



Civil Justice & Claims Subcommittee

**Thursday, January 26, 2017
9:00 AM
404 HOB**

Meeting Packet

**Richard Corcoran
Speaker**

**Heather Fitzenhagen
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Civil Justice & Claims Subcommittee

Start Date and Time: Thursday, January 26, 2017 09:00 am

End Date and Time: Thursday, January 26, 2017 11:00 am

Location: Sumner Hall (404 HOB)

Duration: 2.00 hrs

Consideration of the following bill(s):

HB 65 Civil Remedies for Terrorism by Fischer, White

HB 151 Proceedings Involving Minors or Persons With Intellectual Disabilities by Brodeur

Presentation by State Court System on judicial timeliness

NOTICE FINALIZED on 01/19/2017 4:02PM by Bowen.Erika

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 65 Civil Remedies for Terrorism

SPONSOR(S): Fischer and White

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice & Claims Subcommittee		Stranburg <i>CS</i>	Bond <i>MB</i>
2) Judiciary Committee			

SUMMARY ANALYSIS

There is no cause of action in common law or current statutory law that is specific to terrorism. There are, however, causes of action for related acts. Common law allows a victim to sue, for example, for battery or intentional infliction of emotional distress; and statutory law allows an action for wrongful death. In most tort actions, an injured person may recover damages, but not attorney's fees. Current statutory law provides civil causes of action for a person who has been injured by specified criminal activities, but many acts of terrorism would not fall within any of those statutory causes of action.

The bill creates a statutory civil cause of action for a person injured by an act of terrorism. The definition of terrorism is adopted from the criminal law. An injured person is entitled to recover treble damages, minimum damages of \$1,000, plus attorney's fees and court costs. The cause of action is not available to a person whose injuries are the result of his or her participation in the act that caused the injury.

The statute of limitations for a common law tort action is 4 years, and the limitation on wrongful death is 2 years. The limitations period for the cause of action created by this bill is 5 years which, in some cases, may be extended an additional 2 years.

The bill does not appear to have fiscal impact on state or local governments.

The bill has an effective date of July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Tort Actions Related to a Terrorist Act

There is no statutory or common law cause of action entitled terrorism. There are, however, statutory and common law causes of action whereby an injured person may sue for damages resulting from acts of terrorism. Statutory law creates a civil cause of action for wrongful death.¹ Common law creates causes of action such as assault,² battery,³ and intentional infliction of emotional distress.⁴ In each of these actions, the injured party may recover economic and non-economic damages, but not attorney's fees.

In Florida, "an intentional tort is one in which [a person] exhibits a deliberate intent to injure or engages in conduct which is substantially certain to result in injury or death."⁵ A defendant will be held liable for an intentional tort if the plaintiff's injuries were the natural and probable consequence of the defendant's intended actions.⁶ In addition to being liable for economic and non-economic damages, a defendant who commits an intentional tort may be liable for punitive damages.⁷

Existing tort actions may not allow a victim of terrorism to recover damages from individuals or organizations who provided material support to the terrorist.⁸

Florida Civil Remedies for Criminal Practices

Chapter 772, F.S., creates statutory causes of action for persons injured by certain criminal activities. The criminal activity for which a defendant may be civilly liable encompasses a broad range of criminal conduct, some of which is conduct usually associated with terrorism (such as the use of explosives, homicide, extortion, and computer-related crimes).⁹ An injured party suing under ch. 772, F.S., may recover treble damages and attorney's fees. The term "treble damages" means damages equal to three times the total of the economic and non-economic damages.

The causes of action currently in ch. 772, F.S., however, do not appear to apply to many acts of terrorism. The civil causes of action at ss. 772.104(1) and 772.11, F.S., generally require that the

¹ The Florida Wrongful Death Act is at ss. 768.16-.26, F.S.

² *Lay v. Kremer*, 411 So. 2d 1347, 1349 (Fla. 1st DCA 1982) ("Assault is defined as an intentional, unlawful offer of corporal injury to another by force, or force unlawfully directed toward another under such circumstances as to create a fear of imminent peril, coupled with the apparent present ability to effectuate the attempt.").

