

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 7199 PCB CVJS 11-07 Supreme Court

**SPONSOR(S):** Civil Justice Subcommittee, Eisnaugle

**TIED BILLS:** HJR 7111 **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Civil Justice Subcommittee	10 Y, 5 N	Woodburn	Bond
1) Judiciary Committee		Woodburn	Havlicak

### SUMMARY ANALYSIS

Pending before the Legislature is a joint resolution that is a constitutional amendment to create the Supreme Court of Civil Appeals and the Supreme Court of Criminal Appeals. This is the implementing bill related to the constitutional amendment. The bill is contingent upon passage by the electorate of the proposed constitutional amendment.

The bill amends Florida Statutes related to the Supreme Court to reflect the changes made by the constitutional amendment.

The proposed constitutional amendment has a recurring fiscal effect on state government expenditures. This bill would require an unknown non-recurring expenditure in FY 2012-2013 that is in addition to the fiscal requirements of the constitutional amendment. This bill does not appear to have a fiscal effect on local governments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

Pending before the Legislature is a joint resolution, HJR 7111, that is a constitutional amendment to create the Supreme Court of Civil Appeals and the Supreme Court of Criminal Appeals. This bill is the implementing bill related to the constitutional amendment. The bill is contingent upon passage by the electorate of the proposed constitutional amendment.

Under current law, the Florida Supreme Court performs a number of duties. In general, this bill:

- Moves responsibility for clearly civil matters to the Supreme Court of Civil Appeals.
- Moves responsibility for clearly criminal matters to the Supreme Court of Criminal Appeals.
- Requires the two supreme courts to share administrative and all other duties between them.

The bill does not specify how the two supreme courts are to share various duties, leaving it to the two courts, as equal partners, to work out a means for sharing such duties.

The bill changes references to the Supreme Court to the Supreme Court of Civil Appeals, the Supreme Court of Criminal or both.

The bill also requires recommendations from various government agencies, commissions and task forces to send their recommendations and finding to the Office of the State Court Administrators rather than the Chief Justice. The bill requires the Office of the State Court of Administrators to submit budget requests and facilities requests rather than the Chief Justice.

The bill provides that certain administrative functions are to be under the jurisdiction of the Supreme Court of Civil Appeals including:

- Standards for court reporters;<sup>1</sup>
- Regulation of the Court Education Trust Fund;<sup>2</sup>
- Standards for foreign language court interpreters;<sup>3</sup>
- Electronic filing standards for the Clerk's office;<sup>4</sup>
- Rules of practice and procedure of mediators;<sup>5</sup>
- Certification of mediators;<sup>6</sup> and
- Regulation and admission of attorney's to the Florida Bar.<sup>7</sup>

This bill places the new supreme courts in the building currently occupied by the First District Court of Appeal. The building would require some remodeling for use by the two supreme courts. The bill does not specify where the First District Court of Appeals is to be re-located. The bill allows the library to be in a building other than the Supreme Court Building, giving the flexibility to leave the library in the existing building at 500 South Duval Street, Tallahassee.

The bill deletes outdated and unnecessary provisions of ch. 25, F.S., including: terms of the court, the restriction on practice of law by a retired justice, the location of the clerk's office, the provision that requires that a clerk perform duties directed by the court, the provision that requires that the clerk be paid a salary, and the provision that requires that the marshal be paid a salary.

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<sup>1</sup> Section 25.383, F.S.

<sup>2</sup> Section 25.384, F.S.

<sup>3</sup> Section 25.386, F.S.

<sup>4</sup> Section 28.22205, F.S.

<sup>5</sup> Section 44.102, F.S.

<sup>6</sup> Section 44.102, F.S.

<sup>7</sup> Section 454.021, F.S.

Section 1.01, F.S., creates definitions applicable to all of the Florida Statutes. The bill defines the term Supreme Court to mean the new supreme courts. This change clarifies application of the term should this proposed committee bill neglect to have amended a provision regarding the Supreme Court.

Many statutes refer to court rules adopted by the "Supreme Court." The bill changes such references to simply "court rules".

