

Tab 1 SB 590 by Hooper; (Compare to CS/H 00967) Clerks of the Court

870820	D	S		ACJ, Hooper	Delete everything after	02/12 09:55 AM
727604	SD	S	RCS	ACJ, Hooper	Delete everything after	02/13 03:44 PM

Tab 2 SB 1116 by Brandes (CO-INTRODUCERS) Pizzo, Bracy, Powell; (Identical to H 00869) Trust Funds/State-Operated Institutions Inmate Welfare Trust Fund/Department of Corrections

Tab 3 CS/SB 1118 by CJ, Brandes (CO-INTRODUCERS) Pizzo, Bracy, Powell; (Compare to H 00869) Inmate Welfare Trust Funds

622368	A	S	RCS	ACJ, Brandes	btw L.105 - 106:	02/13 03:44 PM
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Tab 4 SB 1144 by Brandes (CO-INTRODUCERS) Powell; (Similar to H 01361) Department of Juvenile Justice

431456	A	S	RCS	ACJ, Brandes	Delete L.26 - 41:	02/13 03:44 PM
399954	A	S	WD	ACJ, Bracy	btw L.112 - 113:	02/13 03:44 PM

Tab 5 CS/SB 1392 by JU, Simmons; (Similar to CS/H 07057) Official Headquarters of Judicial Officers

806756	A	S	RCS	ACJ, Simmons	Delete L.120 - 121:	02/13 03:44 PM
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Tab 6 CS/SB 1510 by JU, Brandes; (Identical to H 07059) Jurisdiction of Courts

533428	A	S		ACJ, Brandes	btw L.64 - 65:	02/17 01:28 PM
486692	A	S		ACJ, Brandes	Delete L.65 - 96:	02/12 09:58 AM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
**APPROPRIATIONS SUBCOMMITTEE ON CRIMINAL AND
 CIVIL JUSTICE**
Senator Brandes, Chair
Senator Bracy, Vice Chair

MEETING DATE: Thursday, February 13, 2020

TIME: 10:00—11:30 a.m.

PLACE: Mallory Horne Committee Room, 37 Senate Building

MEMBERS: Senator Brandes, Chair; Senator Bracy, Vice Chair; Senators Gainer, Gruters, Harrell, Perry, Rouson, and Taddeo

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 590 Hooper (Compare CS/H 967)	Clerks of the Court; Deleting a requirement that the Justice Administrative Commission provide funds to the clerks of the court to compensate jurors and pay for certain expenses and certain jury-related personnel costs; providing the purpose of the Clerks of the Court Trust Fund within the Department of Revenue; requiring the distribution of certain funds to cover projected revenue deficits; requiring the department to deposit certain funds into the trust fund for purposes of compensating jurors and paying certain expenses and certain jury-related personnel costs, etc. JU 12/10/2019 Favorable ACJ 02/13/2020 Fav/CS AP	Fav/CS Yeas 8 Nays 0
2	SB 1116 Brandes (Identical H 869, Compare CS/H 871, Linked CS/S 1118)	Trust Funds/State-Operated Institutions Inmate Welfare Trust Fund/Department of Corrections; Creating the State-Operated Institutions Inmate Welfare Trust Fund within the Department of Corrections; providing the purpose of the trust fund; providing for future review and termination or re-creation of the trust fund, etc. CJ 01/21/2020 Favorable ACJ 02/13/2020 Favorable AP	Favorable Yeas 8 Nays 0
3	CS/SB 1118 Criminal Justice / Brandes (Compare H 869, CS/H 871, Linked S 1116)	Inmate Welfare Trust Funds; Requiring that specified proceeds and funds be deposited into the State-Operated Institutions Inmate Welfare Trust Fund; providing that the trust fund is a trust held by the Department of Corrections for the benefit and welfare of certain inmates; requiring that funds of the trust fund be used exclusively for specified purposes at correctional facilities operated by the department, etc. CJ 01/21/2020 Fav/CS ACJ 02/13/2020 Fav/CS AP	Fav/CS Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Subcommittee on Criminal and Civil Justice
 Thursday, February 13, 2020, 10:00—11:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1144 Brandes (Similar H 1361)	Department of Juvenile Justice; Revising the list of programs within the department; repealing a provision relating to shared county and state responsibility for juvenile detention; deleting a provision requiring each county that is not a fiscally constrained county to pay its annual percentage share of the total shared detention costs; requiring the Department of Juvenile Justice to calculate and provide to each county that is not a fiscally constrained county and that does not provide its own detention care for juveniles its annual percentage share, etc. CJ 01/21/2020 Favorable ACJ 02/13/2020 Fav/CS AP	Fav/CS Yeas 8 Nays 0
5	CS/SB 1392 Judiciary / Simmons (Similar CS/H 7057)	Official Headquarters of Judicial Officers; Revising provisions governing the payment of subsistence and travel reimbursement for Supreme Court justices who designate an official headquarters other than the headquarters of the Supreme Court; authorizing district court of appeal judges who meet certain criteria to have an appropriate facility in their county of residence designated as their official headquarters; specifying eligibility for subsistence and travel reimbursement, subject to the availability of funds; providing that a county is not required to provide space for a judge in a county courthouse, etc. JU 01/21/2020 Fav/CS ACJ 02/13/2020 Fav/CS AP	Fav/CS Yeas 7 Nays 0
6	CS/SB 1510 Judiciary / Brandes (Identical H 7059)	Jurisdiction of Courts; Limiting the appellate jurisdiction of the circuit courts to appeals from final administrative orders of local code enforcement boards and other reviews and appeals expressly provided by law; authorizing a county court to certify a question to a district court of appeal in a final judgment that is appealable to a circuit court; authorizing a district court of appeal to review certain questions certified by a county court, etc. JU 01/21/2020 Fav/CS ACJ 02/13/2020 Temporarily Postponed AP	Temporarily Postponed

