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# Judiciary Committee

**Thursday, January 8, 2015  
12:30 PM - 2:30 PM  
Sumner Hall (404 HOB)**

**MEETING PACKET**

**Steve Crisafulli  
Speaker**

**Charles McBurney  
Chair**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Judiciary Committee

**Start Date and Time:** Thursday, January 08, 2015 12:30 pm  
**End Date and Time:** Thursday, January 08, 2015 02:30 pm  
**Location:** Sumner Hall (404 HOB)  
**Duration:** 2.00 hrs

Member and Staff Introductions  
Overview of Committee Jurisdiction

**NOTICE FINALIZED on 12/19/2014 14:32 by Ingram.Michele**



# **JUDICIARY COMMITTEE**

**Briefing Notebook**

**January 2015**

Rep. McBurney, Chair

Rep. Passidomo, Vice Chair

# COMMITTEE ON JUDICIARY

## Committee Membership

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**Representative Charles McBurney, Chair**  
**Representative Kathleen Passidomo, Vice Chair**

Rep. Colleen Burton  
Rep. Dwight Dudley  
Rep. Katie Edwards  
Rep. Jay Fant  
Rep. Julio Gonzalez  
Rep. Gayle Harrell  
Rep. Matt Hudson  
Rep. Travis Hutson  
Rep. Dave Kerner  
Rep. Larry Metz  
Rep. Jared Moskowitz  
Rep. Scott Plakon  
Rep. Michelle Rehwinkel Vasilinda  
Rep. Jose Rodriguez  
Rep. Charlie Stone  
Rep. Carlos Trujillo

## **Jurisdiction and Major Policy Areas**

The Judiciary Committee's policy jurisdiction is divided among two areas: civil justice and criminal justice.

### **Civil Justice**

Historically, the Judiciary Committee's civil jurisdiction has included bills related to civil litigation (including torts, civil rights, contracts and collections), business law (litigation, creation of business entities), family law (including marriage, divorce, adoption, child custody and child support), constitutional amendments, real property law (transactions, mortgages, foreclosures, condominiums, homeowners associations, mobile home parks), probate, guardianship, trust law, alternative dispute resolution (mediation and arbitration), the practice of law, and the Clerks of Court. Some previous Speakers have referred claim bills to the Committee.

In addition to hearing bills, all legislative committees have a governmental oversight role. Historically, civil justice oversight assignments for the Committee have included the court system in general (including court rulemaking) Clerks of Court, and court-related entities such as the Justice Administrative Commission, Judicial Qualifications Commission, and the Judicial Nominating Commissions. Additionally, the Committee has been assigned oversight over the Department of Legal Affairs (Attorney General).

### **Criminal Justice**

The Judiciary Committee handles a broad range of issues relating to criminal justice. The Committee hears bills relating to substantive criminal offenses (e.g., homicide, assault, battery, kidnapping, sexual battery, arson, burglary, and theft), as well as bills that involve criminal procedure issues, such as the arrest process, bail, pretrial proceedings, court costs, evidence, and sentencing.

In addition, the Committee handles legislation relating to the death penalty, specialty courts (e.g., drug court, veterans court, etc.), sexual offenders and predators, gangs, controlled substances, domestic violence, criminal traffic offenses (e.g., DUI), firearms, and weapons.

The Committee is usually referred any bill that affects the sentence for a criminal offense. This includes any bill that amends the Criminal Punishment Code or the Offense Severity Ranking Chart (Chapter 921, F.S.), creates prison diversion programs, creates new criminal penalties, or changes the criminal penalty for an existing criminal offense.

## Oversight Agencies and Organizations – Civil Justice

### State Courts System

- Supreme Court
- 5 District Courts of Appeal
- 20 Judicial Circuits
- 67 County Courts

Organizations under the State Courts System, including:

- Dispute Resolution Center
- Court Interpreter Certification and Regulation Program
- Florida Judiciary Education Program
- Florida Bar
- Florida Board of Bar Examiners

### Department of Legal Affairs

- Office of the Attorney General
- Antitrust Division
- Civil Rights Division
- Victim Services
- Criminal Appeals
- Economic Crimes
- Civil Litigation
- Child Support Enforcement
- Medicaid Fraud
- Solicitor General
- Statewide Prosecution
- Consumer Protection Division

### Clerks of Court

#### Justice Administrative Commission

- Clerk of Courts Operations Corporation
- Guardian Ad Litem program
- Offices of Criminal Conflict & Civil Regional Counsel
- Payment of court-appointed counsel for indigents
- Payment of due process services for indigents

**Judicial Qualifications Commission**—Investigates alleged misconduct by Florida state judges.

**Judicial Nominating Commissions**—Select nominees for Governor to consider in filling judicial vacancies within the Florida court system. There are 27 separate JNCs: one for the Florida Supreme Court; five for each district courts of appeal; 20 for each circuit and county courts in each judicial circuit; and one for Judges of Compensation Claims.

