre-trial intervention court programs that afford a defendant the opportunity to participate in getting the help he or she needs and avoid a criminal conviction. This bill expands eligibility for pretrial intervention programs, creates consistency within the criteria of the programs, and revises data reporting requirements for the programs.

Treatment-based Drug Court Programs

The eligibility requirements for treatment-based drug court programs are revised to afford more people the opportunity to participate. Under existing law, a defendant may be denied an opportunity to be admitted into the program if he or she previously rejected the opportunity to do so before trial. Under the bill, people who have previously rejected opportunities to participate are no longer subject to being barred from participation for that reason.

The bill also removes the responsibility of managing the collection of data from the judicial circuits and places the responsibility on the treatment-based drug court program. In addition, each program is now required to annually report the programmatic information and the aggregate data regarding the number of admissions and terminations, by type of termination, to the Office of the State Courts Administrator.

Pretrial Intervention Program for Felony Offenses

Currently, the substance abuse education and treatment intervention program requires a defendant to remain in the program for a period “of not less than 1 year.” The bill, however, gives courts the discretion to determine how long a defendant, based upon his or her clinical needs, must remain in a program.

The bill expands the eligibility criteria for a defendant to be admitted to a substance abuse education and treatment intervention program by no longer barring persons who were previously charged with a crime of violence. As revised, a defendant is excluded from participating only if he or she is currently charged with a crime of violence. By making this change, the statute becomes consistent with eligibility requirements contained in other problem-solving court statutes.

The bill expands the eligibility criteria for a defendant to be admitted to a pretrial mental health court program by no longer barring persons convicted of a felony. The language would also be consistent with the criteria for entering a pretrial treatment-based drug court program.

Misdemeanor Pretrial Substance Abuse Education and Treatment Intervention Programs

The bill expands who may be eligible for a misdemeanor pretrial substance abuse education and treatment intervention program. By eliminating the qualifying offenses currently listed in statute and opening the criteria to any person charged with a misdemeanor, but who has not previously been convicted of a felony, more people will be eligible to participate in the program. This would make the eligibility criteria consistent with the criteria for pretrial misdemeanor veterans programs and mental health programs.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2023.

Vote: Senate 39-0; House 116-0

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

CS/CS/SB 600 — Assignment for the Benefit of Creditors

by Rules Committee; Judiciary Committee; and Senator Martin

The bill amends several statutes within ch. 727, F.S., relating to assignments for the benefit of creditors. The bill’s revisions were recommended by a subcommittee of the Business Law Section of The Florida Bar to streamline practice, clarify ambiguities in statute, and minimize the potential for litigation.

Specifically, the bill:

- Revises the legislative intent of ch. 727, F.S., relating to assignments for the benefit of creditors, to include the orderly liquidation of insolvent estates.
- Grants assignees discretion on how to record assignments both inside and outside of this state where relevant assets are located.
- Grants courts discretion to schedule case management conferences and require periodic status reports as warranted.
- Provides that assignees may rely upon, and will not be held personally liable for, their own good faith compliance with court documents and other documents believed to be genuine.
- Provides that assignees will not be held personally liable for:
 - Complying in good faith with their duties and responsibilities as assignees; or
 - Acts or omissions, unless those acts or omissions were outside the scope of their duties, were grossly negligent, or constitute malfeasance.
- Provides that, unless assignees’ acts or omissions subject them to personal liability, creditors asserting claims against them must look only to the estate assets and posted bonds to recover.
- Provides that, before bringing a suit against an assignee, a creditor must first obtain leave of the court based upon good cause shown.
- Requires any claims against an assignee to be brought before the assignee is discharged by the court.
- Clarifies that only creditors holding a lien or a right of setoff or recoupment with respect to the subject assets – i.e. not all creditors – are exempt from requirements to turn the assets over to the assignee.
- Provides for negative notice in connection with assignees’ rejection of unexpired leases of nonresidential property or of personal property, and flexibility regarding the effective date.

If approved by the Governor, or allowed to become law without the Governor’s signature, these provisions take effect July 1, 2023.