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Criminal and Civil Justice

BILL: PCS/SB 590 (428314)

INTRODUCER: Appropriations Subcommittee on Criminal and Civil Justice and Senator Hooper

SUBJECT: Clerks of the Court

DATE: February 17, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Favorable
2.	<u>Dale</u>	<u>Jameson</u>	<u>ACJ</u>	Recommend: Fav/CS
3.	_____	_____	<u>AP</u>	_____

I. Summary:

PCS/SB 590 revises the procedure for clerks of the circuit court to receive payments for management of the jury process for the court system. The current procedure provides for *pre-impbursement* in which clerks send a quarterly funding estimate of their costs to the Florida Clerks of Court Operations Corporation (CCOC) for review. The CCOC completes its review, and submits the estimate to the Justice Administrative Commission (JAC) for review, verification that the funds are available, and processing the quarterly payment.

The bill changes the payment process to a *reimbursement* process for actual costs incurred in the previous quarter. Each clerk must attest to the actual costs to compensate jurors and submit a request for reimbursement to the CCOC. The CCOC must review the requests and forward them to the JAC, which in turn submits a request for payment to the Chief Financial Officer.

The bill has no fiscal impact but does result in a workload reduction for the affected agencies. See Section V.

The bill takes effect July 1, 2020.

II. Present Situation:

Clerks of the Court

The State Constitution establishes the office of clerk of the circuit court in each of the state's 67 counties. Each clerk is elected by the voters to a 4-year term. The State Constitution further provides that the clerk's duties may be divided by special or general law between two officers.

Under that arrangement, one serves as clerk of the court and one serves as ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds.¹

Florida Clerks of Court Operations Corporation

The Legislature created the Florida Clerks of Court Operations Corporation (CCOC) in 2003. It is a public corporation organized to perform the specific functions assigned in ss. 28.35, 28.36, and 28.37, F.S., which outline the CCOC's duties, the clerks' budget procedure for court-related functions, and how fines, fees, service charges, and costs are to be remitted to the state. All clerks of the circuit court are members and hold their position and authority as ex officio members. The responsibilities assigned to the corporation are performed by an executive council composed of eight clerks from various size populations and three ex officio members designated by the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court.²

In general terms, the CCOC was created to provide professional budget support to the 67 clerks of court and ensure that resources are fairly and equitably distributed for the operation of the courts.³ The CCOC's duties include, but are not limited to:

- Recommending to the Legislature changes in the amounts of various court-related fines, fees, service charges, and costs that are established in law to ensure that the clerks have reasonable and adequate funding to perform their court-related functions.
- Developing and certifying a uniform system of workload measures and workload standards for court-related functions.
- Entering into a contract with the Department of Financial Services for the department to audit the court-related expenditures of individual clerks.
- Approving the proposed budgets submitted by clerks.⁴