## Oversight Agencies and Organizations – Criminal Justice

The Judiciary Committee has numerous state agencies under its criminal justice jurisdiction. These agencies include the Florida Department of Law Enforcement (FDLE), the Department of Juvenile Justice (DJJ), the Department of Corrections (DOC), and the Florida Commission on Offender Review.

### **Florida Department of Law Enforcement – Chapter 943, F.S.**

FDLE's mission is to promote public safety and strengthen domestic security by providing services in partnership with local, state, and federal criminal justice agencies to prevent, investigate, and solve crimes while protecting Florida's citizens and visitors. Through its seven Regional Operations Centers and crime laboratories, FDLE delivers investigative, forensic, and information system services to Florida's criminal justice community.

FDLE is structured to deliver services in the following five program areas:

- Executive Direction and Business Support Program;
- Criminal Investigations and Forensic Science Program;
- Florida Capitol Police Program;
- Criminal Justice Information Program; and
- Criminal Justice Professionalism Program.

### **Florida Department of Juvenile Justice – Chapter 985, F.S.**

DJJ's mission is to increase public safety by reducing juvenile delinquency through effective prevention, intervention and treatment services that strengthen families and turn around the lives of troubled youth. Currently, DJJ is organized in the following seven programs areas:

- Health Services
- Office of Education
- Administrative Services;
- Prevention and Victim Services;
- Probation and Community Intervention;
- Detention Services; and
- Residential Services.

### **Florida Department of Corrections—Chapters 941, 944, 945, 946, 948, & 958, F.S.**

DOC's mission is to "promote safety of the public, our staff and offenders by providing security, supervision, and care, offering opportunities for successful re-entry into society, and capitalizing on partnerships to continue to improve the quality of life in Florida."<sup>1</sup> DOC is the third largest state prison system in the country with a budget of over \$2 billion, just over 100,000 inmates incarcerated, and approximately 115,000 offenders on active community supervision.

Approximately three quarters of DOC's staff of more than 22,000 employees are either certified correctional or probation officers.

DOC is structured to serve the public and inmates in the following program areas:

- Institutions;
- Community Corrections; and
- Re-entry.

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<sup>1</sup> Mission Statement. See <http://www.dc.state.fl.us/vision.html>

### **Florida Commission on Offender Review – Chapter 947, F.S.**

The Florida Commission on Offender Review (Commission), formerly known as the Parole Commission, has the stated mission of “ensuring public safety and providing victim assistance through the post prison release process.” It accomplishes this mission by administering parole, conditional release, conditional medical release, control release, and addiction recovery supervision to all eligible criminal offenders. Additionally, the Commission administers the clemency process for the Executive Clemency Board pursuant to the Rules of Executive Clemency.

### **Other Criminal Justice Entities**

The Committee often works with other criminal justice entities to determine the substantive and fiscal impact of criminal justice-related bills. These entities include:

#### **Florida Prosecuting Attorneys Association**

The Florida Prosecuting Attorneys Association (FPAA) is a nonprofit corporation created to serve the needs of prosecutors. FPAA’s members are the 20 elected State Attorneys and the over 1,900 Assistant State Attorneys.

#### **Florida Public Defenders Association**

The Florida Public Defender Association (FPDA) provides training, support, and services to the Public Defenders and Assistant Public Defenders of the state of Florida.

#### **Office of the State Courts Administrator**

The Office of the State Courts Administrator (OSCA) oversees the operation of numerous court initiatives and administrative functions. Additionally, OSCA serves as the liaison between the court system, the legislative branch, the executive branch, the auxiliary agencies of the Court and national court research and planning agencies.

#### **Florida Association of Court Clerks & Comptrollers**

The Florida Association of Court Clerks & Comptrollers (FCCC) is a statewide, non-profit member association comprised of the Florida Clerks of the Circuit Court and Comptrollers. FCCC provides education and accreditation for Clerks of the Court and Comptrollers, information, and technical assistance to local governments.

#### **Florida Association of Counties**

The Florida Association of Counties (FAC) represents each of Florida’s 67 counties on a range of issues from health care to transportation. FAC’s Public Safety Committee concentrates on general public safety, the judicial system, juvenile detention, impacts to county jails and emergency management.

#### **Florida Sheriffs Association**

The Florida Sheriffs Association (FSA) is a not-for-profit corporation comprised of the 67 Sheriffs of Florida as well as approximately 3,500 business leaders and 70,000 citizens throughout the state. Through the FSA, Sheriffs are given a forum to address lawmakers to push for changes in Florida’s public safety arena.



