

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 919 Community Courts

**SPONSOR(S):** McClain and others

**TIED BILLS:** **IDEN./SIM. BILLS:**

| REFERENCE                              | ACTION    | ANALYST | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|--|-----------|---------|--|
| 1) Criminal Justice Subcommittee       | 13 Y, 0 N | Jones   | Hall                                     |
| 2) Justice Appropriations Subcommittee | 10 Y, 0 N | Smith   | Gusky                                    |
| 3) Judiciary Committee                 |           |         |  |

### SUMMARY ANALYSIS

Problem-solving courts are specialized, non-traditional courts addressing the underlying causes of crime to reduce recidivism and promote rehabilitation. Florida has over 170 problem-solving courts, including drug courts, veteran's courts, mental health courts, early childhood courts, permanency courts, and DUI courts. Community court is another type of problem-solving court that addresses the underlying causes of crimes specific to a particular community. Community courts:

- Divert eligible offenders from the normal judicial channels of prosecution;
- Require participants to participate in treatment programs;
- Provide sanctions for failure to comply with the programs; and
- Allow for imposition of terms other than traditional jail time.

HB 919 authorizes each judicial circuit to establish a community court program for defendants charged with certain misdemeanors as designated by the chief judge. A community court must adopt a non-adversarial approach, consider the needs of the victim and the defendant, provide for judicial leadership, and monitor compliance. Each community court must establish an advisory committee of community stakeholders including the chief judge, the state attorney, and the public defender. The advisory committee reviews each case and makes recommendations, but the judge has final decision making authority on sentencing.

The bill requires each judicial circuit to report certain community court data to the Office of State Courts Administrator for community court program evaluation. A circuit choosing to establish a community court must fund the program with sources other than state funds.

The bill would have an insignificant fiscal impact on state expenditures.

The effective date of the bill is July 1, 2019.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

##### Problem-Solving Courts in Florida

Problem-solving courts are specialized, non-traditional courts addressing the underlying causes of crime to reduce recidivism and promote rehabilitation. Problem-solving courts build relationships in the community, address each defendant individually, and typically include:

- A problem-solving team including judges, case managers, prosecutors, defense attorneys, treatment professionals, law enforcement officers, corrections personnel, and other community stakeholders.
- A non-adversarial approach.
- Individualized treatment services.
- Judicial leadership and interaction.
- Responses to defendant compliance.<sup>1</sup>

Florida created the first drug court in the United States in Miami-Dade County in 1989.<sup>2</sup> Today, Florida has over 170 problem-solving courts, including:

- Drug courts and DUI courts, which help persons with substance abuse problems by providing drug treatment services tailored to the individual needs of the participants;<sup>3</sup>
- Veteran's courts, which help those with complex treatment needs associated with the unique experience of war;<sup>4</sup>
- Mental health courts, which help persons with untreated mental illnesses who otherwise would cause inefficiencies in the normal court system, which is ill-equipped to handle mental illness;<sup>5</sup>
- Early childhood courts, which focus on child welfare cases for children under the age of three;<sup>6</sup> and
- Permanency courts, which focus on children who have been in out-of-home care for 18 months or longer.<sup>7</sup>

Another type of problem-solving court is the community court, which typically focuses on crimes that plague a local community. These courts provide non-adversarial interactions and seek to build relationships in the community, addressing each defendant individually, with the goals of addressing the underlying causes of crime, reducing recidivism, and promoting rehabilitation. A community court may require a participant to agree to a list of possible sanctions for failure to comply with the program, including jail-based treatment programs or terms of secured detention or incarceration.<sup>8</sup>

On January 9, 2019, Ft. Lauderdale launched a new community court program,<sup>9</sup> focusing particularly on minor crimes committed by the local homeless population, including loitering, panhandling, and

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<sup>1</sup> FLA. STATE COURTS, *Problem-Solving Courts*, <https://www.flcourts.org/Resources-Services/Court-Improvement/Problem-Solving-Courts> (last visited Feb. 28, 2019).

<sup>2</sup> *Id.*

<sup>3</sup> S. 397.334(1), F.S.

<sup>4</sup> FLA. STATE COURTS, *Veterans Courts*, <https://www.flcourts.org/Resources-Services/Court-Improvement/Problem-Solving-Courts/Veterans-Courts> (last visited Feb. 28, 2019).

<sup>5</sup> FLA. STATE COURTS, *Mental Health Courts*, <https://www.flcourts.org/Resources-Services/Court-Improvement/Problem-Solving-Courts/Mental-Health-Courts> (last visited Feb. 28, 2019).

<sup>6</sup> FLA. STATE COURTS, *Early Childhood Courts* <https://www.flcourts.org/Resources-Services/Court-Improvement/Problem-Solving-Courts/Early-Childhood-Courts> (last visited Feb. 28, 2019).

<sup>7</sup> FLA. STATE COURTS, *Permanency Courts*, <https://www.flcourts.org/Resources-Services/Court-Improvement/Problem-Solving-Courts/Permanency-Courts> (last visited Feb. 28, 2019).

<sup>8</sup> S. 397.334(5), F.S.