When approving the clerks' proposed budgets, the CCOC must ensure that the total combined budgets of the clerks do not exceed:

- The total estimated revenues from fees, service charges, costs, and fines for court-related functions that are available for court-related expenditures (as determined by the most recent Revenue Estimating Conference);
- The total of unspent budgeted funds for court-related functions carried forward by the clerks from the previous county fiscal year; *and*
- The balance of funds remaining in the Clerks of Court Trust Fund after funds are transferred to the General Revenue Fund as required by law.⁵

Jury Management

Court clerks' responsibilities include managing the jury process. This includes determining the qualifications of jurors, issuing jury summons, providing selection lists, reporting, and

¹ FLA. CONST. art. V, s. 16 and art. VIII, s. (1)(d).

² Section 28.35(1), F.S.

³ Florida Clerks of Court Operations Corporation, *Welcome to Florida Clerks of Court Operations Corporation (CCOC)*, available at <https://flccoc.org/>.

⁴ Section 28.35(2)(c), (d), (e), and (f), F.S.

⁵ Section 28.35(2)(f), F.S.

compensating jurors when necessary to prevent financial hardship.⁶ It is estimated that Florida clerks summon almost 2 million jurors annually.⁷

Juror Cost Reimbursement

Under Revision 7 to Article V of the Florida Constitution, juror compensation and related expenses were initially a state court system responsibility and paid for with state revenues appropriated by general law.⁸ The 2004 Legislature amended s. 28.35, F.S., to require the clerks to pay the payment to jurors and witnesses as well as juror meals and lodging.⁹ Each clerk prepared quarterly estimates of needed funds for the Office of State Court Administrator (OSCA). Based on these estimates, OSCA approved the payment for each clerk. In 2008, the Legislature amended the law to clarify that the clerks were financially responsible for paying juror meals and lodging as well as juror and witness payments.¹⁰

In recognition of clerk revenue deficits, the 2016 Legislature passed a provision to reimburse the clerks for juror expenses and jury-related personnel costs during the 2016-2017 fiscal year.¹¹ The Legislature also appropriated \$11.7 million in recurring general revenue in the General Appropriations Act within the Justice Administrative Commission to support funding these jury expenses.

Budget Procedure for Payment of Costs

The Justice Administration Commission (JAC) is required by s. 40.29(5), F.S., to provide funds to the clerks to compensate jurors, pay for meals or lodging for jurors, and pay jury-related personnel costs. As noted above, since 2016, the Legislature has provided \$11.7 million annually from General Revenue to cover the projected costs of managing the jury process.¹² The funds are released quarterly.

The process established in s. 40.29, F.S., for clerks to submit information to the JAC to request funding, has been modified slightly from statute by agreement between the clerks and the CCOC. The process is as follows:

- Each clerk of the circuit court forwards to the CCOC a *quarterly estimate* of funds needed to compensate jurors, pay for meals or lodging, and personnel and other costs related to jury management for the *upcoming* quarter. Each clerk must include a signed and dated certification letter by the 10th of the month immediately before the beginning of the requested quarter.
- The CCOC reviews the quarterly requests and determines a funding allocation for each of the 67 clerks, then forwards the funding estimate to the JAC for its review.

⁶ See s. 40.001, F.S.

⁷ Florida Clerks of Court Operations Corporation, *Senate Bill 590 Analysis* (Feb. 6, 2020), <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=29742>.

⁸ Ch. 2003-402, s. 40, Laws of Fla.

⁹ Ch. 2004-265, Laws of Fla.

¹⁰ Ch. 2008-111, Laws of Fla.

¹¹ Ch. 2016-62, s. 66, Laws of Fla.

¹² For the Fiscal Year 2019-2020 appropriation, see ch. 2019-115, s. 4, Laws of Fla., Specific Appropriation 770 (Reimbursement of Expenditures Related to Circuit and County Juries Required by Statute from General Revenue Fund . . . \$11,700,000).

- The JAC reviews the funding estimate for the individual counties, determines that the funds are available for the upcoming quarterly funding allocation from General Revenue, and processes the payment through the Department of Financial Services for pre-imburement payments to each clerk.