**Florida Police Chiefs Association**

The Florida Police Chiefs Association (FPCA), composed of more than 750 of the state's top law enforcement executives, promotes legislation that enhances public security by providing superior police protection for the residents of Florida and its many visitors. The FPCA serves municipal police departments, airport police, college and university police, private business and security firms, as well as federal, state and county law enforcement agencies.

## Contact Names and Phone Numbers—Civil Justice

### State Courts System

State Courts Administrator: PK Jameson

Telephone: 850-922-5081

Website: <http://www.flcourts.org/>

### Department of Legal Affairs

Director of Legislative and Cabinet Affairs: Rob Johnson

Telephone: 850-245-0188

E-mail: [Rob.Johnson@myfloridalegal.com](mailto:Rob.Johnson@myfloridalegal.com)

Website: <http://myfloridalegal.com/>

### Clerks of Court

General Counsel: Fred Baggett

Telephone: 850-921-0808

E-mail: [baggettf@gtlaw.com](mailto:baggettf@gtlaw.com)

Website: <http://www.flclerks.com/>

### Florida Association of Court Clerks & Comptrollers

President: Honorable Joseph E. Smith, St. Lucie County Clerk of Court

General Counsel: Fred Baggett

Telephone: 850-921-0808

Website: <http://www.flclerks.com>

### Justice Administrative Commission

Executive Director: Alton L. "Rip" Colvin, Jr.

Telephone: 850-488-2415 x221

E-mail: [rip.colvin@justiceadmin.org](mailto:rip.colvin@justiceadmin.org)

Website: <http://www.justiceadmin.org/>

### Judicial Qualifications Commission

Executive Director: Michael L. Schneider

Telephone: 850-488-1581

E-mail: [mschneider@floridajqc.com](mailto:mschneider@floridajqc.com)

Website: <http://www.floridajqc.com/>

### The Florida Bar

General Counsel: Paul Hill

Telephone: 850-561-5661

E-mail: [phill@flabar.org](mailto:phill@flabar.org)

Website: <http://www.floridabar.org/>

## Contact Names and Phone Numbers—Criminal Justice

### Florida Department of Law Enforcement

Director of External Affairs: Ronald E. Draa, Jr.

Telephone: 850-410-7020

E-mail: [ronalddraa@fdle.state.fl.us](mailto:ronalddraa@fdle.state.fl.us)

Website: <http://www.fdle.state.fl.us>

### Florida Department of Juvenile Justice

Legislative Affairs Director: Marcus Smith

Telephone: 850-717-2717

E-mail: [marcus.smith@djj.state.fl.us](mailto:marcus.smith@djj.state.fl.us)

Website: <http://www.djj.state.fl.us>

### Florida Department of Corrections

Legislative Affairs Director: Will Kendrick

Telephone: 850-488-7436

E-mail: [kendrick.will@mail.dc.state.fl.us](mailto:kendrick.will@mail.dc.state.fl.us)

Website: <http://www.dc.state.fl.us>

### Florida Commission on Offender Review

Legislative Affairs Director: Pete Murray

Telephone: 850-921-2816

E-mail: [petemurray@fcor.state.fl.us](mailto:petemurray@fcor.state.fl.us)

Website: <https://www.fcor.state.fl.us/>

### Florida Prosecuting Attorneys Association

President: Honorable Brad King, State Attorney, 5<sup>th</sup> Judicial Circuit

Executive Director: John N. Hogenmuller

Telephone: 850-488-3070

Website: <http://www.myfpaa.org>

### Florida Public Defender's Association

President: Honorable Julianne Holt, Public Defender, 13<sup>th</sup> Judicial Circuit

Executive Director: Sheldon Gusky

Telephone: 850-488-6850

Website: <http://www.flpda.org>

### Office of the State Courts Administrator

State Courts Administrator: PK Jameson

Telephone: 850-922-5081

<http://www.flcourts.org>

### Florida Association of Court Clerks & Comptrollers

President: Honorable Joseph E. Smith, St. Lucie County Clerk of Court

General Counsel: Fred Baggett

Telephone: 850-921-0808

Website: <http://www.flclerks.com>

**Florida Association of Counties**

President: Grover C. Robinson, IV, Escambia County Commissioner

Public Safety Legislative Advocate: Lisa Hurley

Telephone: 850-922-4300

Website: <http://www.fl-counties.com>

**Florida Sheriffs Association**

President: Sheriff David Shoar, St. Johns County Sheriff

Executive Director: Steve Casey

Telephone: 800-877-2168

Website: <http://www.flsheriffs.org>

**Florida Police Chiefs Association**

President: Police Chief Frank Kitzerow, Jupiter Police Department

Executive Director: Amy Mercer

Telephone: 850-219-3631

Website: <http://www.fpca.com>

## Overview of Recently Passed Civil Justice Legislation

In the past two sessions, significant civil justice legislation that passed the Committee and subsequently passed both chambers includes:

### **Business Law**

Two new types of corporations called the “social purpose corporation” and the “benefit corporation” were established. Social purpose and benefit corporations protect management for considering the use of corporate assets to pursue, in a significant manner, public benefit goals in addition to, or even as a priority over, the generally accepted corporate goal of profit maximization.<sup>2</sup>

The Florida Information Protection Act of 2014 requires that certain businesses in Florida that keep personal information in a computer system must notify the Department of Legal Affairs and the affected residents within 30 days of the breach.<sup>3</sup>

The “economic loss rule” for design professionals (engineers, surveyors and mappers, architects, interior designers, and landscape architects), was reinstated to provide that a business entity purchasing design services may, by contract, agree that only the design professional company, and not its individual employees, is liable for negligence under the contract. The limitation does not apply to negligence resulting in injury to a person or to property that was not in the contract.<sup>4</sup>

An assignment for the benefit of creditors is a state law procedure for the administration of an insolvent that is somewhat analogous to federal bankruptcy. The debtor is not discharged from the debt and there is no automatic stay of collection efforts. The law surrounding these assignments was standardized and streamlined in response to the needs of practitioners and businesses.<sup>5</sup>

Recipients of worthless debit card transactions and electronic transfers may now treat the transaction the same as worthless checks, with the same demand provisions and the same remedies.<sup>6</sup>

The Florida Arbitration Code, which had remained largely unchanged since 1967, was revised to create a detailed framework for arbitration under Florida law.<sup>7</sup>

### **Civil Law**

Clerks of court were provided guidelines for accepting and providing electronic copies, making refunds, providing copies to public officials, and redacting personal information from public records.<sup>8</sup>

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<sup>2</sup> HB 685 (2014)

<sup>3</sup> HB 7085 (2014)

<sup>4</sup> HB 147 (2013)

<sup>5</sup> HB 833 (2013)

<sup>6</sup> HB 457 (2013)

<sup>7</sup> HB 693 (2013)

<sup>8</sup> HB 643 (2013)

The procedures by which a debtor claims that property is exempt from garnishment were amended and the statutory form used by debtors was corrected.<sup>9</sup>

The Florida False Claims Act, which authorizes civil actions by individuals and the state against persons filing false claims with a state agency was amended to increase the penalty for such a filing, expand the Act to cover state subdivisions, and to make the Department of Legal Affairs the entity to pursue false claims.<sup>10</sup>

Heightened protections were afforded to military service members and their dependents for as victims of deceptive and unfair trade practices.<sup>11</sup>

The Legislature reconfigured Florida's laws regarding limited liability companies (LLCs) to conform to the Revised Uniform Limited Liability Act of 2006, with Florida modifications based upon the experience of others states.<sup>12</sup>

Florida rejected the "Frye" standard in order to qualify expert witnesses to testify at trial, and adopted the "Daubert" standard, which provides a three-part test to determine whether expert testimony will be admitted. The testimony must be based upon sufficient facts or data, the testimony is the product of reliable principles and methods, and the witness has applied the principles and methods reliability to the facts of the case.<sup>13</sup>

The antiquated "terms of court" requirements for circuit riding judges was repealed, with conforming changes to affected statutes.<sup>14</sup>

Sheriffs' duties in serving process and executing money judgments were changed to accommodate certain types of service on employees and provide immunity for distribution of proceeds of sale.<sup>15</sup>

Unauthorized immigrants who entered the United States as children and who meet certain other requirements may be admitted to the Florida Bar.<sup>16</sup>

Legal notices which have traditionally been published in hard copy must now be published in a clear manner online in a free database searchable by the public.<sup>17</sup>

The ability of a court to assert personal jurisdiction over a nonresident is subject to the constitutional requirements of the Due Process Clause of the Fourteenth Amendment and a state's long-arm statute. Florida's long-arm, choice-of-law, and forum-selection statutes, as well as provisions of the Enforcement of Foreign Judgment Act and the International Commercial Arbitration Act were amended in 2013 to provide that Florida courts have jurisdiction over a

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<sup>9</sup> HB 405 (2013)

<sup>10</sup> HB 935 (2013)

<sup>11</sup> HB 1223 (2013)

<sup>12</sup> HB 1079 (2013)

<sup>13</sup> HB 7015 (2013)

<sup>14</sup> HB 7017 (2013)

<sup>15</sup> HB 627 (2014)

<sup>16</sup> HB 755 (2014)

<sup>17</sup> HB 781 (2014)

nonresident in certain cases where Florida law applies, including actions arising out of arbitration decisions.<sup>18</sup>