³ *Paul v. Holbrook*, 696 So. 2d 1311, 1312 (Fla. 5th DCA 1997) ("A battery consists of the infliction of a harmful or offensive contact upon another with the intent to cause such contact or the apprehension that such contact is imminent.")

⁴ *Gallogly v. Rodriguez*, 970 So. 2d 470 (Fla. 2d DCA 2007); see *Johnson v. Thigpen*, 788 So. 2d 410, 412 (Fla. 1st DCA 2001) (In order to state a cause of action for intentional infliction of emotional distress, the plaintiff must demonstrate that: 1) the wrongdoer acted recklessly or intentionally; 2) the conduct was extreme and outrageous; 3) the conduct caused the plaintiff's emotional distress; and 4) plaintiff's emotional distress was severe.)

⁵ *Boza v. Carter*, 993 So. 2d 561, 562 (Fla. 1st DCA 2008) (quoting *D'Amario v. Ford Motor Co.*, 806 So.2d 424, 438 (Fla. 2001)).

⁶ 55 Fla. Jur 2d Torts § 6 (2015).

⁷ s. 768.72, F.S.

⁸ See *Boza*, 993 So. 2d at 562 ("As a general principle, a party has no legal duty to control the conduct of a third person to prevent that person from causing harm to another.").

⁹ s. 772.102(1), F.S. "Criminal activity" also includes an attempt to commit, conspiring to commit, or soliciting, coercing, or intimidating another person to commit any of the enumerated acts. *Id.* This cause of action is only available if the defendant engages in two or more similar acts of criminal activity within a five-year period. *Id.* at (4).

criminal offense be committed for pecuniary gain. Section 772.104(2) creates a cause of action for sex trafficking, and s. 772.12, F.S., creates a cause of action related to drug dealing.

Federal Tort Action for Terrorism

Federal law creates a cause of action related to terrorism.¹⁰ The federal cause of action allows any national of the United States injured in his or her person, property, or business by reason of an act of *international* terrorism, or his or her estate, survivors, or heirs, to sue in United States district court and recover treble the damages he or she sustains and the cost of the suit, including attorney's fees.

Terrorism in Florida Criminal Law

Florida criminal law defines terrorism at s. 775.30, F.S., as:

775.30 Terrorism; defined.—As used in the Florida Criminal Code, the term "terrorism" means an activity that:

- (1)
 - (a) Involves a violent act or an act dangerous to human life which is a violation of the criminal laws of this state or of the United States; or
 - (b) Involves a violation of s. 815.06;¹¹ and
- (2) Is intended to:
 - (a) Intimidate, injure, or coerce a civilian population;
 - (b) Influence the policy of a government by intimidation or coercion; or
 - (c) Affect the conduct of government through destruction of property, assassination, murder, kidnapping, or aircraft piracy.

Terrorism itself is not a crime under Florida, but committing a criminal act with the intent of it being an act of terrorism is a factor in criminal sentencing. As to murder, a finding that the murder was committed for the purpose of terrorism is an aggravating factor that may justify the death sentence.¹² For lesser crimes, if the court finds that the offense was committed for the purpose of terrorism, or for the purpose of facilitating or furthering an act of terrorism, the court must reclassify the felony or misdemeanor to the next highest degree¹³ and the offense severity ranking¹⁴ is increased, thus further enhancing the offender's sentence.¹⁵

Statutes of Limitation

A statute of limitations bars a cause of action after a specified time has elapsed, usually beginning at the time that the injury occurred. The statute of limitations for general tort actions is 4 years.¹⁶ The statute of limitations for a wrongful death action is 2 years.¹⁷ The statute of limitations for an action under ch 772, F.S., is 5 years, which may be extended for up to 2 additional years during the pendency of a prosecution of the underlying crime.¹⁸

¹⁰ 18 U.S.C. § 2333.