<sup>9</sup> Brittany Wallman, *Fort Lauderdale Launches Florida's First Homeless Community Court*, SUN SENTINEL (Jan. 9, 2019), <http://www.sun-sentinel.com/local/broward/fort-lauderdale/fl-ne-homeless-court-fort-lauderdale-20190107-story.html> (last visited Feb. 28, 2019).

ordinance violations. The program aims to reduce the number of people arrested and sent to jail for minor crimes. Other program goals include addressing the underlying causes of homelessness, preventing crime, and diverting participants to social services.<sup>10</sup>

### Problem-Solving Courts in Other Jurisdictions

The community court model also exists in Texas and New York.<sup>11</sup> Manhattan's successful Midtown Community Court, established in 1993, addresses local low-level offenses such as shoplifting, drug use, and prostitution. Rather than imposing fines or short-term jail, the court focuses on individualized sanctions, such as social services and community service, which restore the community and program participants. The court encourages neighborhood residents to be involved in identifying local problems and creating solutions.<sup>12</sup>

The city of Dallas, Texas, has established four community courts that focus on rehabilitating defendants and restoring the community.<sup>13</sup> The community courts address offenses including open container violations, possession of drug paraphernalia, housing code violations, solicitation by coercion, and solicitation of a prohibited substance. Persons who commit "quality of life" misdemeanors are issued citations and ordered to perform community service restitution in the neighborhood or attend rehabilitative and educational programs.<sup>14</sup> One of the community courts, established in South Dallas in 2004, has been recognized as a model of exemplary community justice principles.<sup>15</sup>

### **Effect of Proposed Changes**

HB 919 allows each judicial circuit to establish a community court program for defendants charged with certain misdemeanors. The chief judge of the circuit must issue an administrative order specifying the misdemeanor offenses to be addressed by the community court. In determining which offenses to include, the chief judge must consider the needs and concerns of the communities within the circuit. This allows each judicial circuit to adapt its community court to its own particular needs. State government agencies involved in the criminal justice system are required to support community court programs, and entry into the program is voluntary for defendants.

The bill requires each community court to:

- Adopt a non-adversarial approach;
- Establish an advisory committee to make recommendations in each case;
- Consider the needs of the victim;
- Consider individualized treatment services for the defendant;
- Provide for judicial leadership and interaction; and
- Monitor each defendant's compliance with the program.

Additionally, each community court must have a resource coordinator appointed by the chief judge. The resource coordinator must:

- Coordinate the participating agencies and service providers;
- Provide case management services;
- Monitor defendants' compliance with the program; and

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<sup>10</sup> Caitie Switalski, *Social Services, Not Jail: New Community Court Seeks to Address Causes of Homelessness in Broward*, WLRN (Jan. 9, 2019), <http://www.wlrn.org/post/social-services-not-jail-new-community-court-seeks-address-causes-homelessness-broward> (last visited Feb. 28, 2019).

<sup>11</sup> CENTER FOR COURT INNOVATION, *Midtown Community Court*, <https://www.courtinnovation.org/programs/midtown-community-court> (last visited Feb. 28, 2019); DALLAS CITY ATTORNEY, *Community Courts*, [http://www.dallascityattorney.com/Community\\_Courts.html](http://www.dallascityattorney.com/Community_Courts.html) (last visited Feb. 28, 2019).

<sup>12</sup> CENTER FOR COURT INNOVATION, *Midtown Community Court Factsheet*, [https://www.courtinnovation.org/sites/default/files/media/documents/2018-08/mcc\\_factsheet\\_07112018.pdf](https://www.courtinnovation.org/sites/default/files/media/documents/2018-08/mcc_factsheet_07112018.pdf) (last visited Feb. 28, 2019).

<sup>13</sup> CITY OF DALLAS, *Community Courts*, [http://www.dallascityattorney.com/Community\\_Courts.html](http://www.dallascityattorney.com/Community_Courts.html) (last visited Feb. 28, 2019).

<sup>14</sup> *Id.*

<sup>15</sup> CITY OF DALLAS, *South Dallas Community Court Again Recognized as National Mentor Court*, <http://www.dallascitynews.net/south-dallas-community-court-recognized-as-national-mentor-court> (last visited Feb. 28, 2019).

- Manage data collection.

Each community court must also have an advisory committee selected by the chief judge and consisting of, at a minimum:

- The chief judge or a judge designated by the chief judge (serving as chair);
- The state attorney or a designee;
- The public defender or a designee; and
- The resource coordinator.

The chief judge may appoint additional committee members, including community stakeholders, treatment representatives, or any other persons the chair deems appropriate. The advisory committee reviews each case and makes recommendations to the judge for appropriate sanctions and treatment solutions, but the judge has final decision making authority on sentencing.

The bill requires each judicial circuit to report certain data to the Office of State Courts Administrator to evaluate the community court program. A circuit choosing to establish a community court must fund the program with sources other than state funds, except for costs already assumed by the state under s. 29.004, F.S.<sup>16</sup> Funds provided by executive branch agencies for treatment and other services may also be used.

The bill is effective July 1, 2019.

**B. SECTION DIRECTORY:**

**Section 1:** Creates s. 948.081, F.S., relating to community courts.

**Section 2:** Provides an effective date of July 1, 2019.

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

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

1. Revenues:

None.

2. Expenditures:

The bill would have an insignificant impact on state expenditures.

The bill encourages each judicial circuit to establish a community court program, and establishes guidelines for the program. The circuits that choose to establish the program will be required to fund it with sources of funding other than the State for costs not assumed by the State pursuant to F.S. 29.004, Florida Statutes.

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

1. Revenues:

None.

2. Expenditures:

None.

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<sup>16</sup> The general overhead costs of running the court system (including providing for judges, jurors, court facilities, court administrators, and other needs) are funded from state revenues appropriated by general law.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**