Pursuant to s. 40.29(5), F.S., if the JAC believes the amount appropriated by the Legislature is not sufficient to meet the costs for the remainder of the state fiscal year, the JAC may apportion funds appropriated in the General Appropriations Act (GAA) among the counties. The apportionment is based upon the amount expended for those purposes in each county during the previous fiscal year. The Chief Financial Officer will then issue the appropriate apportioned amount to each county. The statute further provides that the clerks are responsible for any compensation costs that exceed the funding provided in the GAA. However, the JAC reports that the CCOC has never requested more than the \$11.7 million appropriation provided by the Legislature.¹⁵

Clerks of the Court Trust Fund

The Legislature created the Clerks of the Court Trust Fund in 2001¹⁶ within the Department of Revenue (DOR). The Trust Fund was transferred to the JAC in 2009 when the clerks' budget was placed in the state budget process. The Trust Fund was transferred back to the Department of Revenue in 2013 when the clerks' budget was removed from the GAA.¹⁷ The Trust Fund exists as a one sentence item in the statutes with no mention of a purpose.

According to the CCOC, the Trust Fund is used as a repository for funds from counties that have a projected revenue surplus. Section 28.37(2), F.S., provides that, since November 1, 2013, all fines, fees, service charges, and costs that are collected by the clerks for the previous month which exceed one-twelfth of the clerks' total budget for performing court-related functions must be remitted to DOR for deposit into the Clerks of the Court Trust Fund. Those funds are distributed by DOR to clerks in counties that have a projected revenue deficit. The CCOC also uses the Trust Fund to annually reconcile the clerks' expenditures. In the reconciliation process at the end of the year, a clerk's total revenues are compared to total expenditures. Some clerks will receive additional money to meet expenses, and other clerks will be required to return money because he or she had a surplus of revenue after covering expenses.

Additionally, during the 2019 legislative session, s. 28.37, F.S. was amended to require:

- No later than February 1, 2020, the cumulative excess of all fines, fees, services charges, and costs exceeding \$10 million will be transferred to the General Revenue Fund;
- No later than February 1, 2021, and no later than February 1, 2022, not less than 50 percent of the cumulative excess of all fines, fees, services charges, and costs will be transferred to the General Revenue Fund; provided, however, that the balance remaining in the Clerks of Courts Trust Fund after the transfer may not exceed \$20 million; and

¹⁵ Telephone interview with Cris Martinez and Greg Cowan, Justice Administrative Commission, in Tallahassee, Fla. (Dec. 4, 2019).

¹⁶ Section 213.131, F.S.

¹⁷ Florida Clerks of Court Operations Corporation, *supra*, note 3.

- No later than February 1, 2023, and each February 1 thereafter, the cumulative excess of all fines, fees, services charges, and costs will be transferred to the General Revenue Fund.

III. Effect of Proposed Changes:

The bill modifies the process by which clerks receive funds for jury management by changing the current practice under which clerks receive *pre-imburements* for their costs to one which they will receive *reimbursements* for the costs they have incurred.

The new process by which the clerks will receive reimbursement for jury-related costs is as follows:

- Each clerk of the court shall submit a request for reimbursement to the Florida Clerks of Court Operations Corporation (CCOC) within 20 days after each quarter attesting to the clerk's actual costs to compensate jurors;
- The CCOC will review the request for reimbursement to ensure that the costs are reasonably and directly related to jury management;
- The CCOC will then forward the request for reimbursement to the Justice Administrative Commission (JAC) unless the requests total more than is available, in which case the CCOC will adjust the cumulative total to match the available funds before submittal;
- The JAC will then review the amount requested for the most recently completed quarter to determine if funds are available and submit a request for payment to the Chief Financial Officer.

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There will be a workload reduction by eliminating some of the steps for reimbursement. The workload reduction will primarily be realized by the clerks.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 40.29 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS by Appropriations Subcommittee on Criminal and Civil Justice on February 13, 2020:

The committee substitute:

- Removes language which provides a purpose for the Clerks of Court Trust Fund.
- Retains the responsibility for the reimbursement of expenditures to the clerks of court related to circuit and county jury management within the Justice Administrative Commission.

B. Amendments:

None.