¹¹ s. 815.06, F.S., provides that various computer-related offenses are a felony.

¹² ss. 782.04(1)(a)2.r., (3)(r), and (4)(s), F.S.

¹³ s. 775.31(1), F.S. For example, if a defendant is charged with a third-degree felony, the offense is reclassified as a second-degree felony.

¹⁴ Criminal offenses are ranked in the Offense Severity Ranking Chart from Level 1 (least severe) to Level 10 (most severe), and are assigned points based on the severity of the offense. s. 921.0022, F.S. If an offense is not listed in the ranking chart, it defaults to a ranking based on the degree of the felony. s. 921.0023, F.S.

¹⁵ s. 775.31(2), F.S.

¹⁶ s. 95.11(3)(a), F.S.

¹⁷ s. 95.11(4)(d), F.S.

¹⁸ s. 772.17, F.S.

Effect of Proposed Changes

At s. 772.13, F.S., the bill creates a specific civil cause of action for a person injured by an act of terrorism or injured by any act that facilitated or furthered an act of terrorism. The injured person is entitled to recover treble damages, minimum damages of \$1,000, attorney's fees and court costs. The bill references the definitions of terrorism and of facilitating or furthering an act of terrorism that are found in current criminal law.

The cause of action created by the bill is not available to a person whose injuries are the result of his or her participation in the same act that resulted in the act of terrorism or crime that facilitated or furthered the act of terrorism. If the court finds that the plaintiff raised a claim that lacked support in fact or law, the defendant is entitled to reasonable attorney's fees and court costs.

In awarding attorney's fees and court costs, the court may not consider the ability of the opposing party to pay such fees and costs. Additionally, s. 772.13, F.S., does not limit any right to recover attorney's fees or costs provided under other provisions of law.¹⁹

The statute of limitations for the cause of action created by this bill is 5 years, which may be tolled for up to an additional 2 years during the pendency of a criminal proceeding against the perpetrator.²⁰

B. SECTION DIRECTORY:

Section 1 creates s. 772.13, F.S., related to a civil remedy for terrorism or facilitating or furthering terrorism.

Section 2 provides an effective date of July 1, 2017.

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 revenues.

2. Expenditures:

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a positive economic impact on persons in the private sector harmed by an act of terrorism.

¹⁹ See ch. 57, F.S.; Fla. R. Civ. P. Taxation of Costs (2015).

²⁰ s. 772.17, F.S.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The 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:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

n/a

1 A bill to be entitled
 2 An act relating to civil remedies for terrorism;
 3 creating s. 772.13, F.S.; creating a cause of action
 4 relating to terrorism; specifying a measure of
 5 damages; prohibiting claims by specified individuals;
 6 providing for attorney fees and court costs; providing
 7 construction; providing an effective date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. Section 772.13, Florida Statutes, is created to
 12 read:

13 772.13 Civil remedy for terrorism or facilitating or
 14 furthering terrorism.-

15 (1) A person who is injured by an act of terrorism as
 16 defined in s. 775.30 or a violation of a law for which the
 17 penalty is increased pursuant to s. 775.31 for facilitating or
 18 furthering terrorism has a cause of action for threefold the
 19 actual damages sustained and, in any such action, is entitled to
 20 minimum damages in the amount of \$1,000 and reasonable attorney
 21 fees and court costs in the trial and appellate courts.

22 (2) A person injured by reason of his or her participation
 23 in the same act or transaction that resulted in the act of
 24 terrorism or resulted in the defendant's penalty increase
 25 pursuant to s. 775.31 may not bring a claim under this section.

26 (3) The defendant is entitled to recover reasonable
 27 attorney fees and court costs in the trial and appellate courts
 28 upon a finding that the claimant raised a claim that was without
 29 support in fact or law.

30 (4) In awarding attorney fees and court costs under this
 31 section, the court may not consider the ability of the opposing
 32 party to pay such fees and court costs.

33 (5) This section does not limit a right to recover
 34 attorney fees or costs under other provisions of law.

