

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.)

BILL: CS/SB 2510

SPONSOR: Judiciary Committee and Senator Diaz-Balart

SUBJECT: Fees for Self-help Services

DATE: March 30, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Forgas</u>	<u>Johnson</u>	<u>JU</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill creates s. 25.389, F.S., to provide for fees for services to self-represented litigants in family law cases. A self-help fee of not more than \$50 may be charged to self-represented litigants, with the fee being paid to the clerk of the court. The amount of the fee is to be established by the chief judge of each judicial circuit and is to be based upon the forms necessary for an action and any services related to the action. The chief judge is to determine the specific services available in that circuit as limited by the rules of the Supreme Court. The amount of the maximum fee is to be adjusted annually by the Chief Justice and is to be based upon the most recent adjustment to the consumer price index. No other fee may be assessed for family law self-help services. The clerk of the court may retain a handling fee of \$1.50 and shall deposit the remainder of the funds in the Family Courts Trust Fund. The bill provides a conforming amendment to subsection (3) of s. 25.388, F.S., 1998 Supp., to reflect the payment of the funds to the Family Courts Trust Fund. Any fees assessed under this section may be recovered as costs pursuant to s. 61.16, F.S.

The bill takes effect upon becoming law.

This bill creates section 25.389 of the Florida Statutes and amends section 25.388, Florida Statutes, 1988 Supplement.

II. Present Situation:

According to the Office of the State Courts Administrator (OSCA), an average of 80% of all family law cases and 65% of all dissolution of marriage cases have at least one self-represented party. As a result of the increasing numbers of self-represented family law litigants, 19 of the 20 judicial circuits in Florida created programs to improve family law litigants' access to the courts. These services generally include providing forms and procedural information but vary greatly due to differences in resources. According to the OSCA, a 1997 survey determined that 51 of the

state's 67 counties had at least a minimal level of assistance available and funding was the primary reason why the remaining 16 counties had no assistance whatsoever.

In response to the state courts system's general revenue budget request for fiscal year 1998-99, the 1998 Florida Legislature appropriated \$210,000 to the court system for programs designed to improve access for pro se litigants to family courts. *See* Ch. 98-46, s. 2216, L.O.F. The appropriation proviso provided that the funded programs meet several requirements, specifically:

- utilization of students attending a Florida law school, where possible;
- restricting services to those whose individual income is below 300% of the federal poverty levels;
- prohibiting the dispensing of legal advice; and
- charging a fee not to exceed \$50.

The proviso further stated it was the intent of the legislature that all such programs become self-supporting within 5 years. Additionally, the OSCA was required to report by March 1, 1999, the status of each program, compliance with the proviso requirements and existing criteria of all self-help programs in Florida.

Pursuant to the proviso, the OSCA issued its report, entitled "Family Court Self-Help Programs", on March 1, 1999. The report reflects that the Chief Justice designated the appropriated funds to the sixth (Pinellas County) and eleventh (Dade County) judicial circuits, which both used the funds to hire staff and purchase equipment. The eleventh circuit used the funds to supplement an existing program while the sixth circuit expanded from simply fielding self-represented litigants' phone calls to judges, to providing a more customer-oriented, one-on-one assistance for litigants.

The OSCA report also contained the results of an 8 week survey conducted by 19 self-help programs on behalf of the OSCA. The survey was conducted in 19 circuits from October 19 to December 11, 1998. The survey found that 56% of the litigants seeking assistance in self-help centers were women and 44% were men; 85% were petitioners and 15% were respondents; and 58% of the cases involved issues regarding children, of which 61% involved child support. The survey also revealed 63% of litigants were filing or answering dissolution of marriage cases while 37% were filing or answering child support, domestic violence, name change, step-parent adoption, or other family law cases. Original filings constituted 78% of the cases while 22% were reopened cases (e.g., enforcement, modification, etc.). Importantly, 62% of the self-represented litigants indicated they chose to proceed without an attorney due to cost.

Partially in response to the proviso language, the Supreme Court recently adopted Florida Family Law Rule of Procedure 12.750, which clearly specifies the parameters under which self-help personnel must operate. As of January 1, 1999, self-help programs established and operating under the auspices of the court must comply with Rule 12.750. In addition to establishing guidelines for personnel to follow, Rule 12.750 provides that "self-help programs, as authorized by statute, may require self-represented litigants to pay the cost of services provided for by this rule, provided that the charge for persons who are indigent is substantially reduced or waived." According to the OSCA report, absent legislative authority to charge user fees, self-help programs will not be in a position to become self-supporting, as is the stated intent of the

legislature. Currently, billing and receipt of funds are handled through a variety of arrangements with county governments' law libraries and clerks' offices.

III. Effect of Proposed Changes:

The bill expressly provides for the imposition of a fee not to exceed \$50 that may be assessed to self-represented litigants seeking assistance for the forms necessary for one action and the related services. The chief judge of each judicial circuit shall establish the amount of the fee and may include a waiver of the fee for indigency. Further, the chief judge shall determine, as limited by the rules of the Supreme Court, the specific services available in a circuit. The amount of the maximum fee shall be adjusted annually by the Chief Justice of the Supreme Court and be based on the most recent adjustment to the consumer price index. The fee only applies to litigants in family law cases and no other fee may be assessed for family law self-help services.

The bill also provides that the fee shall be paid to the clerk of the court, who is entitled to retain a handling fee of \$1.50. The clerk is required to deposit the remainder of the funds in the Family Courts Trust Fund. The bill amends s. 25.388, F.S., the Family Courts Trust Fund, to conform with this provision.

The fees assessed under this section may be recovered as costs pursuant to s. 61.16, F.S.

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:

The bill would result in a direct cost to those persons seeking the services of family court self-help programs. The amount of such costs would be determined by the chief judge of each circuit, although the OSCA estimates an average of \$30 per filing. The funding could result in enhanced access to the courts for self-represented family law litigants.

C. Government Sector Impact:

The bill would require some clerks of court to establish a process whereby the funds are collected and disbursed. Additionally, there may be a nominal cost to the clerks for collecting and disbursing the money. However, the handling fee is expected to offset these costs.

The OSCA estimates that the bill will result in recurring revenues of \$1.9 million. The recurring revenues were calculated based on the results of the aforementioned statewide survey conducted by the OSCA. The survey reported 9,894 initial contacts with self-represented litigants during the 8 week survey period. According to the OSCA, at that rate 64,311 litigants would receive assistance each year. Based on the estimated \$30 fee, the resulting revenue for self-help programs would be \$1.9 million.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