## **Family Law**

A number of changes were made regarding family law, including an expansion of the definition of marital assets and retirement expectations. Additional criteria for the determination of alimony have been added.<sup>19</sup>

The Florida Power of Attorney Act which passed in 2011 was amended to identify exceptions, allow a notary to sign for a disabled principal, allow title companies to require a power of attorney for recording certain documents, and broaden the agent's ability to delegate ministerial tasks on behalf of the principal.<sup>20</sup>

The parental rights of a parent may now be terminated if a court determines by clear and convincing evidence that the child was conceived as a result of an unlawful act of sexual battery.<sup>21</sup>

In general, a minor may not consent to his or her own routine medical and dental care. But unaccompanied homeless youth, age 16 or over, may now consent to medical treatment on behalf of himself or herself, or his or her child.<sup>22</sup>

Foreign law will not be recognized in Florida where it contravenes the "strong public policy" of this state. The law is limited in its application to dissolution proceedings and support enforcement under the Uniform Interstate Family Support Act.<sup>23</sup>

Children in the dependency process have access to an attorney to represent them that will be supplied by the state, up to \$1,000 in fees.<sup>24</sup>

Child support guidelines were amended to allow courts to take into account the parenting plan actually used by the parents.<sup>25</sup>

## **Probate & Guardianship Law**

The administration of estates and trusts in Florida was modernized to eliminate a tax reporting requirement, allow a trustee to deliver unclaimed property to the State of Florida after two years, remove unnecessary notice requirements, require the clerks of court to keep original wills for twenty years, and expand the jurisdiction of trust disputes by the creation of a 'long arm' statute that applies in certain cases.<sup>26</sup>

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<sup>18</sup> HB 775 (2013)

<sup>19</sup> HB 231 (2013)

<sup>20</sup> HB 841 (2013)

<sup>21</sup> HB 887 (2013)

<sup>22</sup> HB 203 (2014)

<sup>23</sup> HB 903 (2014)

<sup>24</sup> HB 561 (2014)

<sup>25</sup> HB 755 (2014)

<sup>26</sup> HB 583 (2013)

Floridians' choices in respect to drafting trusts were expanded to allow a split of liability between trustees where their expertise differs.<sup>27</sup>

Professional guardians must pass an in depth background check to serve, and accounting procedures were enhanced to allow clerks of the court to flag potential issues to the presiding judge.<sup>28</sup>

The Florida Trust Code was amended to make the law applicable to trusts more parallel with estates going through the probate process.<sup>29</sup>

## **Real Property Law**

Certain defects in real property transfers have been cured by the passage of five years. The curing effect was expanded to cover powers of attorney recorded to transfer real property.<sup>30</sup>

Condominiums, cooperatives, and homeowners' associations' regulations were amended in respect to certain safety code requirements, board membership limits, hurricane protection, and personal information of the members.<sup>31</sup> Condominium law was also amended to facilitate recording the declaration of condominium in the public record before construction.<sup>32</sup>

The law surrounding adverse possession of real property was changed to add that a party claiming adverse possession on the tax rolls must pay all taxes and that wrongful occupation of a property with a structure is a criminal theft.<sup>33</sup>

Eminent domain refers to the power of the government to take private property for a public use. The condemning authority must first deposit the estimated value of the property with the Clerk of the Circuit Court. The law was changed so that 90-percent of interest earned is paid to the ultimate owner of the deposit, which may be the property owner or judgment creditors.<sup>34</sup>

The Florida Residential Landlord and Tenant Act was amended to modernize the requirements of a lease purchase arrangement, provide that certain terms may not be waived in a lease, and to allow landlords to accept partial rent payments among other changes.<sup>35</sup>

Foreclosure laws were changed to offer protection for innocent purchasers of a property at foreclosure sale, to require production of original notes and mortgages in the court file, and to restrict a claim of a deficiency judgment to one year.<sup>36</sup>

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<sup>27</sup> HB 405 (2014)

<sup>28</sup> HB 635 (2014)

<sup>29</sup> HB 757 (2014)

<sup>30</sup> HB 995 (2013)

<sup>31</sup> HB 73 (2013)

<sup>32</sup> HB 175 (2013)

<sup>33</sup> HB 903 (2013)

<sup>34</sup> HB 179 (2013)

<sup>35</sup> HB 77 (2013)

<sup>36</sup> HB 87 (2013)



Certain regulatory requirements were removed for commercial condominium associations,<sup>37</sup> and residential associations were given more latitude to address vacant units and maintain them as needed.<sup>38</sup>

The duties of Community Association Managers (CAMs) were modernized to conform with the needs of the associations they serve. The statute governing CAMS was amended to provide forms for imposing liens in the public record.<sup>39</sup>