The bill is only effective should the proposed constitutional amendment be adopted by the voters.

**B. SECTION DIRECTORY:**

Section 1 creates s. 1.01(16), F.S., regarding Supreme Court references.

Section 2 amends s.10.001, F.S., regarding legislative representation.

Section 3 amends s.11.513, F.S., regarding program evaluation.

Section 4 amends s. 11.90, F.S., regarding legislative budget commission.

Section 5 amends s.11.9005, F.S., regarding government efficiency task force.

Section 6 amends s. 16.01, F.S., regarding residence and duties of the Attorney General.

Section 7 amends s.16.061, F.S., regarding Supreme Court of Civil Appeals.

Section 8 amends s. 16.101, F.S., regarding initiative petitions.

Section 9 amends s. 17.13, F.S., regarding duplicate warrants.

Section 10 amends s. 20.055, F.S., regarding agency inspectors general.

Section 11 creates s. 25.015, F.S., regarding Supreme Court of Civil Appeals jurisdiction and location.

Section 12 creates s. 25.025, F.S., regarding Supreme Court of Criminal Appeals jurisdiction and location.

Section 13 amends s. 25.031, F.S., regarding appropriate court and reporting to other courts.

Section 14 repeals s. 25.032, F.S., regarding certification of questions of law.

Section 15 amends s. 25.041, F.S., regarding power to execute judgments.

Section 16 repeals s. 25.051, F.S., regarding regular terms.

Section 17 amends s. 25.075, F.S., regarding uniform case reporting.

Section 18 repeals s. 25.151, F.S., regarding practice of law.

Section 19 amends s. 25.181, F.S., regarding court records.

Section 20 amends s. 25.191, F.S., regarding clerk of Supreme Courts.

Section 21 repeals s. 25.201, F.S., regarding deputy clerk of Supreme Court.

Section 22 repeals s. 25.211, F.S., regarding location of the clerk's office.

Section 23 repeals s. 25.221, F.S., regarding custody of books and records.

Section 24 repeals s. 25.231, F.S., regarding duties of the clerk.

Section 25 amends s. 25.241, F.S., regarding duties of the clerk and filing fees.

Section 26 amends s. 25.251, F.S., regarding marshal of the Supreme Courts.

Section 27 repeals s. 25.262, F.S., regarding duties of the marshal.

Section 28 creates s. 25.265, F.S., regarding the Supreme Court building.

Section 29 amends s. 25.271, F.S., regarding custody of the Supreme Court building and grounds.

Section 30 repeals s. 25.281, F.S., regarding compensation of the marshal.

Section 31 repeals s. 25.291, F.S., regarding fines for contempt.

Section 32 amends s. 25.341, F.S., regarding Supreme Court library.

Section 33 repeals s. 25.351, F.S., regarding acquisition of books.

Section 34 amends s. 25.375, F.S., regarding identification of related cases.

Section 35 amends s. 25.382, F.S., regarding state court system.

Section 36 amends s. 25.383, F.S., regarding standards of court reporting.

Section 37 amends s. 25.384, F.S., regarding Court Education Trust Fund.

Section 38 amends s. 25.386, F.S., regarding foreign language court interpreters.

Section 39 amends s. 26.55, F.S., regarding conference of circuit judges.

Section 40 amends s. 26.57, F.S., regarding temporary designation of county judge.

Section 41 amends s. 27.05, F.S., regarding assisting state attorney.

Section 42 amends s. 27.14, F.S., regarding assigning state attorneys to other circuits.

Section 43 amends s. 27.151, F.S., regarding confidentiality of specified executive orders.

Section 44 amends s. 27.40, F.S., regarding court appointed counsel.

Section 45 amends s. 27.405, F.S., regarding court appointed counsel.

Section 46 amends s. 27.51, F.S., regarding duties of the public defender.

Section 47 amends s. 27.511, F.S., regarding offices of criminal conflict and civil regional counsel.

Section 48 amends s. 27.512, F.S., regarding order of no imprisonment.

Section 49 amends s. 27.52, F.S., regarding determination of indigent status.

