

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 39 Juries in Criminal Trials
SPONSOR(S): Bracy and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 94

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee		Cox	Cunningham
2) Justice Appropriations Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

Article I, Sections 16 and 22 of the Florida Constitution give all persons the right of trial by jury, but specify that the qualifications and the number of jurors, not fewer than six, must be fixed by law. Florida law currently requires a jury in a capital felony case to consist of 12 jurors. Juries in all other cases must consist of 6 jurors.

The bill requires a jury in all felony cases to consist of 12 jurors.

The Office of the State Courts Administrator and the Florida Court Clerks and Comptrollers report that the bill will have a significant fiscal impact on both state and local governments. See "FISCAL COMMENTS."

The bill is effective July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Article I, Sections 16 and 22 of the Florida Constitution give all persons the right of trial by jury, but specify that the qualifications and the number of jurors, not fewer than six, must be fixed by law.

Florida law currently requires a jury in a capital felony¹ case to consist of 12 jurors.² Juries in all other cases must consist of 6 jurors.³

Effect of the Bill

The bill amends s. 910.13, F.S., to require a jury in all felony cases to consist of 12 jurors.

B. SECTION DIRECTORY:

Section 1. Amends s. 913.10, F.S., relating to number of jurors.

Section 2. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state government revenues.

2. Expenditures:

Requiring all felony cases to be tried before a 12-person jury will result in the jury selection process taking longer to complete, which will likely have an increased workload on judges, state attorneys, and public defenders.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

Management Costs Associated with Juries

Section 40.23, F.S., requires the clerk of the circuit court (clerk) to mail written notices to individuals summoned for jury service. The clerk must compensate and reimburse jurors to ensure that a person does not experience financial hardship as a result of his or her jury service.⁴ Currently, jurors are compensated as follows:

¹ A capital felony must be punished by death if a sentencing proceeding results in findings by the court that the person must be punished by death, otherwise the person must be punished by life imprisonment and is ineligible for parole. Section 775.082, F.S. First degree murder is an example of a capital felony.

²Section 910.13, F.S.

³ *Id.*

⁴ "Jury service" constitutes being summoned and reporting for jury service as well as actual service on a jury. Juror service does not include days for which the juror was notified before reporting that his or her presence was not required. Section 40.24, F.S.

- \$15 per day for the first three days, but only for jurors who are not regularly employed⁵ or who do not continue to receive regular wages while serving;⁶ and
- \$30 per day for all jurors who serve more than three days.⁷

Additionally, the clerk must pay for jurors' meals and lodging if ordered by the court.⁸

Facility Costs Associated with Juries

Both Art V, Sec. 14 of the Florida Constitution and s. 29.008, F.S., require counties to fund the cost of construction or lease of facilities and the maintenance of facilities for circuit and county courts.

- "Construction or lease" includes all reasonable and necessary costs of the acquisition or lease of facilities for all jurors.⁹
- "Maintenance" includes all reasonable and necessary costs of renovation and reconstruction as needed to accommodate functions for the circuit and county courts, and for performing the court-related functions of the offices of the clerks of the circuit and county court and for maintaining the facilities in a condition appropriate and safe for the use intended.¹⁰

Fiscal Impact to the Clerks and OSCA

The bill requires all felony cases to be tried before a 12-person jury. This doubles the number of jurors that the counties will be required to expend management related costs on, which includes summons, compensation and reimbursement, and meals and lodging. Preliminary estimates from the Office of the State Courts Administrator (OSCA) are that, statewide and on an annual basis, more than 300,000 additional summonses may be needed.¹¹

The Florida Court Clerks and Comptrollers (FCCC) stated that for the 2012 fiscal year, 3,289 noncapital felony trials were held statewide.¹² The cost to the state for these 6-person felony trials was \$11.1 million.¹³ The Clerks estimate that the bill will result in a negative fiscal impact to local government in the amount of \$6.4 million.¹⁴

Both FCCC and OSCA note that additional costs may be incurred to provide for additional juror parking, juror assembly rooms, juror deliberation rooms, courtrooms that have a jury-box capacity of 12, and courthouse security.¹⁵

Lastly, a larger pool of potential jurors may produce additional workload for the clerks related to processing prospective jurors arriving at the courthouse and assisting jurors to courtrooms.¹⁶

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There will be an increase in both the number of people who are summoned for the initial jury pool, as well as an increase in the number of people who are sworn onto felony juries. As a result, there will likely be an increase in the number of people that miss work or other duties as a result of being summoned for jury service.

D. FISCAL COMMENTS:

⁵ "Regular employment" includes full-time employment and part-time, temporary, and casual employment, as long as the employment hours of a juror can be reasonably determined by a schedule or by custom and practice established during the 3-month period preceding the term of service as a juror. Section 40.24, F.S.

⁶ Section 40.24(3)(b), F.S.

⁷ Jurors are not entitled to additional reimbursement by the clerk of the circuit court for travel or other out-of-pocket expenses. Section 40.24(4) and (5), F.S.

⁸ Section 40.26, F.S.

⁹ Section 29.008(1)(b), F.S.

¹⁰ Section 29.008(1)(c), F.S.

¹¹ Office of the State Courts Administrator (OSCA) Analysis of HB 39 (on file with the Criminal Justice Subcommittee).

¹² Florida Court Clerks and Comptrollers (FCCC) Analysis of HB 39 (on file with the Criminal Justice Subcommittee).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ See OSCA and FCCC Analyses on HB 39 (on file with the Criminal Justice Subcommittee).

¹⁶ OSCA Analysis of HB 39 (on file with the Criminal Justice Subcommittee).

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill appears to be exempt from the requirements of Article VII, Section 18, of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES