

HOUSE OF REPRESENTATIVES

FINAL BILL ANALYSIS

BILL #: SB 2116

FINAL HOUSE FLOOR ACTION:

114 Y's 4 N's

SPONSOR: Budget

GOVERNOR'S ACTION: Vetoed

COMPANION BILLS: N/A

SUMMARY ANALYSIS

SB 2116 was passed by the Senate on May 6, 2011 and subsequently passed the House on May 7, 2011 and was vetoed by the Governor on May 26, 2011. The bill:

- Authorizes the Office of Criminal Conflict and Civil Regional Counsel (regional conflict counsels) to establish a Direct Support Organization to benefit the offices and further their mission;
- Makes property title and motor vehicle searches for indigency determination optional by the clerk of court;
- Requires that payments for attorney fees in criminal conflict cases ordered by the court to be first paid from funds appropriated to the Justice Administrative Commission. After those funds are exhausted, additional payments ordered by the court shall come from funds appropriated to the state court system;
- Requires an agreement between counties and the Statewide Guardian Ad Litem Office when counties provide staff to local Guardian Ad Litem programs;
- Requires the Clerks of Court Operations Corporation to collect and summarize reports and submit them electronically to the Legislature on a local surcharge on traffic tickets used to fund court facilities.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Direct-Support Organization

The bill amends s. 27.511, F.S., to authorize the five regional conflict counsels to create and contract with a not-for-profit direct-support organization (DSO) to conduct programs and activities, raise funds, and make expenditures for the benefit of the office. The bill specifies that any moneys acquired by the DSO may be held in a separate depository account in the name of the organization and subject to a contract with the office. The DSO must also provide for an annual financial audit.

Indigency Determination

Currently, the clerk of court is required to review the property and motor vehicle records for applicants when determining indigent status of a person seeking the appointment of a public defender. This bill provides it is optional for a clerk of court to conduct such property title and vehicle searches for indigency determination.

Attorney's Fees

The bill amends s. 27.5304, F.S., to provide that, for criminal cases only, the payment of attorney's fees when the court orders payment in excess of the flat fee established by law, must be paid from funds appropriated to the Justice Administrative Commission in the General Appropriations Act (GAA). The amount ordered by the court in excess of the flat fee must be paid by the Justice Administrative Commission in a special category designated for that purpose in the GAA. If, during the fiscal year, all funds designated for payment of the amount ordered by the court in excess of the flat fee are spent, the amount of payments in excess of the flat fee must be made from the due process funds, or other funds as necessary, appropriated to the state court system in the GAA. Funds from the state court system must be used in a manner approved by the Chief Justice and administered by the Trial Court Budget Commission.

Guardian Ad Litem

The bill creates s. 39.8297, F.S., to provide that a county and the executive director of the Statewide Guardian Ad Litem office may enter into an agreement under which the county agrees to fund personnel positions to assist in the operation of the guardian ad litem program. The agreement must provide that the funding for the positions is provided on at least a fiscal-year basis.

The personnel whose employment is funded under the agreement must be hired, supervised, managed, and fired by personnel of the Statewide Guardian Ad Litem office. The office must: supervise the personnel whose employment is funded under the agreement; be responsible for compliance with

all requirements of federal and state employment laws; and fully indemnify the county from any liability under such laws to the extent such liability is the result of the acts or omissions of the guardian ad litem program or its agents or employees.

The bill provides the county is the employer for the purposes of workers compensation liability and unemployment compensation, and employees funded by the county under such an agreement and other county employees may be aggregated for purposes of a flexible benefits plan pursuant to s. 125 of the Internal Revenue Code of 1986. The positions terminate upon the expiration of, or substantial breach of, the agreement or upon the expiration of county funding for the positions. The bill clarifies that positions funded under such an agreement do not count against any formula or similar process used by the Statewide Guardian Ad Litem Office to determine personnel needs or levels of a judicial circuit's Guardian ad Litem program. This bill does not obligate the state to fund any personnel positions.

Clerk of Court Operations Corporation

The bill amends s. 318.18, F.S., to require the Clerk of Court Operations Corporation to collect a quarterly report from the clerks of court on a local surcharge on traffic infractions. The corporation will collect and submit the reports in an electronic format to the chief judge, the Governor, the President of the Senate, and the Speaker of the House of Representatives.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See "FISCAL COMMENTS."

2. Expenditures:

See "FISCAL COMMENTS."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private individuals will be able to make charitable donations to the regional conflict counsel offices.

D. FISCAL COMMENTS:

The bill is expected to have a positive fiscal impact to the state. Provisions to require the Justice Administration Commission to pay court appointed counsel attorney fees when the court orders payments above the rate set in law are expected to reduce costs to the state.