By Senator Hooper

16-00648B-20

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1 A bill to be entitled
2 An act relating to clerks of the court; amending s.
3 40.29, F.S.; deleting a requirement that the Justice
4 Administrative Commission provide funds to the clerks
5 of the court to compensate jurors and pay for certain
6 expenses and certain jury-related personnel costs;
7 amending s. 213.131, F.S.; providing the purpose of
8 the Clerks of the Court Trust Fund within the
9 Department of Revenue; requiring the distribution of
10 certain funds to cover projected revenue deficits;
11 requiring the Florida Clerks of Court Operations
12 Corporation to conduct an end-of-year reconciliation
13 of certain funds to ensure that the clerks of the
14 court receive approved budget amounts; requiring the
15 department to deposit certain funds into the trust
16 fund for purposes of compensating jurors and paying
17 certain expenses and certain jury-related personnel
18 costs; providing requirements relating to such
19 reimbursement; specifying that the clerks of the court
20 are responsible for any such costs that exceed the
21 amount appropriated by the Legislature; providing an
22 effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Subsection (5) of section 40.29, Florida
27 Statutes, is amended to read:

28 40.29 Payment of due-process costs.—

29 ~~(5) The Justice Administrative Commission shall provide~~

16-00648B-20

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~~funds to the clerks of the court to compensate jurors, to pay for meals or lodging provided to jurors, and to pay for jury-related personnel costs as provided in this section. Each clerk of the court shall forward to the Justice Administrative Commission a quarterly estimate of funds necessary to compensate jurors and pay for meals or lodging provided to jurors during the upcoming quarter. The Florida Clerks of Court Operations Corporation shall forward to the Justice Administrative Commission a quarterly estimate of the amount necessary to reimburse each clerk of the court for its personnel and other costs related to jury management. Upon receipt of such estimates, the Justice Administrative Commission shall determine the amount deemed necessary for payment to the clerks of the court during the upcoming quarter and submit a request for payment to the Chief Financial Officer. If the Justice Administrative Commission believes that the amount appropriated by the Legislature is insufficient to meet such costs during the remaining part of the state fiscal year, the commission may apportion the funds appropriated in the General Appropriations Act for those purposes among the several counties, basing the apportionment upon the amount expended for such purposes in each county during the prior fiscal year, in which case, the Chief Financial Officer shall issue the appropriate apportioned amount by warrant to each county. The clerks of the court are responsible for any compensation to jurors, for payments for meals or lodging provided to jurors, and for jury-related personnel costs that exceed the funding provided in the General Appropriations Act for these purposes.~~

Section 2. Section 213.131, Florida Statutes, is amended to

16-00648B-20

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59 read:

60 213.131 Clerks of the Court Trust Fund within the
61 Department of Revenue.—

62 (1) The Clerks of the Court Trust Fund is created within
63 the Department of Revenue.

64 (2) The trust fund is established as a depository for the
65 portion of all fines, fees, service charges, and costs collected
66 monthly by the clerks of the court which is in excess of one-
67 twelfth of the clerks' total budget. Other funds that may be
68 deposited in the trust fund include revenues designated for that
69 purpose by law, funds appropriated by the Legislature, and
70 grants from public or private entities, pursuant to s. 28.36.

71 (3) Funds collected monthly that exceed one-twelfth of the
72 clerks' total budget must be used for the purpose of providing
73 funds to clerks of the court with projected revenue deficits.

74 (4) From the funds collected in excess of one-twelfth of
75 the clerks' total budget and deposited into the trust fund, the
76 Florida Clerks of Court Operations Corporation shall conduct an
77 end-of-year reconciliation to ensure that clerks receive their
78 approved budget amounts established under s. 28.35.

79 (5) The Department of Revenue shall deposit in the trust
80 fund funds appropriated to the clerks of the court in the
81 General Appropriations Act for the purpose of compensating
82 jurors, paying for meals and lodging provided to jurors, and
83 paying for jury-related personnel and operational costs as
84 provided in that act. Each clerk of the court shall submit a
85 request for reimbursement to the Florida Clerks of Court
86 Operations Corporation within 30 days after each quarter
87 attesting to the clerk's actual costs to compensate jurors, to

16-00648B-20

2020590__

88 pay for meals and lodging provided to jurors, and to pay for
89 jury-related personnel and operational costs. The Florida Clerks
90 of Court Operations Corporation shall review the request for
91 reimbursement to ensure that the costs are reasonable and
92 directly related to jury management and shall forward to the
93 Department of Revenue the amount necessary to reimburse each
94 clerk of the court. The clerks of the court are responsible for
95 any compensation to jurors, for payments for meals or lodging
96 provided to jurors, and for jury-related personnel and
97 operational costs that exceed the funding provided in the
98 General Appropriations Act for these purposes.