Section 50 amends s. 27.5303, F.S., regarding public defenders and criminal conflict.

Section 51 amends s. 27.5304, F.S., regarding private court-appointed counsel.

Section 52 amends s. 27.7081, F.S., regarding capital postconviction public records production.

Section 53 amends s. 27.709, F.S., regarding commission on capital cases.

Section 54 amends s. 27.7091, F.S., regarding legislative recommendations to the Supreme Court of Criminal Appeals.

Section 55 amends s. 27.710, F.S., regarding registry of attorneys applying to represent person in postconviction capital collateral proceedings.

Section 56 amends s. 27.711, F.S., regarding terms and conditions of appointment of attorneys.

Section 57 amends s. 28.22205, F.S., regarding electronic filing process.

Section 58 amends s. 28.241, F.S., regarding filing fees for trial and appellate proceedings.

Section 59 amends s. 28.35, F.S., regarding Florida Clerks of Court Operations Corporation.

Section 60 amends s. 28.36, F.S., regarding budget procedure.

Section 61 amends s. 29.001, F.S., regarding state court systems elements and definitions.

Section 62 amends s. 29.004, F.S., regarding state court systems.

Section 63 amends s. 30.15, F.S., regarding powers, duties and obligations of sheriffs.

Section 64 amends s. 34.01, F.S., regarding jurisdiction of county court.

Section 65 amends s. 34.181, F.S., regarding branch courts.

Section 66 amends s. 35.07, F.S., regarding power to make rules and regulations of district supreme courts.

Section 67 amends s. 35.28, F.S., regarding district courts of appeal libraries.

Section 68 amends s. 38.07, F.S., regarding effect of orders entered prior to disqualification.

Section 69 amends s. 39.4075, F.S., regarding referral of dependency case to mediation.

Section 70 amends s. 39.501, F.S., regarding petition for dependency.

Section 71 amends s. 39.824, F.S., regarding procedures and jurisdiction.

Section 72 amends s. 39.8296, F.S., regarding statewide guardian ad litem office.

Section 73 amends s. 40.001, F.S., regarding authority and duties of chief judge.

Section 74 amends s. 40.225, F.S., regarding drawing jury venire.

Section 75 amends s. 43.26, F.S., regarding selection of chief judge and powers of chief judge of circuit.

Section 76 amends s. 43.30, F.S., regarding divisions of court.

Section 77 amends s. 44.102, F.S., regarding court ordered mediation.

Section 78 amends s. 44.103, F.S., regarding court ordered non-binding arbitration.

Section 79 amends s. 44.104, F.S., regarding voluntary binding arbitration.

Section 80 amends s. 44.106, F.S., regarding standards and procedures for mediators and arbitrators.

Section 81 amends s. 44.107, F.S., regarding immunity for arbitrators and mediators.

Section 82 amends s. 44.108, F.S., regarding funding of mediation and arbitration.

Section 83 amends s. 44.402, F.S., regarding mediation.

Section 84 amends s. 57.082, F.S., regarding determination of indigent status.

Section 85 amends s. 57.101, F.S., regarding costs in Supreme Court.

Section 86 amends s. 59.081, F.S., regarding time for invoking appellate jurisdiction of any court.

Section 87 amends s. 59.45, F.S., regarding misconception of remedy.

Section 88 amends s. 61.125, F.S., regarding parenting coordination.

Section 89 amends s. 61.183, F.S., regarding mediation of certain contested issues.

Section 90 amends s. 75.08, F.S., regarding appeal and review.

Section 91 amends s. 90.902, F.S., regarding self-authentication.

Section 92 amends s. 100.371, F.S., regarding procedure for placement on ballot.

Section 93 amends s. 105.036, F.S., regarding initiatives for method of selection for circuit or county judges.

Section 94 amends s. 112.215, F.S., regarding government employees deferred compensation plan.

Section 95 amends s. 112.321, F.S., regarding membership terms.

Section 96 amends s. 112.324, F.S., regarding procedures for complaints of violations of public records and meeting exemptions.

Section 97 amends s. 121.091, F.S., regarding benefits payable.