Vote: Senate 40-0; House 112-0

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

CS/HB 619 — State Estate Tax

by Ways and Means Committee and Rep. Tant and others (CS/SB 278 by Finance and Tax Committee and Senator Rodriguez)

The bill eliminates the requirement to show proof of payment of or no liability for the Florida estate tax in order to close a probate estate or sell estate property. Because federal law does not currently allow a person to deduct the state estate tax from his or her federal estate tax liability, the state's estate tax is not in effect. If the federal estate tax law is amended in a way that reinstates the Florida estate tax, the requirement would return.

The bill applies to probate proceedings commenced on or after July 1, 2023, and to probate proceedings pending on July 1, 2023, for which a final order of discharge has not been entered.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2023.

Vote: Senate 39-0; House 110-0

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

SB 662 — Student Online Personal Information Protection

by Senators Bradley and Garcia

The bill creates the Student Online Personal Information Protection Act, which substantially restricts the operator of a website, online service, or online application that is used for K-12 school purposes from collecting, disclosing, or selling student data, or from using student data to engage in targeted advertising.

The bill prohibits operators from knowingly:

- Engaging in targeted advertising based on any information, including persistent unique identifiers, acquired through the use of their educational technology.
- Using any information, including persistent unique identifiers, gathered through their educational technology to create profiles of students, except for K-12 school purposes.
- Sharing, selling, or renting student information to third parties.
- Disclosing certain covered information, except under specified circumstances.

The bill requires operators to:

- Collect no more covered information than reasonably necessary to operate the educational technology.
- Implement and maintain reasonable security procedures and practices to protect covered information.
- Delete a student’s covered information no later than 90 days after the conclusion of a course or program, if requested by the K-12 school or school district, unless a student or a parent or guardian consents to its maintenance.

The bill allows operators to disclose covered information if:

- Federal or state law requires disclosure.
- It is disclosed for legitimate research purposes, if not used for targeted advertising or profiling for purposes other than K-12 school purposes.
- It is disclosed to a state or local educational agency, including K-12 schools and school districts, for K-12 school purposes.

A violation of the bill is a deceptive and unfair trade practice and constitutes a violation of the Florida Deceptive and Unfair Trade Practices Act. However, the Department of Legal Affairs is the sole entity authorized to bring an enforcement action against an entity that violates the bill.

If approved by the Governor, or allowed to become law without the Governor’s signature, these provisions take effect July 1, 2023.

Vote: Senate 38-0; House 118-0

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

SB 708 — Estoppel Letters

by Senator Burgess

The bill revises Florida law regarding estoppel letters provided by mortgagees and mortgage servicers to protect persons who justifiably rely on the accuracy of an estoppel letter.

Specifically, the bill:

- Reduces the time to respond to an estoppel letter request from 14 days to 10 days.
- Allows a mortgagee or mortgage servicer to send a corrected estoppel letter, so long as the previous estoppel letter was not relied upon.
- Prohibits a mortgagee or mortgage servicer from qualifying, reserving the right to change, or conditioning or disclaiming the reliance of others on a current, valid estoppel letter.
- Prohibits a mortgagee or mortgage servicer from refusing to accept funds received that conform with the amount provided in a current, valid estoppel letter, and requires the mortgagee or mortgage servicer to apply such funds to the balance of the loan.
- Requires a mortgagee or mortgage servicer to execute an instrument acknowledging release of the mortgage and to send it for recording in the official records of the proper county within 60 days after payoff. The recorded release must be sent to the mortgagor or record title owner of the property. The bill also provides for attorney fees for prevailing parties in civil actions relating to these requirements.
- Specifies that the release of a mortgage does not necessarily relieve the mortgagor, or the mortgagor's successors or assigns, from any personal liability on the loan or other obligations previously secured by the mortgage.
- Provides the requirements for making and responding to an estoppel letter request.
- Standardizes the minimum contents of an estoppel letter.
- Provides for application to existing mortgages.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect October 1, 2023.

