

By the Committee on Judiciary; and Senator Bogdanoff

590-03254-12

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1 A bill to be entitled
2 An act relating to terms of courts; repealing s.
3 25.051, F.S., relating to regular terms of the Supreme
4 Court; repealing s. 26.21, F.S., relating to terms of
5 the circuit courts; repealing s. 26.22, F.S., relating
6 to terms of the First Judicial Circuit; repealing s.
7 26.23, F.S., relating to terms of the Second Judicial
8 Circuit; repealing s. 26.24, F.S., relating to terms
9 of the Third Judicial Circuit; repealing s. 26.25,
10 F.S., relating to terms of the Fourth Judicial
11 Circuit; repealing s. 26.26, F.S., relating to terms
12 of the Fifth Judicial Circuit; repealing s. 26.27,
13 F.S., relating to terms of the Sixth Judicial Circuit;
14 repealing s. 26.28, F.S., relating to terms of the
15 Seventh Judicial Circuit; repealing s. 26.29, F.S.,
16 relating to terms of the Eighth Judicial Circuit;
17 repealing s. 26.30, F.S., relating to terms of the
18 Ninth Judicial Circuit; repealing s. 26.31, F.S.,
19 relating to terms of the Tenth Judicial Circuit;
20 repealing s. 26.32, F.S., relating to terms of the
21 Eleventh Judicial Circuit; repealing s. 26.33, F.S.,
22 relating to terms of the Twelfth Judicial Circuit;
23 repealing s. 26.34, F.S., relating to terms of the
24 Thirteenth Judicial Circuit; repealing s. 26.35, F.S.,
25 relating to terms of the Fourteenth Judicial Circuit;
26 repealing s. 26.36, F.S., relating to terms of the
27 Fifteenth Judicial Circuit; repealing s. 26.361, F.S.,
28 relating to terms of the Sixteenth Judicial Circuit;
29 repealing s. 26.362, F.S., relating to terms of the

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30 Seventeenth Judicial Circuit; repealing s. 26.363,
31 F.S., relating to terms of the Eighteenth Judicial
32 Circuit; repealing s. 26.364, F.S., relating to terms
33 of the Nineteenth Judicial Circuit; repealing s.
34 26.365, F.S., relating to terms of the Twentieth
35 Judicial Circuit; repealing s. 26.37, F.S., relating
36 to requiring a judge to attend the first day of each
37 term of the circuit court; repealing s. 26.38, F.S.,
38 relating to a requirement for a judge to state a
39 reason for nonattendance; repealing s. 26.39, F.S.,
40 relating to the penalty for nonattendance of the
41 judge; repealing s. 26.40, F.S., relating to
42 adjournment of the circuit court upon nonattendance of
43 the judge; repealing s. 26.42, F.S., relating to
44 calling all cases on the docket at the end of each
45 term; repealing s. 35.10, F.S., relating to regular
46 terms of the district courts of appeal; repealing s.
47 35.11, F.S., relating to special terms of the district
48 courts of appeal; repealing s. 907.05, F.S., relating
49 to a requirement that criminal trials be heard in the
50 term of court prior to civil cases; repealing s.
51 907.055, F.S., relating to a requirement that persons
52 in custody be arraigned and tried in the term of court
53 unless good cause is shown; amending ss. 26.46, 27.04,
54 30.12, 30.15, 34.13, 35.05, and 38.23, F.S.;
55 conforming provisions to changes made by the act;
56 creating s. 43.43, F.S.; allowing the Supreme Court to
57 set terms of court for the Supreme Court, district
58 courts of appeal, and circuit courts; creating s.

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59 43.44, F.S.; providing that appellate courts may
60 withdraw a mandate within 120 days after its issuance;
61 amending ss. 112.19, 206.215, 450.121, 831.10, 831.17,
62 877.08, 902.19, 903.32, 905.01, 905.09, 905.095,
63 914.03, 924.065, and 932.47, F.S.; conforming
64 provisions to changes made by the act; providing an
65 effective date.

66
67 Be It Enacted by the Legislature of the State of Florida:

68
69 Section 1. Sections 25.051, 26.21, 26.22, 26.23, 26.24,
70 26.25, 26.26, 26.27, 26.28, 26.29, 26.30, 26.31, 26.32, 26.33,
71 26.34, 26.35, 26.36, 26.361, 26.362, 26.363, 26.364, 26.365,
72 26.37, 26.38, 26.39, 26.40, 26.42, 35.10, 35.11, 907.05, and
73 907.055, Florida Statutes, are repealed.

