

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: April 13, 1998 Revised: _____

Subject: Elders/Access to Courts

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Wiehle</u>	<u>Moody</u>	<u>JU</u>	<u>Favorable</u>
2.	<u>_____</u>	<u>Krasovsky</u>	<u>RC</u>	<u>Favorable</u>
3.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
4.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
5.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

I. Summary:

The bill is a request by the Legislature that the Judicial Management Council or other court committee evaluate the judicial responsiveness to the needs of elder persons as a party and submit a report to the Chief Justice of the Florida Supreme Court, the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Minority Leaders in the Senate and House of Representatives by December 1, 2000. The Office of the State Courts Administrator is directed to provide staff and all necessary data collection, analysis, research, and support services. The bill provides legislative intent language.

II. Present Situation:

The Judicial Management Council (JMC) is created by the Florida Rules of Judicial Administration. Rule 2.125, Rules of Judicial Administration. Under that rule, the JMC is given a number of responsibilities including the comprehensive study and formulation of recommendations on issues related to the efficient and effective administration of justice that have statewide impact, affect multiple levels of the court system, or affect multiple constituencies in the court and justice community. Id. The stated issues which the JMC may examine include: the organization, jurisdiction, and management of the courts; administrative policies and programs of the court system; and state and local budgets for the courts and related entities. Id. One of the methods by which an issue may become part of the agenda of the JMC is for the issue to be referred by the Florida Legislature either informally or through the passage of legislation. Id. The JMC prepares an annual report on its activities, which it presents to the Chief Justice and the Supreme Court on October 1 of each year. Id. It also may prepare other reports as it deems necessary, which are presented to the Chief Justice or the Supreme Court upon completion. Id.

The JMC consists of 21 members, who are appointed by the Chief Justice of the Florida Supreme Court. *Id.* The membership includes: one Supreme Court justice; two district court of appeal judges; two circuit court judges, one of whom shall be an active chief judge, to be nominated by the Florida Conference of Circuit Judges; two county court judges; one state attorney; one public defender; the attorney general or the attorney general's designee; one clerk of court; two representatives of The Florida Bar; one representative of the Governor's legal office, to be designated by the Governor; one member of the Florida Senate and one member of the House of Representatives; four public members; and one member of the Florida Council of 100. *Id.*

The Office of the State Courts Administrator provides primary staff support to the JMC. *Id.*

III. Effect of Proposed Changes:

The bill provides legislative findings that:

- There is a continuous rapid growth in this state's elderly population;
- There are many persons in this state who suffer from the infirmities of aging;
- Infirmities of aging may be manifested by physical, mental, or emotional dysfunction to the extent that a person may be impaired in the ability to adequately provide for or secure his or her own care, protection, rights, or access to the courts;
- That elderly persons should be accorded full access to the justice system; and
- That the judiciary has assumed a leadership role in removing barriers and in ensuring that elderly persons are treated in a dignified manner.

The Legislature recommends that the judiciary continue its exemplary role by examining whether any additional measures are needed to enhance judicial responsiveness to the needs of elderly persons. To accomplish this, the Legislature requests, in accordance with Rule 2.125(a)(1)(B)(iii), Rules of Judicial Administration, that the JMC or other court committee evaluate the manner in which the courts process and handle cases in which an elder is a party.

The review is to include consideration of and, when appropriate, recommendations on: court organization and procedures; court staffing, support services, and other resources; the availability of alternative dispute resolution; additional judicial and court personnel training; and public education needs. The review is to identify the implementation requirements for any recommendations, including fiscal impact, and provide any other necessary information. In evaluating the court-related needs of elders and how court organization and procedures affect those needs, the designated court committee and the Office of the State Courts Administrator are encouraged to coordinate with court-related agencies, executive branch agencies, and private-sector organizations that have expertise in elder issues. The designated court committee is requested to submit a report of its findings to the Chief Justice of the Supreme Court, the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Minority Leaders of the Senate and the House of Representatives no later than December 1, 2000.

The Office of the State Courts Administrator is to provide staff to the designated court committee in furtherance of this review, along with all necessary data collection, analysis, research, and support services.

The bill defines the term “elder” to mean a person who is 60 years of age or older and who suffers from infirmities of aging, as manifested by physical, mental, or emotional dysfunction to the extent that the ability of the person to adequately provide for or secure his or her own care, protection, rights, or access to the courts is impaired.

The bill provides that the Legislature recognizes that several groups have previously assessed the court-related needs of elderly persons, including:

- The Action Plan of the Supreme Court of Florida Committee on Court-Related Needs of the Elderly and Persons with Disabilities (January 1, 1994).
- The Task Force on Seniors in the Courts, of the Ad Hoc Committee on Agency/Court Related Senior Citizens Issues, Seniors, Cook County (Illinois) Circuit Court project as presented in its 1990 concept paper “A Proposal to Ensure Cook County Seniors Equal Opportunity for Justice.”
- The American Bar Association Recommendations on Court-Related Needs of the Elderly and Persons with Disabilities (1991).
- The American Bar Association Commission on Legal Problems of the Elderly State Justice Institute’s “Recommended Guidelines for State Courts Handling Cases Involving Elder Abuse.”

The bill takes effect on July 1, 1998.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Office of the State Courts Administrator may incur additional expenses in providing the staffing and data collection services for the court committee designated to review this issue.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.