The sale of properties at tax deed sale was modernized to conform with the practice of the clerks and to provide for timely payment to the county after sale.<sup>40</sup>

A seller who has or will sever or retain any subsurface rights must now provide a disclosure summary within the sales contract or incorporated by reference into the sales contract so that notice is given that those rights are not sold with the property.<sup>41</sup>

A land trust is a form of ownership of real property in which a trustee holds legal title to the land and a beneficiary retains the power of direction over the trustee and thus retains the power to direct the trustee to sell or mortgage the real property. Florida's land trust law was modernized to facilitate and encourage the use of land trusts in Florida real property transactions.<sup>42</sup>

The recording of liens and deeds recorded in the public records was modified to remove a requirement that the grantee's social security number be included, and to direct that all liens must be recorded to be effective.<sup>43</sup>

## **Tort Law**

Properly noticed individuals alleging that an automobile dealer has committed a deceptive and unfair trade practice must first give a demand letter to the dealer. If the dealer pays the claim and an additional surcharge within the 30-day allotted time period, the individual may not file suit.<sup>44</sup>

In the area of medical malpractice, medical experts who testify must practice in the same area and specialty as the provider against whom the expert is testifying.<sup>45</sup>

The Access to Health Care Act (Act) was amended so that volunteer healthcare professionals may accept reimbursement of some or all of an indigent patient's dental laboratory costs without being considered to have accepted compensation, thus retaining sovereign immunity protection.<sup>46</sup>

Nursing homes must pay any negligence award or lose their license with the state.<sup>47</sup>

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<sup>37</sup> HB 425 (2014)

<sup>38</sup> HB 807 (2014)

<sup>39</sup> HB 7037 (2014)

<sup>40</sup> HB 797 (2014)

<sup>41</sup> HB 489 (2014)

<sup>42</sup> HB 229 (2013)

<sup>43</sup> HB 267 (2013)

<sup>44</sup> HB 55 (2013)

<sup>45</sup> HB 827 (2013)

<sup>46</sup> HB 97 (2014)

<sup>47</sup> HB 569 (2014)

## Government

The law surrounding the Attorney General as head of the Department of Legal Affairs was updated to more accurately reflect current practices of the Department in respect to accounting and enforcement issues.<sup>48</sup>

Florida lawmakers set out the rules delegates must follow in the event of a federal constitutional convention.<sup>49</sup>

A constitutional amendment was proposed to provide for whether an incoming or outgoing governor fills certain judicial vacancies.<sup>50</sup>

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<sup>48</sup> HB 1147 (2013)

<sup>49</sup> HB 609 (2014)

<sup>50</sup> SJR 1188 (2014) failed to get 60% vote for passage in 2014 election.

## Overview of Recently Passed Criminal Justice Legislation

In the past two sessions, significant criminal justice legislation that passed the Committee and subsequently passed by both chambers includes:

### **Inmate Reentry**

The successful reentry of inmates into the community benefits both the inmate and the community by helping the inmate reintegrate back into society and by reducing recidivism rates. This results in less new crimes and crime victims. The Committee heard legislation that brought three state agencies together to assist inmates in acquiring documents they need as they return to society. The Departments of Corrections, Health and Highway Safety and Motor Vehicles will coordinate efforts to ensure that Florida-born inmates have a birth certificate and a state-issued identification card upon their release from prison. In cases where the inmate has a valid driver license that was lost, stolen or destroyed, the Departments will issue the inmate a new driver license rather than a state identification card.<sup>51</sup>

### **Sexually Violent Predator Program (SVPP)**

- Made substantial changes to Florida's SVPP to enhance Florida's ability to identify and civilly commit sexually violent predators.<sup>52</sup>
- Made a variety of changes to Florida's sexual offense statutes to increase the penalties for those convicted of sexual offenses against children.<sup>53</sup>
- Enhanced Florida's sexual offender registration requirements to better monitor those convicted of sexual offenses.<sup>54</sup>

### **Death Penalty – Postconviction Relief**

Substantially rewrote Florida's statutes relating to the postconviction process in capital cases to make the process more objective and efficient.<sup>55</sup>

### **Medical Marijuana (Charlotte's Web)**

Established a regulatory scheme overseen by the Department of Health that authorizes the use of low-THC cannabis for limited medicinal purposes.<sup>56</sup>

### **10-20-Life and Self Defense**

Prohibited the court from imposing minimum mandatory terms of imprisonment for aggravated assault if the court makes certain findings. Also amended various provisions within ch. 776, F.S., Florida's justifiable use of force statutes, to specify that the justifications contained therein apply to threatened uses of force in the same manner as they apply to actual uses of force.<sup>57</sup>

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<sup>51</sup> HB 53 (2014)