35 Section 2. This act shall take effect July 1, 2017.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 151 Proceedings Involving Minors or Persons With Intellectual Disabilities

SPONSOR(S): Brodeur

TIED BILLS: None **IDEN./SIM. BILLS:** SB 416

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice & Claims Subcommittee		Stranburg	Bond
2) Children, Families & Seniors Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

Current law authorizes a trial court to enter any order necessary to protect a child victim or witness, a person who has an intellectual disability or a sexual offense victim or witness of any age from severe emotional or mental harm due to the presence of the defendant. The court may also allow the use of service or therapy animals to assist a child victim or witness, or a sexual offense victim or witness, in a sexual offense proceeding. The support animals must be evaluated and registered according to national standards. Local courts utilizing such animals typically develop detailed requirements for their use.

This bill:

- Expands the list of proceedings in which support animals may be used to include any proceeding involving child abuse, abandonment, or neglect;
- Expands the categories of allowable animals to include a "facility dog";
- Allows a court to set any conditions it finds just and appropriate when taking the testimony of a person who has an intellectual disability, including the use of a service animal, therapy animal, or facility dog; and
- Removes the requirement for registration of an animal pursuant to national standards, and replaces it with a requirement that an animal be trained and evaluated according to industry standards.

The bill does not appear to have a fiscal impact on state or local governments.

The bill has an effective date of July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Section 92.55, F.S., authorizes a court to enter any order necessary to protect victims and witnesses who are under the age of 18, victims or witnesses to a sexual offense, or any person who has an intellectual disability from severe emotional or mental harm while testifying in any court proceeding. An order may limit the number of victim or witness interviews, prohibit depositions, require submission of questions prior to examination, set the place and conditions for conducting proceedings, and allow or prohibit a person's attendance at a proceeding.¹ When deciding whether to enter such an order, the court must consider certain factors, such as the victim's or witness's age, the nature of the offense, and the degree of emotional trauma that will result as a consequence of the defendant's presence.²

In a sexual offense case, the court may also allow the use of a service or therapy animal when taking the testimony of a child victim or witness, or a sexual offense victim or witness of any age.³ When making this decision, the court must consider the age of the person testifying, the rights of the parties to the litigation, and any other relevant factor that would facilitate testimony.⁴

There are currently three circuit courts that are known to have implemented formal animal support programs. The Second Circuit began its animal support program in 2006,⁵ and programs were started in 2014 in the Fifth and Ninth Circuits.

Scientific research shows that animals significantly reduce physiological and behavioral distress in children, including a lowering of heart rate and blood pressure.⁶ The Second,⁷ Fifth,⁸ and Ninth⁹ Circuit courts all report that the use of animals during proceedings has generally had a positive effect and led the courts to be better equipped to make decisions.

Current law requires service or therapy animals to be "evaluated and registered according to national standards." The term "national standards" is not defined, and there are no national standards known to exist.

Current law does not define the terms "service animal" or "therapy animal" that are used in s. 92.55, F.S. In general, a "service animal" is one trained to perform a service to a human, such as a seeing eye dog used by a visually-impaired person. In general, a "therapy animal" is one that provides emotional comfort and support to humans. Therapy animals are trained to their role, but not to the degree that a service animal is trained. Some commentators believe that "therapy animal" is an inaccurate term when referencing a dog assisting persons testifying in a court proceeding, preferring instead the term "facility

¹ Section 92.55(4), F.S.

² Section 92.55(3), F.S.

³ Section 92.55(5), F.S.

⁴ *Id.*

⁵ <http://2ndcircuit.leoncountyfl.gov/petHistory.php>. (last accessed January 19, 2017).

⁶ Nagengast, Sunny L., et al., "The effects of the presence of a companion animal on physiological arousal and behavioral distress in children during a physical examination." *Journal of Pediatric Nursing* 12, 323-330 (1997).

⁷ Courthouse Therapy Dog History and Statistics, Florida's Second Judicial Circuit, <http://2ndcircuit.leoncountyfl.gov/petHistory.php>. (last accessed January 19, 2017).