99 Section 3. This act shall take effect July 1, 2020.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Governmental Oversight and Accountability, Chair
Appropriations Subcommittee on Agriculture, Environment, and General Government
Appropriations Subcommittee on Health and Human Services
Health Policy
Infrastructure and Security
Joint Select Committee on Collective Bargaining, Alternating Chair
Joint Administrative Procedures Committee

SENATOR ED HOOPER
16th District

December 9th, 2019

Honorable Jeff Brandes, Chair
Appropriations Subcommittee on Criminal and Civil Justice
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Brandes,

I am writing to request that SB 590, Clerks of the Court, be placed on the agenda to be heard in the Appropriations Subcommittee on Criminal and Civil Justice.

I appreciate your consideration in this matter.

Sincerely,

Ed Hooper

Cc: Staff Director, PK Jameson
Administrative Assistant, Lisa Roberts

SENT TO: CHAIRMAN
STAFF DIR. STAFF
2019 DEC -9 AM 2:29
SENATE APPROPRIATIONS
RECEIVED

REPLY TO:

- 3450 East Lake Road, Suite 305, Palm Harbor, Florida 34685-2411 (727) 771-2102
- 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/13/2020
Meeting Date

SB 590
Bill Number (if applicable)

Topic SB 590

Amendment Barcode (if applicable)

Name JASON Welty

Job Title Budget & Communications Director

Address 2560 Barrington Circle

Phone 386-2223

Street

Tallahassee

FL

32308

City

State

Zip

Email jwelty@flccoc.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FL Clerks of Court Operations Corporation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

02/13/2020

Meeting Date

SB 590

Bill Number (if applicable)

Topic Clerks of Court

Amendment Barcode (if applicable)

Name Ken Burke

Job Title Clerk of the Circuit Court and Comptroller for Pinellas County

Address 315 Court Street

Phone (727) 464-3341

Street

Clearwater

FL

33756

Email kburke@mypinellasclerk.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Court Clerks & Comptrollers

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/13/2020
Meeting Date

590
Bill Number (if applicable)

Topic Clerks of the Court

Amendment Barcode (if applicable)

Name Jason Harrell

Job Title Director of Legislative & Public Affairs

Address 215 S. Monroe
Street

Phone 850-345-6835

Jacksonville FL 32311
City State Zip

Email Jason.Harrell@FLClerks.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Court Clerks & Comptrollers

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Criminal and Civil Justice

BILL: SB 1116

INTRODUCER: Senators Brandes and Pizzo

SUBJECT: Trust Funds/State-Operated Institutions Inmate Welfare Trust Fund/Department of Corrections

DATE: February 17, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cox</u>	<u>Jones</u>	<u>CJ</u>	<u>Favorable</u>
2.	<u>Forbes</u>	<u>Jameson</u>	<u>ACJ</u>	<u>Recommend: Favorable</u>
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1116 creates section 944.73, Florida Statutes, establishing a State-Operated Institutions Inmate Welfare Trust Fund within the Department of Corrections (DOC). The bill states that the purpose of the trust fund is to benefit and provide for the welfare of inmates incarcerated in state-operated correctional facilities. The bill requires money to be deposited into and the expenditures made from the trust fund as provided in section 945.215, Florida Statutes. This trust fund is substantively identical to the Privately Operated Institutions Inmate Welfare Trust Fund (POIWTF).

As with POIWTF, the newly created section 944.73, Florida Statutes, provides that notwithstanding section 216.301, Florida Statutes, and pursuant to section 216.351, Florida Statutes, any balance in the trust fund at the end of any fiscal year must remain in the trust fund at the end of the year and be available for carrying out the purposes of the trust fund.

As required by the Florida Constitution, the bill provides that the State-Operated Institutions Inmate Welfare Trust Fund must be terminated on July 1, 2024, unless terminated sooner or recreated. Additionally, the bill requires the trust fund to be reviewed as provided in section 215.3206(1) and (2), Florida Statutes, before its scheduled termination.