74 Section 2. Section 26.46, Florida Statutes, is amended to
75 read:

76 26.46 Jurisdiction of resident judge after assignment.—When
77 a circuit judge is assigned to another circuit, none of the
78 circuit judges in such other circuit shall, because of such
79 assignment, be deprived of or affected in his or her
80 jurisdiction other than to the extent essential so as not to
81 conflict with the authority of the temporarily assigned circuit
82 judge as to the particular case or cases or class of cases, ~~or~~
83 ~~in presiding at the particular term or part of term named or~~
84 ~~specified in the assignment.~~

85 Section 3. Section 27.04, Florida Statutes, is amended to
86 read:

87 27.04 Summoning and examining witnesses for state.—The

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88 state attorney shall have summoned all witnesses required on
89 behalf of the state; and he or she is allowed the process of his
90 or her court to summon witnesses from throughout the state to
91 appear before the state attorney ~~in or out of term time~~ at such
92 convenient places in the state attorney's judicial circuit and
93 at such convenient times as may be designated in the summons, to
94 testify before him or her as to any violation of the law upon
95 which they may be interrogated, and he or she is empowered to
96 administer oaths to all witnesses summoned to testify by the
97 process of his or her court or who may voluntarily appear before
98 the state attorney to testify as to any violation or violations
99 of the law.

100 Section 4. Section 30.12, Florida Statutes, is amended to
101 read:

102 30.12 Power to appoint sheriff.—Whenever any sheriff in the
103 state shall fail to attend, in person or by deputy, ~~any term of~~
104 the circuit court or county court of the county, from sickness,
105 death, or other cause, the judge attending said court may
106 appoint an interim a sheriff, who shall assume all the
107 responsibilities, perform all the duties, and receive the same
108 compensation as if he or she had been duly appointed sheriff,
109 for only the ~~said~~ term of nonattendance ~~court~~ and no longer.

110 Section 5. Paragraph (c) of subsection (1) of section
111 30.15, Florida Statutes, is amended to read:

112 30.15 Powers, duties, and obligations.—

113 (1) Sheriffs, in their respective counties, in person or by
114 deputy, shall:

115 (c) Attend all sessions ~~terms~~ of the circuit court and
116 county court held in their counties.

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117 Section 6. Subsection (2) of section 34.13, Florida
118 Statutes, is amended to read:

119 34.13 Method of prosecution.—

120 (2) Upon the finding of indictments by the grand jury for
121 crimes cognizable by the county court, the clerk of the court,
122 without any order therefor, shall docket the same on the trial
123 docket of the county court ~~on or before the first day of its~~
124 ~~next succeeding term.~~

125 Section 7. Subsection (2) of section 35.05, Florida
126 Statutes, is amended to read:

127 35.05 Headquarters.—

128 (2) A district court of appeal may designate other
129 locations within its district as branch headquarters for the
130 conduct of the business of the court ~~in special or regular term~~
131 and as the official headquarters of its officers or employees
132 pursuant to s. 112.061.

133 Section 8. Section 38.23, Florida Statutes, is amended to
134 read:

135 38.23 Contempt ~~Contempts~~ defined.—A refusal to obey any
136 legal order, mandate or decree, made or given by any judge
137 ~~either in term time or in vacation~~ relative to any of the
138 business of the said court, after due notice thereof, is shall
139 ~~be considered~~ a contempt, punishable ~~and punished~~ accordingly.
140 ~~But nothing said or written, or published, in vacation, to or of~~
141 ~~any judge, or of any decision made by a judge, shall in any case~~
142 ~~be construed to be a contempt.~~

143 Section 9. Section 43.43, Florida Statutes, is created to
144 read:

145 43.43 Terms of courts.—The Supreme Court may establish

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146 terms of court for the Supreme Court, the district courts of
147 appeal, and the circuit courts; may authorize district courts of
148 appeal and circuit courts to establish their own terms of court;
149 or may dispense with terms of court.

150 Section 10. Section 43.44, Florida Statutes, is created to
151 read:

152 43.44 Mandate of an appeals court.—An appellate court has
153 the jurisdiction and power, as the circumstances and justice of
154 the case may require, to reconsider, revise, reform, or modify
155 its own opinions and orders for the purpose of making the same
156 accord with law and justice. Accordingly, an appellate court has
157 the power to recall its own mandate for the purpose of allowing
158 it to exercise such jurisdiction and power in a proper case. A
159 mandate may not be recalled more than 120 days after it has been
160 issued.