Section 98 amends s. 121.591, F.S., regarding benefits payable under the optional retirement program.

Section 99 amends s. 215.91, F.S., regarding Florida financial management information system.

Section 100 amends s. 216.011, F.S., regarding definitions of the judicial branch.

Section 101 amends s. 216.0158, F.S., regarding assessment of financial needs.

Section 102 amends s. 216.023, F.S., regarding legislative budget requests.

Section 103 amends s. 216.043, F.S., regarding budgets for fixed capital outlay.

Section 104 amends s. 216.044, F.S., regarding budget evaluation by Department of Management.

Section 105 amends s. 216.131, F.S., regarding public hearings on legislative budgets.

Section 106 amends s. 216.163, F.S., regarding governor's recommended budget.

Section 107 amends s. 216.177, F.S., regarding appropriations acts.

Section 108 amends s. 216.179, F.S., regarding reinstatement of vetoed appropriations by administrative means prohibited.

Section 109 amends s. 216.181, F.S., regarding approved budgets for operations and fixed capital outlay.

Section 110 amends s. 216.1815, F.S., regarding agency incentive and savings program.

Section 111 amends s. 216.1826, F.S., regarding activity based planning and budgeting.

Section 112 amends s. 216.1827, F.S., regarding requirements for performance measures and standards.

Section 113 amends s. 216.192, F.S., regarding release of appropriations and revision of budget.

Section 114 amends s. 216.195, F.S., regarding impoundment of funds.

Section 115 amends s. 216.212, F.S., regarding budgets for federal funds.

Section 116 amends s. 216.221, F.S., regarding appropriations.

Section 117 amends s. 216.262, F.S., regarding authorized positions.

Section 118 amends s. 216.292, F.S., regarding exceptions to nontransferable appropriations.

Section 119 amends s. 216.301, F.S., regarding appropriations

Section 120 amends s. 272.04, F.S., regarding authority of Department of Management Services.

Section 121 amends s. 287.059, F.S., regarding private attorney services.

Section 122 amends s. 288.9606, F.S., regarding issue of revenue bonds.

Section 123 amends s. 318.30, F.S., regarding legislative intent for civil traffic hearing officers.

Section 124 amends s. 318.34, F.S., regarding qualifications of hearing officers.

Section 125 amends s. 350.128, F.S., regarding judicial review.

Section 126 amends s. 364.381, F.S., regarding judicial review.

Section 127 amends s. 366.10, F.S., regarding judicial review.

Section 128 amends s. 366.8260, F.S., regarding storm recovery finance orders.

Section 129 amends s. 368.112, F.S., regarding judicial review.

Section 130 amends s. 379.332, F.S., regarding representation of the state by state attorney.

Section 131 amends s. 383.0115, F.S., regarding the Commission on Marriage and Family Support.

Section 132 amends s. 390.01114, F.S., regarding procedure for judicial waiver of notice.

Section 133 amends s. 397.333, F.S., regarding statewide drug policy advisory council.

Section 134 amends s. 397.484, F.S., regarding lawyer assistance programs.

Section 135 amends s. 400.0233, F.S., regarding presuit notice.

Section 136 amends s. 402.56, F.S., regarding children's cabinet.

Section 137 amends s. 403.1837, F.S., regarding Florida water pollution control financing corporation.

Section 138 amends s. 403.519, F.S., regarding exclusive forum.

Section 139 amends s. 421.17, F.S., regarding validation of debentures and proceedings.

Section 140 amends s. 429.293, F.S., regarding presuit notice.

Section 141 amends s. 429.87, F.S., regarding civil actions to enforce rights.

Section 142 amends s. 440.106, F.S., regarding civil remedies.

Section 143 amends s. 440.25, F.S., regarding procedures for mediation and hearings.

Section 144 amends s. 440.271, F.S., regarding appeal of order of judge of compensation claims.

Section 145 amends s. 440.29, F.S., regarding procedure before a judge of compensations claims.

Section 146 amends s. 440.32, F.S., regarding cost in proceeding brought without reasonable ground.