The bill creates a trust fund and requires that specified proceeds and donations be deposited into the trust fund, rather than the General Revenue Fund, which will result in less funds being deposited into the General Revenue Fund. However, the funds deposited into the Inmate Welfare Trust Fund pursuant to the bill must be used to fund services and programming that are required to be provided to inmates. To the extent that the bill transitions the funding of such programming from the General Revenue Fund to the newly created trust fund, the bill will have an indeterminate fiscal impact on the DOC and the General Revenue Fund. See Section V.

The bill is effective July 1, 2020.

II. Present Situation:

Trust Funds

Establishment of Trust Funds

A trust fund may be created by law only by the Legislature and only if passed by a three-fifths vote of the membership of each house in a separate bill for that purpose only. Except for trust funds being re-created by the Legislature, each trust fund must be created by statutory language that specifies at least the following:

- The name of the trust fund.
- The agency or branch of state government responsible for administering the trust fund.
- The requirements or purposes that the trust fund is established to meet.
- The sources of moneys to be credited to the trust fund or specific sources of receipts to be deposited in the trust fund.¹

Florida Constitution Requirement for Trust Funds

The Florida Constitution requires that state trust funds must terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund.² By law the Legislature may set a shorter time period for which any trust fund is authorized.³

Review of Trust Funds

The Legislature must review all state trust funds at least once every 4 years,⁴ prior to the regular session of the Legislature immediately preceding the date on which any executive or judicial branch trust fund is scheduled to be terminated,⁵ or such earlier date as the Legislature may specify.⁶

The agency responsible for the administration of the trust fund and the Governor, for executive branch trust funds, or the Chief Justice, for judicial branch trust funds, must recommend to the President of the Senate and the Speaker of the House of Representatives whether the trust fund should be allowed to terminate or should be re-created.⁷ Each recommendation must be based on a review of the purpose and use of the trust fund and a determination of whether the trust fund will continue to be necessary.⁸ A recommendation to re-create the trust fund may include suggested modifications to the purpose, sources of receipts, and allowable expenditures for the trust fund.⁹

¹ Section 215.3207, F.S.

² Art. III, s. 19(f)(2), Fla. Const.

³ *Id.*

⁴ Section 215.3208(1), F.S.

⁵ Pursuant to Art. III, s. 19(f), Fla. Const.

⁶ Section 215.3206(1), F.S.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

When the Legislature terminates a trust fund, the agency or branch of state government that administers the trust fund must pay any outstanding debts or obligations of the trust fund as soon as practicable.¹⁰ The Legislature may also provide for the distribution of moneys in that trust fund. If no such distribution is provided, the moneys remaining after all outstanding obligations of the trust fund are met must be deposited in the General Revenue Fund.¹¹

Inmate Welfare

In part, s. 945.215, F.S., requires that certain proceeds from specified revenue streams or donations related to inmates in the DOC be deposited into the General Revenue Fund, including:

- Proceeds from operating inmate canteens, vending machines used primarily by inmates and visitors, hobby shops, and other such facilities.¹²
- Proceeds from contracted telephone commissions.¹³
- Any funds that may be assigned by inmates or donated to the DOC by the general public or an inmate service organization.¹⁴
- All proceeds from the following sources:
 - The confiscation and liquidation of any contraband found upon, or in the possession of, any inmate;
 - Disciplinary fines imposed against inmates;
 - Forfeitures of inmate earnings; and
 - Unexpended balances in individual inmate trust fund accounts of less than \$1.¹⁵

The DOC does not currently have a trust fund to be used for the welfare of inmates incarcerated in state-operated facilities, but one was in operation from 1998 to 2003.¹⁶ The 2003 Legislature passed and the Governor signed SB 954 (2003), which terminated the Inmate Welfare Trust Fund and required all proceeds and donations from inmates in state-operated correctional facilities to be deposited into the General Revenue Fund rather than the Inmate Welfare Trust Fund. The DOC reports that it has deposited the following amount of funds into General Revenue related to canteen commissions, vending commissions, and medical copay:

- Fiscal Year 2016-2017: \$34,150,970;
- Fiscal Year 2017-2018: \$36,569,593; and
- Fiscal Year 2018-2019: \$35,760,957.¹⁷

¹⁰ Section 215.3208(2)(a), F.S.

¹¹ *Id.* at (b).