161 Section 11. Paragraph (b) of subsection (1) of section
162 112.19, Florida Statutes, is amended to read:

163 112.19 Law enforcement, correctional, and correctional
164 probation officers; death benefits.—

165 (1) Whenever used in this section, the term:

166 (b) "Law enforcement, correctional, or correctional
167 probation officer" means any officer as defined in s. 943.10(14)
168 or employee of the state or any political subdivision of the
169 state, including any law enforcement officer, correctional
170 officer, correctional probation officer, state attorney
171 investigator, or public defender investigator, whose duties
172 require such officer or employee to investigate, pursue,
173 apprehend, arrest, transport, or maintain custody of persons who
174 are charged with, suspected of committing, or convicted of a

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175 crime; and the term includes any member of a bomb disposal unit
176 whose primary responsibility is the location, handling, and
177 disposal of explosive devices. The term also includes any full-
178 time officer or employee of the state or any political
179 subdivision of the state, certified pursuant to chapter 943,
180 whose duties require such officer to serve process or to attend
181 a session ~~terms~~ of a circuit or county court as bailiff.

182 Section 12. Subsection (2) of section 206.215, Florida
183 Statutes, is amended to read:

184 206.215 Costs and expenses of proceedings.—

185 (2) The clerks of the courts performing duties under the
186 provisions aforesaid shall receive the same fees as prescribed
187 by the general law for the performance of similar duties, and
188 witnesses attending any investigation pursuant to subpoena shall
189 receive the same mileage and per diem as if attending as a
190 witness before the circuit court ~~in term time~~.

191 Section 13. Subsection (4) of section 450.121, Florida
192 Statutes, is amended to read:

193 450.121 Enforcement of Child Labor Law.—

194 (4) Grand juries ~~shall~~ have inquisitorial powers to
195 investigate violations of this chapter; also, trial court judges
196 shall specially charge the grand jury, ~~at the beginning of each~~
197 ~~term of the court,~~ to investigate violations of this chapter.

198 Section 14. Section 831.10, Florida Statutes, is amended to
199 read:

200 831.10 Second conviction of uttering forged bills.—A person
201 previously ~~Whoever, having been~~ convicted of violating the
202 ~~offense mentioned in s. 831.09~~ who is again convicted of that
203 ~~the like~~ offense committed after the former conviction, ~~and on~~ on

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204 ~~whoever is at the same term of the court convicted upon~~ three
205 distinct charges of such offense committed within a 6-month
206 period, shall be deemed a common utterer of counterfeit bills,
207 and shall be punished as provided in s. 775.084.

208 Section 15. Section 831.17, Florida Statutes, is amended to
209 read:

210 831.17 Violation of s. 831.16; second or subsequent
211 conviction.—A person previously ~~Whoever having been~~ convicted of
212 violating either of the offenses mentioned in s. 831.16 who, is
213 again convicted of violating that statute either of the same
214 offenses, committed after the former conviction on, and ~~whoever~~
215 ~~is at the same term of the court convicted upon~~ three distinct
216 charges of such offense committed within a 6-month period ~~said~~
217 ~~offenses~~, commits a felony of the second degree, punishable as
218 provided in s. 775.082, s. 775.083, or s. 775.084.

219 Section 16. Subsection (4) of section 877.08, Florida
220 Statutes, is amended to read:

221 877.08 Coin-operated vending machines and parking meters;
222 defined; prohibited acts, penalties.—

223 (4) ~~Whoever violates the provisions of~~ subsection (3) a
224 second or subsequent time commits, and ~~is convicted of such~~
225 ~~second separate offense, either at the same term or a subsequent~~
226 ~~term of court, shall be guilty of~~ a felony of the third degree,
227 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

228 Section 17. Subsection (1) of section 902.19, Florida
229 Statutes, is amended to read:

230 902.19 When prosecutor liable for costs.—

231 (1) If ~~When~~ a person makes a complaint before a county
232 court judge that a crime has been committed and is recognized by

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233 the county court judge to appear before ~~at the next term~~ of the
234 court having jurisdiction to give evidence of the crime and
235 fails to appear, the person is ~~shall be~~ liable for all costs
236 occasioned by his or her complaint, and the county court judge
237 may enter ~~obtain~~ a judgment and execution for the costs as in
238 other cases.