<sup>52</sup> HB 7019 (2014)

<sup>53</sup> HB 7027 (2014)

<sup>54</sup> HB 7025 (2014)

<sup>55</sup> HB 7083 (2013)

<sup>56</sup> HB 843 (2014)

<sup>57</sup> HB 89 (2014)

## **Human Trafficking**

Made a variety of changes to Florida's human trafficking laws to better protect victims of human trafficking by:

- authorizing human trafficking victims to petition the court for the expunction of any conviction for offenses committed while he or she was a victim of human trafficking;
- broadening a current hearsay exception for child victims of abuse and sexual abuse by increasing the age of a child to which the hearsay exception applies from 11 to 16;
- authorizing human trafficking victims to be eligible for victim relocation assistance;
- prohibiting minors from working in adult theaters and requires adult theaters to verify the age of each of its employees and maintain such employment records; and
- removing the statute of limitations for human trafficking violations.<sup>58</sup>

## **Juvenile Sentencing**

Created a sentencing structure for juveniles convicted of homicide and non-homicide offenses that complies with the United States Supreme Court's holding in *Graham v. Florida* and *Miller v. Alabama*.<sup>59</sup>

## **Controlled Substances**

Added four new synthetic cannabinoids and two new phenethylamines to Schedule I of Florida controlled substance schedules. As a result, the criminal penalties relating to the possession, sale, manufacture, delivery, etc., of controlled substances now apply to these synthetic substances.<sup>60</sup>

Increased the threshold trafficking levels for offense of trafficking in oxycodone and hydrocodone for which mandatory minimum sentences apply.<sup>61</sup>

## **Funeral Protest**

Legislation pass that prohibits a person from knowingly engage in protest activities within certain distance and time of a funeral or burial.<sup>62</sup>

## **Warrants**

Authorization was provided to judges to electronically sign search and arrest warrants under certain conditions.<sup>63</sup>

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<sup>58</sup> HB 989 (2014); HB 1325 (2013)

<sup>59</sup> HB 7035 (2014)

<sup>60</sup> HB 697 (2014)

<sup>61</sup> HB 99 (2014)

<sup>62</sup> HB 15 (2013)

<sup>63</sup> HB 953 (2013)

## JUDICIARY COMMITTEE STAFF

### **Randy Havlicak, *Staff Director***

Randy Havlicak is the Staff Director of the Judiciary Committee. Mr. Havlicak has worked for the House of Representatives for 16 years. During that time, he has worked in a variety of positions covering diverse subject matter areas in the following committees and councils: council attorney for the Criminal Justice & Corrections Council and the Ready Infrastructure Council; staff director of the Judiciary Committee; and council director of the State Infrastructure Council, the Safety & Security Council and the Criminal & Civil Justice Policy Council. He has also served on various select committees.

Mr. Havlicak attained his undergraduate and law degrees from the University of Utah. Upon graduation from law school, he accepted a direct commission as a JAG officer with the United States Army. He was an Army lawyer for 5 years at Fort Bragg, North Carolina. During his Army experience, he served as a claims attorney, legal assistance attorney, a Special Assistant U.S. Attorney and as a criminal defense attorney representing soldiers before administrative boards and courts martial. Upon leaving the Army, he accepted a position with the Florida Attorney General's Office working in the criminal appeals division representing the state in criminal cases on appeal before the First District Court of Appeal and the Florida Supreme Court.

### **Tom Thomas, *Deputy Staff Director***

Tom Thomas is the Deputy Staff Director of the Judiciary Committee. Mr. Thomas interned for the House in 1989 and upon graduation from law school, worked as a staff attorney for the House Business & Professional Regulation Committee. In 1993, he left the House and served as an assistant general counsel and Chief Attorney for the Department of Business and Professional Regulation, before being appointed General Counsel for the Florida Department of Elder Affairs.

Since returning to the House in 2003, Mr. Thomas has served as an attorney for the Insurance Committee and the Judiciary Committee, as chief attorney for the Judiciary Committee and the Constitution & Civil Law Committee, and the past six years has served as Special Master on claim bills for the House and as Deputy Staff Director of the Judiciary Committee.

Mr. Thomas received his bachelor's degree in political science from Florida Atlantic University and his juris doctorate from The Florida State University College of Law.

### **Parker Aziz, *Attorney***

Parker Aziz is the Staff Attorney for the Judiciary Committee. Parker's experience includes internships with the Federal Public Defender's and the U.S. Attorney's Office as well as practicing civil law before joining the House. Parker received his bachelor's degree in public policy from Georgia State University and his juris doctorate from the University of Tennessee College of Law.