Vote: Senate 40-0; House 119-0

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

CS/HB 977 — Clerks of Court

by Justice Appropriations Subcommittee and Rep. Botana and others (CS/SB 1130 by Appropriations Committee on Criminal and Civil Justice and Senators Hutson and Thompson)

The bill helps the locally elected clerks of court by increasing funding for their offices. Clerks are allowed to retain service charges that are currently directed to the General Revenue Fund for the issuance of a summons in any civil action. Similarly, the bill allows the clerks to retain an additional portion of the filing fees for dissolution of marriage, probate, and foreclosure cases. The bill also changes the requirement for transfer of a clerk's budget overage to the Department of Revenue from monthly to quarterly.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2023.

Vote: Senate 38-0; House 114-0

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

CS/CS/HB 1119 — Withholding or Withdrawal of Life-prolonging Procedures

by Health and Human Services Committee; Children, Families and Seniors Subcommittee; and Rep. Berfield and others (CS/CS/SB 1098 by Children, Families, and Elder Affairs Committee; Judiciary Committee; and Senator Burton)

The bill creates s. 744.4431, F.S., relating to guardianship power regarding life-prolonging procedures. This section requires a professional guardian to petition the court for the authority to withhold or withdraw life-prolonging procedures before making such decisions, with certain exceptions. The bill outlines the information required in the petition, the circumstances in which a court hearing is required, and the timeframe a hearing must be held and a ruling reached. The bill specifies circumstances in which a professional guardian may withdraw or withhold life-prolonging procedures or execute a do not resuscitate order (DNRO) for a ward without additional court approval.

The bill requires that a guardian file a ward's advance directive with the court upon discovery, regardless of when the advance directive is discovered. At such time, the court must determine whether the advance directive is an alternative to guardianship and the appropriate delegation of decision-making authority between the guardian and health care surrogate. Such information on advance directives and existing DNROs, and the date such directives and orders were signed, must be included in the initial and annual guardianship plans.

The bill allows health care surrogates and agents under a durable power of attorney, who retain authority to make health care decisions for a ward, to exercise such authority, including the withholding or withdrawal of life-prolonging procedures, without additional approval by the court. Additionally, the bill allows professional guardians to make decisions consistent with an advance directive or power of attorney without additional court approval when such decision-making authority has been expressly delegated to the guardian by the court.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2023.

Vote: Senate 38-0; House 112-0

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

CS/HB 1205 — Advertisements for Legal Services

by Civil Justice Subcommittee and Rep. Andrade and others (SB 1246 by Senator Yarborough)

The bill creates s. 501.139, F.S., to regulate certain legal advertisements soliciting clients for personal injury lawsuits against drug manufacturers. These regulations prohibit advertisements for legal services from appearing to offer professional medical advice or advice from a government entity. Moreover, advertisements soliciting clients who may allege an injury from a prescription drug or medical device approved by the Food and Drug Administration must advise such persons to consult with their physicians before making decisions regarding their medications or medical treatment.

The new statute does not limit or otherwise affect the authority of The Florida Bar to regulate the practice of law, enforce its rules of professional conduct, or discipline any person admitted to practice law in in Florida.

A violation of the new statute is deemed a deceptive and unfair trade practice subject to enforcement under the Florida Deceptive and Unfair Trade Practices Act (ch. 501, part II, F.S.).

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2023.

Vote: Senate 26-11; House 79-37

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

CS/HB 1417 — Residential Tenancies

by Judiciary Committee and Reps. Esposito, McClure, and others (CS/CS/SB 1586 by Rules Committee; Judiciary Committee; and Senators Trumbull and Rodriguez)

The bill creates s. 83.425, F.S., to preempt to the state the regulation of residential tenancies, the landlord-tenant relationship, and all other matters covered under ch. 83, part II, F.S. It also expressly supersedes any local government regulations on matters covered under ch. 83, part II, F.S. Consequently, the bill renders all existing local government ordinances throughout the state that purport to regulate residential tenancies, the landlord-tenant relationship, or any other matters covered under ch.83, part II, F.S., null and void.