239 Section 18. Subsection (2) of section 903.32, Florida
240 Statutes, is amended to read:

241 903.32 Defects in bond.—

242 (2) If no day, or an impossible day, is stated in a bond
243 for the defendant's appearance before a trial court judge for a
244 hearing or trial, the defendant shall be bound to appear 10 days
245 after receipt of notice to appear by the defendant, the
246 defendant's counsel, or any surety on the undertaking. ~~If no~~
247 ~~day, or an impossible day, is stated in a bond for the~~
248 ~~defendant's appearance for trial, the defendant shall be bound~~
249 ~~to appear on the first day of the next term of court that will~~
250 ~~commence more than 3 days after the undertaking is given.~~

251 Section 19. Section 905.01, Florida Statutes, is amended to
252 read:

253 905.01 Number and procurement of grand jury; replacement of
254 member; term of grand jury.—

255 (1) The grand jury shall consist of not fewer than 15 nor
256 more than 21 persons. The provisions of law governing the
257 qualifications, disqualifications, excusals, drawing, summoning,
258 supplying deficiencies, compensation, and procurement of petit
259 jurors apply to grand jurors. In addition, an elected public
260 official is not eligible for service on a grand jury.

261 (2) The chief judge of any circuit court may provide for

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262 the replacement of any grand juror who, for good cause, is
263 unable to complete the term of the grand jury. Such replacement
264 shall be made by appropriate order of the chief judge from the
265 list of prospective jurors from which the grand juror to be
266 replaced was selected.

267 (3) The chief judge of each ~~any~~ circuit court shall
268 regularly order ~~may dispense with~~ the convening of the grand
269 jury for a at any term of 6 months ~~court by filing a written~~
270 ~~order with the clerk of court directing that a grand jury not be~~
271 ~~summoned.~~

272 Section 20. Section 905.09, Florida Statutes, is amended to
273 read:

274 905.09 Discharge and recall of grand jury.—A grand jury
275 that has been dismissed may be recalled at any time during the
276 ~~same~~ term of the grand jury ~~court.~~

277 Section 21. Section 905.095, Florida Statutes, is amended
278 to read:

279 905.095 Extension of grand jury term.—Upon petition of the
280 state attorney or the foreperson of the grand jury acting on
281 behalf of a majority of the grand jurors, the circuit court may
282 extend the term of a grand jury impaneled under this chapter
283 beyond the term ~~of court~~ in which it was originally impaneled. A
284 grand jury whose term has been extended as provided herein shall
285 have the same composition and the same powers and duties it had
286 during its original term. ~~If In the event~~ the term of the grand
287 jury is extended under this section, it shall be extended for a
288 time certain, not to exceed a total of 90 days, and only for the
289 purpose of concluding one or more specified investigative
290 matters initiated during its original term.

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291 Section 22. Section 914.03, Florida Statutes, is amended to
292 read:

293 914.03 Attendance of witnesses.—A witness summoned by a
294 grand jury ~~or in a criminal case~~ shall remain in attendance
295 until excused by the grand jury. A witness summoned in a
296 criminal case shall remain available for attendance until the
297 case for which he or she was summoned is disposed of or until he
298 or she is excused by the court. A witness who departs without
299 permission of the court shall be in criminal contempt of court.
300 ~~A witness shall attend each succeeding term of court until the~~
301 ~~case is terminated.~~

302 Section 23. Subsection (2) of section 924.065, Florida
303 Statutes, is amended to read:

304 924.065 Denial of motion for new trial or arrest of
305 judgment; appeal bond; supersedeas.—

306 (2) An appeal may ~~shall~~ not be a supersedeas to the
307 execution of the judgment, sentence, or order until the
308 appellant has entered into a bond with at least two sureties to
309 secure the payment of the judgment, fine, and any future costs
310 that may be adjudged by the appellate court. The bond shall be
311 conditioned on the appellant's personally answering and abiding
312 by the final order, sentence, or judgment of the appellate court
313 and, if the action is remanded, on the appellant's appearing
314 before ~~at the next term of~~ the court in which the case was
315 originally determined and not departing without leave of court.

316 Section 24. Section 932.47, Florida Statutes, is amended to
317 read:

318 932.47 Informations filed by prosecuting attorneys.—
319 Informations may be filed by the prosecuting attorney of the

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320 circuit court with the clerk of the circuit court ~~in vacation or~~
321 ~~in term~~ without leave of the court first being obtained.

322 Section 25. This act shall take effect January 1, 2013.