**Michele Ingram, *Senior Administrative Assistant***

Michele Ingram is the Senior Administrative Assistant for the Judiciary Committee. She returned to the Judiciary Committee after serving on staff with the House Appropriations Committee for the last four years. Prior to receiving her International Affairs degree from Florida State University, she did an internship with the Florida Senate. Michele's professional background also includes media broadcasting where she has worked in radio, television and print.

**Meredith Weber, *Intern***

Meredith Weber is a 3<sup>rd</sup> year law student at Florida State University College of Law. She graduated from Florida State University with a bachelor's degree in English in 2012. During her time as an undergraduate student at FSU, Meredith interned for the Governor's Office of Tourism, Trade, and Economic Development and the Governor's Office of Cabinet Affairs. Prior to interning with the Judiciary Committee, Meredith worked as a Deputy Commission Clerk at the Division of Administrative Hearings Office of the Judges of Compensation Claims.

**Benjamin Patton, *Intern***

Benjamin Patton is a 3<sup>rd</sup> year law student at Florida State University College of Law. He graduated from the University of Utah with a bachelor's degree in Political Science. Prior to attending law school, he interned in Senator Orrin G. Hatch's Washington D.C. office. During law school, Ben has worked as a summer law clerk for Judge Kevin Carroll and Judge Robert Wheeler, as well as a law clerk and summer associate at the law firm of McRae and Metcalf.

## Civil Justice Subcommittee Staff

### **Nathan Bond, *Policy Chief***

Nathan Bond is the Policy Chief for the Civil Justice Subcommittee. He graduated from The Florida State University College of Business in 1985 and the College of Law in 1988. After 11 years in private practice, he joined the House staff in 1999.

### **Tashiba Robinson, *Attorney***

Tashiba Robinson is an Attorney for the Subcommittee. A native of Tallahassee, she received her bachelors, masters and law degrees from the University of Florida. Prior to coming to work for the House, she was in private practice and worked for the Florida Senate.

### **Jacob Malcolm, *Attorney***

Jacob Malcolm is an attorney for the Subcommittee. He graduated from The University of North Florida in 2005 and from The Florida State University College of Law in 2010. During law school, he was a research assistant to Professor Sandy D'Alemberte and interned in the Florida House of Representatives. He has previously worked for the Committee on Ways and Means in the U.S. House of Representatives, the Fourteenth Judicial Circuit in Panama City, and, most recently, the Florida Senate.

### **Michele Ingram, *Senior Administrative Assistant***

Michele Ingram is the Senior Administrative Assistant for the Civil Justice Subcommittee and the Judiciary Committee. She returned to the Judiciary Committee after serving on staff with the House Appropriations Committee for the last four years. Prior to receiving her International Affairs degree from Florida State University, she did an internship with the Florida Senate. Michele's professional background also includes media broadcasting where she has worked in radio, television and print.

## Criminal Justice Subcommittee Staff

### **Katie Cunningham, *Policy Chief***

Katie Cunningham joined the Legislature in 2005 as Staff Attorney with the Committee on Criminal Justice. She left the House in 2009 to serve as the Department of Corrections' Legislative Affairs Director, but returned to the House in 2010. She is currently the Policy Chief for the Criminal Justice Subcommittee.

Prior to joining the House in 2005, Mrs. Cunningham was a Senior Attorney with the Department of Corrections where she specialized in probation and community corrections issues. Ms. Cunningham's experience in the criminal justice field includes working as an attorney on a domestic violence legal hotline and working with the Florida Department of Law Enforcement as an online sex crimes investigator. Katie is a graduate of the Florida State University College of Law and holds a bachelor's degree in criminology from Florida State University.

### **Ryan Cox, *Attorney***

Ryan Cox joined House staff as an Attorney with the Criminal Justice Subcommittee in 2012. Ryan's criminal justice experience includes working as an Assistant Public Defender for the 17<sup>th</sup> Judicial Circuit. Prior to joining the House, Ms. Cox handled workers' compensation issues as an Assistant General Counsel with the Department of Financial Services. Ryan earned both her bachelor and juris doctorate degrees from Florida State University.

### **Jennifer Keegan, *Attorney***

Jennifer Keegan recently joined the Legislature as an Attorney with the Criminal Justice Subcommittee. Prior to joining the House, Jennifer worked as an Assistant Public Defender in the 9<sup>th</sup> Judicial Circuit. She also served as the Judiciary's Legislative Intern during the 2013 Legislative Session. Jennifer earned both her Bachelor and Juris Doctorate degrees from Florida State University.

### **Karan Denson, *Administrative Assistant***

Karan Denson recently joined the Florida House of Representatives as the Administrative Assistant for the Criminal Justice Subcommittee. Prior to joining the House, Ms. Denson's professional career includes over 20 years as an office professional including 9 years as the Legal Assistant/Office Manager for a local law firm.