The bill amends s. 83.57, F.S., which governs the termination of tenancies without specific terms, to increase the number of days' written notice that a party in a month-to-month tenancy must give the other party before terminating the tenancy, from 15 days to 30 days prior to the end of the monthly period.

The bill also amends s. 83.575, F.S., which governs the termination of tenancies with specific durations. With respect to rental agreements that permit either the landlord or the tenant to terminate the agreement within a specified period at the end of the agreement, the bill revises the amount of notice that the agreement may require from not "more than 60 days' notice," to not "less than 30 days' notice or more than 60 days' notice," from either the tenant or the landlord.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2023.

Vote: Senate 29-8; House 81-33

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

CS/CS/HB 1419 — Real Property Fraud

by Judiciary Committee; Civil Justice Subcommittee; and Rep. Robinson, W. and others (CS/SB 1436 by Judiciary Committee and Senator Bradley)

The bill addresses real property fraud by requiring the clerk of the court in each county, by July 1, 2024, to offer a free electronic notification service to members of the public who register for the service. The service will provide notice of the recording of a land record associated with the name of a specific person.

The bill creates an expedited means for clearing title where a fraudulent deed or other instrument that may affect a real estate title has been recorded; creates a statutory form for a quitclaim deed; and requires, starting January 1, 2024, that the address of each witness to a real estate conveyance be included on any real property conveyance.

The bill also creates a pilot program in Lee County to address real property title fraud by authorizing the clerk of court to require any person presenting a document transferring a real property interest for recording to produce a government-issued photographic identification card. At the end of the 2 year pilot program, the clerk must publish a report on the program. The report must contain data on real property transactions, describe feedback from the public, discuss the program's effectiveness at deterring and detecting title fraud, and recommend whether the program should be expanded to all counties.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2023.

Vote: Senate 39-0; House 116-0

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

SB 1438 — Protection of Children

by Senators Yarborough and Perry

The bill prohibits a person from *knowingly* admitting a child to an adult live performance. In broad, general terms, an adult live performance is a presentation that depicts or simulates nudity, sexual conduct, or specific sexual activities. A person who violates this prohibition commits a first degree misdemeanor, which is punishable by imprisonment that does not exceed 1 year and a fine that does not exceed \$1,000.

If a licensed public lodging or public food service establishment or any premises that has a beverage license knowingly admits a child to an adult live performance, the establishment or premises is subject to having that license suspended or revoked and being fined. The fine for a first violation is \$5,000, and the fine for a second or subsequent violation is \$10,000.

A governmental entity, as defined in the bill, may not issue a permit or authorize a person to conduct an adult live performance who will knowingly admit a child. If a child is admitted, the individual who was issued the permit or other authorization commits a first degree misdemeanor, which is punishable by imprisonment that does not exceed 1 year and a fine that does not exceed \$1,000.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect upon becoming law.

Vote: Senate 28-12; House 82-32

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

SB 1442 — Terrorism

by Senators Collins, Boyd, and Burgess

The bill expands the fugitive disentitlement doctrine to apply to collection activities related to a private civil action concerning terrorism. Accordingly, a fugitive from justice who is a judgment debtor in a civil action concerning an act of terrorism may not use the resources of the state in defending against collection proceedings related to the judgment. Additionally, in such collection proceedings a party is not entitled to a jury trial.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect upon becoming law.

Vote: Senate 40-0; House 116-0

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

CS/HB 1571 — Juvenile Court Proceedings

by Judiciary Committee and Reps. Silvers, Gottlieb, and others (CS/SB 1440 by Rules Committee and Senator Book)

The bill amends several statutes to authorize the use of audio or audio-video communication technology in dependency and delinquency proceedings. This technology allows people to appear in proceedings remotely, rather than in person. When the parties agree or a court authorizes someone to appear remotely, he or she must be provided instructions for the use of the technology.

The bill also requires each party in a dependency case to provide a primary e-mail address that, in addition to a permanent mailing address, will be used by the court for notice purposes.

The bill is based on procedures for using audio or audio-video technology which were used by the state court system during the height of the COVID-19 pandemic.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect upon becoming law.

Vote: Senate 39-0; House 116-0