⁸ Fifth Judicial Circuit Therapy Dog Program, Fifth Judicial Circuit Court of Florida, <http://www.circuit5.org/c5/programs-services/therapy-dog-program/> (last accessed January 17, 2017).

⁹ K9th Circuit Program, Ninth Judicial Circuit Court of Florida, <http://ninthcircuit.org/about/programs/k9th-circuit-program>. (last accessed January 17, 2017).

dog."¹⁰ "Facility dogs are expertly trained dogs who partner with a facilitator working in a health care, visitation or education setting . . . A well-mannered and highly trained facility dog encourages feelings of calm and security for clients in a visitation setting such as a courtroom."¹¹

Effect of Proposed Changes

The bill amends s. 92.55, F.S., to:

- Expand the list of proceedings in which support animals may be used to include any proceeding involving child abuse, abandonment, or neglect;
- Expand the categories of allowable animals to include a "facility dog";
- Allow a court to set any conditions it finds just and appropriate when taking the testimony of a person who has an intellectual disability, including the use of a service animal, therapy animal, or facility dog; and
- Remove the requirement for registration of an animal pursuant to national standards, and replaces it with a requirement that an animal be trained and evaluated according to industry standards.

B. SECTION DIRECTORY:

Section 1 amends s. 92.55, F.S., related to judicial proceedings.

Section 2 provides an effective date of July 1, 2017.

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 revenues.

2. Expenditures:

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

¹⁰ <https://www.animallaw.info/article/recent-cases-use-facility-dogs-witnesses-while-testifying> (last accessed January 19, 2017).

¹¹ http://www.cci.org/site/c.cdKGIRNgEmG/b.4011121/k.830A/Facility_Dogs.htm (last accessed January 19, 2017).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The 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:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

The sentence on lines 20-27 is perhaps unclear. It appears that amendment of Line 22 to read "witness, ~~or~~ a sexual offense victim or witness, or a person who has" may clarify the sentence.

It is perhaps unclear what "industry standards" are for service and therapy animals and facility dogs. There is no consensus among states that have similar programs to Florida and no one organization that the organizations in the service, therapy, or facility animal industry point to as setting standards. Examples of requirements in other states include graduation and certification by AKC,¹² Alliance of Therapy Dogs,¹³ Assistance Dogs International,¹⁴ or equivalent organizations. The three circuit courts in Florida with animal programs provide for approval of animal providers in their administrative orders.¹⁵

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

n/a

¹² <http://www.akc.org/dog-owners/training/akc-therapy-dog-program>. Accessed 1/18/2017.

¹³ <https://www.therapydogs.com>. Accessed 1/18/2017.

¹⁴ <http://www.assistancedogsinternational.org/standards/assistance-dogs/standards-for-dogs/training-standards-for-facility-dogs>. Accessed 1/18/2017.

¹⁵ The Second Circuit currently has approved Pet Partners as an animal provider. The Fifth Circuit has approved Companions for Courage and Courtroom Dogs for Kids, Inc. as animal providers. The Ninth Circuit has approved Companions for Courage as an animal provider. Companions for Courage requires its handlers and animals to be certified through the Alliance of Therapy Dogs.

26 | ~~national~~ standards, in any proceeding involving a sexual offense
 27 | or child abuse, abandonment, or neglect. When deciding whether
 28 | to permit a child victim or witness or sexual offense victim or
 29 | witness to testify with the assistance of a ~~registered~~ service
 30 | animal, or therapy animal, or facility dog, the court shall
 31 | consider the age of the child victim or witness, the age of the
 32 | sexual offense victim or witness at the time the sexual offense
 33 | occurred, the interests of the child victim or witness or sexual
 34 | offense victim or witness, the rights of the parties to the
 35 | litigation, and any other relevant factor that would facilitate
 36 | the testimony by the child victim or witness or sexual offense
 37 | victim or witness.