Section 147 amends s. 440.442, F.S., regarding code of judicial conduct.

Section 148 amends s. 454.021, F.S., regarding admission to practice law.

Section 149 amends s. 454.31, F.S., regarding practicing law while disbarred or suspended.

Section 150 amends s. 454.32, F.S., regarding aiding or assisting disbarred or suspended attorney.

Section 151 amends s. 489.533, F.S., regarding disciplinary proceedings.

Section 152 amends s. 627.7015, F.S., regarding alternative procedure for resolution of disputed property insurance claims.

Section 153 amends s. 723.038, F.S., regarding dispute settlement.

Section 154 amends s. 744.703, F.S., regarding office of public guardian.

Section 155 amends s. 752.015, F.S., regarding mediation of visitation disputes.

Section 156 amends s. 753.03, F.S., regarding standards for supervised visitation.

Section 157 amends s. 766.107, F.S., regarding court-ordered arbitration.

Section 158 amends s. 766.206, F.S., regarding presuit investigations of medical negligence.

Section 159 amends s. 766.311, F.S., regarding conclusiveness and determination of award.

Section 160 amends s. 768.79, F.S., regarding offer of judgment and demand for judgment.



Section 161 amends s. 849.42, F.S., regarding state attorney representing state.

Section 162 amends s. 877.02, F.S., regarding solicitations of legal services.

Section 163 amends s. 905.33, F.S., regarding petition to Supreme Court of Criminal Appeals by governor.

Section 164 amends s. 905.37, F.S., regarding list of prospective jurors.

Section 165 amends s. 907.041, F.S., regarding pretrial detention and release.

Section 166 amends s. 918.19, F.S., regarding closing argument.

Section 167 amends s. 921.141, F.S., regarding sentence of death or life imprisonment for capital felonies.

Section 168 amends s. 921.142, F.S., regarding sentence of death or life imprisonment for capital drug trafficking.

Section 169 amends s. 922.105, F.S., regarding execution of death sentence.

Section 170 amends s. 922.14, F.S., regarding sentence of death unexecuted for unjustifiable reason.

Section 171 amends s. 922.15, F.S., regarding return of warrant of execution issued by Supreme Court of Criminal Appeals.

Section 172 amends s. 924.055, F.S., regarding postconviction review in capital cases.

Section 173 amends s. 924.056, F.S., regarding commencement of postconviction capital actions.

Section 174 amends s. 924.057, F.S., regarding limitation on postconviction cases in which death sentence was imposed.

Section 175 amends s. 924.058, F.S., regarding capital postconviction claims.

Section 176 amends s. 924.059, F.S., regarding time limitations in postconviction judicial review.

Section 177 amends s. 925.12, F.S., regarding DNA testing.

Section 178 amends s. 934.02, F.S., regarding definition of "judge of competent jurisdiction."

Section 179 amends s. 939.185, F.S., regarding assessment of additional court costs and surcharges.

Section 180 amends s. 944.096, F.S., regarding budget requests for residential facility construction.

Section 181 amends s. 984.15, F.S., regarding petition for a child in need of services.

Section 182 amends s. 984.151, F.S., regarding truancy petition.

Section 183 amends s. 984.18, F.S., regarding referral of child in of services cases to mediation.

Section 184 amends s. 985.16, F.S., regarding community arbitration.

Section 185 amends s. 985.318, F.S., regarding petition form.

Section 186 amends s. 985.66, F.S., regarding juvenile justice training academies.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

This bill does not affect recurring expenditures any more than the proposed constitutional amendment (15.0 FTE's and approximately \$1.6 million in salaries and benefits).

This bill would require a nonrecurring expense in FY 2012-2013 related to the moving and building remodeling costs for the Supreme Court. It would also require expenditures for moving the First District Court of Appeal to another location that has not yet been determined. These costs have not been estimated.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

### **D. FISCAL COMMENTS:**

None.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

#### **1. Applicability of Municipality/County Mandates Provision:**

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

#### **2. Other:**

None.

### **B. RULE-MAKING AUTHORITY:**

None.

### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

n/a