38 | Section 2. This act shall take effect July 1, 2017.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
 ADOPTED AS AMENDED _____ (Y/N)
 ADOPTED W/O OBJECTION _____ (Y/N)
 FAILED TO ADOPT _____ (Y/N)
 WITHDRAWN _____ (Y/N)
 OTHER _____

1 Committee/Subcommittee hearing bill: Civil Justice & Claims
 2 Subcommittee
 3 Representative Brodeur offered the following:
 4

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsection (5) of section 92.55, Florida

Statutes, is amended to read:

9 92.55 Judicial or other proceedings involving victim or
 10 witness under the age of 18, a person who has an intellectual
 11 disability, or a sexual offense victim or witness; special
 12 protections; use of ~~registered~~ service animals, ~~or~~ therapy
 13 animals, or facility dogs.

14 (5) The court may set any other conditions it finds just
 15 and appropriate when taking the testimony of a ~~child victim or~~
 16 ~~witness or a sexual offense victim or witness~~ victim or witness



Amendment No. 1

17 under the age of 18, a person who has an intellectual
18 disability, or a sexual offense victim or witness, including the
19 use of a service animal, ~~or~~ therapy animal, or facility dog that
20 has been evaluated and registered according to national
21 standards, in any proceeding involving a sexual offense or child
22 abuse, abandonment, or neglect.

23 (a) When deciding whether to permit a victim or witness
24 under the age of 18, a person who has an intellectual
25 disability, or a sexual offense victim or witness ~~child victim~~
26 ~~or witness or sexual offense victim or witness~~ to testify with
27 the assistance of a ~~registered~~ service animal, ~~or~~ therapy animal,
28 or facility dog, the court shall consider the age of the child
29 victim or witness, the age of the sexual offense victim or
30 witness at the time the sexual offense occurred, the interests
31 of the child victim or witness or sexual offense victim or
32 witness, the rights of the parties to the litigation, and any
33 other relevant factor that would facilitate the testimony by the
34 victim or witness under the age of 18, a person who has an
35 intellectual disability, or a sexual offense victim or witness
36 ~~child victim or witness or sexual offense victim or witness.~~

37 (b) For purposes of this subsection the term:

38 1. "Service animal" means an animal as defined in s.
39 413.08.

40 2. "Therapy animal" means an animal that is not considered
41 a service animal but has been trained and passed a nationally



Amendment No. 1

42 recognized skills and aptitude evaluation by an organization
43 that certifies animals as appropriate to provide animal therapy.

44 3. "Facility dog" means a dog that has been trained,
45 evaluated, and certified as a facility dog pursuant to industry
46 standards and provides unobtrusive emotional support to children
47 and adults in facility settings.

48 Section 2. This act shall take effect July 1, 2017.

49

50

51

T I T L E A M E N D M E N T

52

Remove everything before the enacting clause and insert:

53

An act relating to proceedings involving minors or persons with

54

intellectual disabilities; amending s. 92.55, F.S.; providing

55

that judges may allow the use of certain service animals,

56

therapy animals, or facility dogs in proceedings involving abuse

57

abandonment, or neglect; allowing such animals to be used when

58

taking the testimony of a person who has an intellectual

59

disability; providing an effective date.

**Court Presentation on
Judicial Timeliness**



FLORIDA COURTS

Accessible • Fair • Effective • Responsive • Accountable

Case Disposition Timeliness

Overview

- Trial Courts - Chief Judge Mark Mahon and Judge Robert Roundtree
- District Courts of Appeal – Judge Jonathan Gerber
- Supreme Court – Clerk John Tomasino

Data Issues



Accessible Fair Effective Responsive Accountable

Trial Courts

Examples of Factors that Contribute to Delays: Trial Courts

- Self Represented Litigants
- Litigants with Substance Abuse or Mental Health Issues
- Proceedings Requiring Court Interpreting Services
- Continuances
- Increasing Complexity

Examples of Factors that Contribute to Delays: **Felony Cases**

- Competency Issues
- Test Results
- Discovery and Depositions
- Multiple Defendants
- Expert Witnesses
- Increasing Specialization by Attorneys
- General Due Process Factors

Case in Point: Foreclosure Cases

Foreclosure Crisis

- Pace of civil cases historically controlled by litigants
- During the foreclosure crisis, delays occurred:
 - Parties not interested in expeditious resolution
 - Problems with paperwork filed
 - Lack of communication among banks, attorneys, defendants
 - Misuse of Rule 1.420
 - Volume of cases taxed courts, attorneys, lenders
- Result was a backlog in excess of almost 400,000 cases by June 2012

Funding

Temporary Resources Provided by Legislature:

- \$36 million over four years in General Revenue and National Mortgage Settlement Funds
- Used for judicial and case management support to address the 1.8 million foreclosure cases filed since 2007 (start of the crisis)



Efforts to Improve Fair and Timely Disposition: Foreclosure Cases

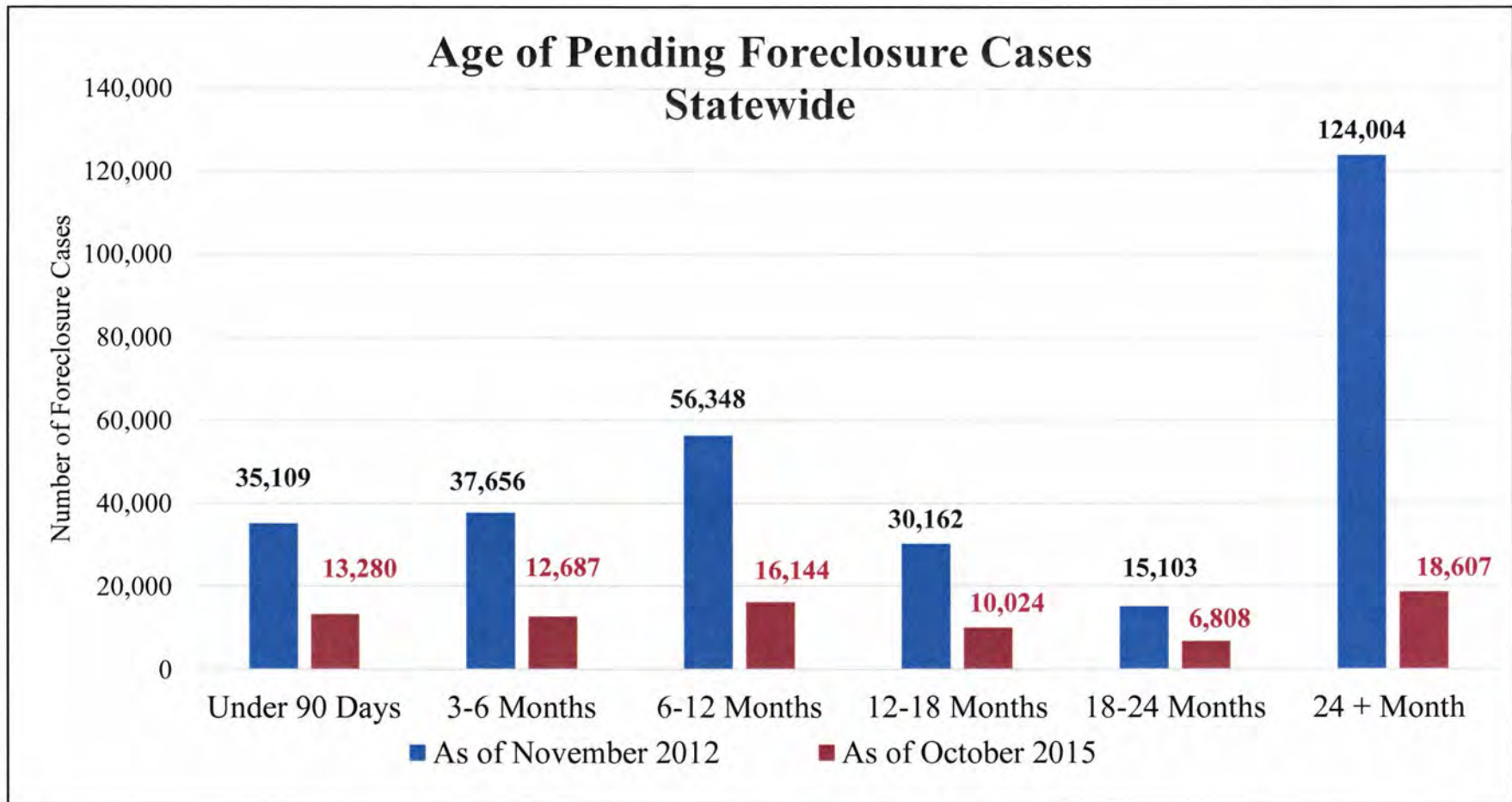
- More active judicial case management, with additional judicial and case manager resources
- Process improvements, such as on-line scheduling of motion calendar and special foreclosure dockets
- Amendment of court rules to facilitate use of general magistrates in disposition of cases

Efforts to Improve Fair and Timely Disposition: Foreclosure Cases, continued

- Implementation of technology to improve flow of foreclosure cases and expedite outcomes
- Development of improved performance measures to capture clearance rates, time to disposition, and age of pending cases
- Provision of training to circuits on current law and case management techniques

Foreclosure Backlog

Pending Cases June 2012	Pending Cases October 2015
377,707	77,550





Solutions to Improve Fair and Timely Disposition: All Trial Court Cases

- Court Application Processing System (CAPS)
- Judicial Data Management Services (JDMS)
- Digital Court Reporting System
- Shared Remote Court Interpreting
- Self-Help Resources

Court Application Processing System (CAPS)



Judicial Data Management Services (JDMS)

JDMS Benefits

- Improve Case Timeliness through Case Management – Which Benefits Court Users
- Enhance Ability of the Courts to Provide Data – Which Benefits Policymakers in Evaluating Policy and Budget Options



Accessible Fair Effective Responsive Accountable

Digital Court Reporting System

Shared Remote Court Interpreting

Self-Help Resources

- Commission on Access to Civil Justice
- DIY Florida



District Courts of Appeal

Examples of Factors that Contribute to Delays: District Courts of Appeal

- Complexity of Issues
- Preparation of Transcripts
- Record on Appeal
- Motion Practices
- Continuances

Case in Point: Dependency and Termination of Parental Rights (TPR) Appeals

Management of Dependency/TPR Appeals

- Yearly monitoring of time management
- Overall goal: 195 median days
- Best practices
- Recommendations to address transcript delay and other issues

Efforts to Address Fair and Timely Disposition: District Courts of Appeal

- Case management
- Performance management
- E-filing
- Electronic record on appeal

Supreme Court

Cases Pending in Florida Supreme Court: Percent of Total Pending Cases Pending >180 Days

7/1/06	7/1/07	7/1/08	7/1/09	7/1/10	7/1/11	7/1/12	7/1/13	7/1/14	7/1/15	7/1/16
3%	4%	2%	2%	4%	4%	2%	1%	2%	3%	6%

Examples of Factors that Contribute to Delays: Supreme Court

- Death penalty warrant for execution litigation
- Florida Bar discipline cases remain open while being tried by referee
- Judicial discipline cases remain open if/when case goes before JQC hearing panel
- Waiting for transcripts on death penalty cases

Examples of Factors that Contribute to Delays: Supreme Court

- Death penalty postconviction and direct appeal cases relinquished to trial courts for correcting and completing record on appeal
- Writ cases with self-represented litigants
- Major changes in the law
- Continuances

Efforts to Address Fair and Timely Disposition: Supreme Court

- Case management
- Performance management
- E-filing
- Electronic record on appeal
- Developing internal time standards



FLORIDA COURTS

Accessible • Fair • Effective • Responsive • Accountable

Case Disposition Timeliness