¹² Section 945.215(1)(a), F.S. Funds necessary to purchase items for resale at inmate canteens and vending machines are required to be deposited into local bank accounts designated by the DOC.

¹³ Section 945.215(1)(b), F.S.

¹⁴ Section 945.215(1)(c), F.S. However, the department shall not accept any donation from, or on behalf of, any individual inmate.

¹⁵ Section 945.215(1)(d), F.S.

¹⁶ Chapter 98-388, L.O.F., created the Inmate Welfare Trust Fund. Chapter 2003-179, L.O.F., terminated the Inmate Welfare Trust Fund.

¹⁷ The DOC, Email from Scotti Vaughan, Deputy Legislative Affairs Director, Re: GR Deposits, January 14, 2020 (on file with Senate Criminal Justice Committee)(hereinafter cited as “The DOC Email”).

Privately Operated Inmate Welfare Trust Fund

Section 944.72, F.S., establishes the Privately Operated Institutions Inmate Welfare Trust Fund (POIWTF) within the DOC. The purpose of the POIWTF is for the benefit and welfare of inmates incarcerated in private correctional facilities under contract with the DOC pursuant to ch. 944, F.S., or the Department of Management Services (DMS) pursuant to ch. 957, F.S.¹⁸ Moneys are required to be deposited in the trust fund and expenditures made from the POIWTF as provided in s. 945.215, F.S.¹⁹ Further, notwithstanding the provisions of s. 216.301, F.S., and pursuant to s. 216.351, F.S., any balance in the trust fund at the end of any fiscal year must remain in the POIWTF at the end of the year and be available for carrying out the purposes of the POIWTF.²⁰

The net proceeds derived from inmate canteens, vending machines used primarily by inmates, telephone commissions, and similar sources at private correctional facilities must be deposited into the POIWTF. The funds in the POIWTF must be expended only pursuant to legislative appropriation.²¹

The DMS is required to annually compile a report that documents POIWTF receipts and expenditures at each private correctional facility, including to specifically identify receipt sources and expenditures. The DMS is required to compile this report for the prior fiscal year and submit the report by September 1 of each year to the chairs of the appropriate substantive and fiscal committees of the Senate and House of Representatives and to the Executive Office of the Governor.²²

The DOC reports that some of the current uses of the POIWTF include training service dogs for veterans, barbering and cosmetology programs, Commercial Driver's License programs, welding, architectural drafting, wastewater management training, veterinary assistant training, chapel programs, visitation activities, cable television, and wellness equipment.²³ Additionally, the DOC reports that the POIWTF has a cash balance of \$6,916,086 as of January 13, 2020.²⁴

Programming for Inmates in State-Operated Facilities

All major institutions, or prisons, are similar to small towns in that they have their own academic and vocational schools, places of worship, medical services, maintenance facilities, parks (for visiting family), and often their own water supplies. Placement is based on institutional and

¹⁸ Section 945.215(2)(a), F.S.

¹⁹ Section 944.72(1), F.S.

²⁰ Section 944.72(2), F.S. Section 216.301, F.S., specifically addresses an agency's duty to identify any incurred obligations and undisbursed balances at the end of each fiscal year. Section 216.351, F.S., provides that any subsequent inconsistent laws supersedes ch. 216, F.S., only to the extent that they do so by express reference to s. 216.351.

²¹ Section 945.215(2)(b), F.S.

²² Section 945.215(2)(c), F.S.

²³ The DOC, SB 1116 Agency Analysis, p. 2 (hereinafter cited as "The DOC SB 1116 Agency Analysis")(on file with the Senate Criminal Justice Committee).

²⁴ The DOC Email.

individual need such as programs, education, health, and availability of bed space.²⁵ Chapter 944, F.S., requires the DOC to provide a variety of services and programming to inmates committed to the custody of the DOC, including:

- Substance abuse treatment programs;²⁶
- Transitional services;²⁷
- Educational and vocational programs;²⁸ and
- Faith- and character-based programs.²⁹

For instance, s. 944.473(2), F.S., requires each inmate to be assessed to determine if he or she qualifies to receive mandated substance-abuse treatment while incarcerated. The DOC provides four levels of inmate substance abuse programming, including intensive outpatient, residential therapeutic community, program centers, and work release centers. In Fiscal Year 2017-2018, a total of 10,844 inmates participated in some form of substance abuse treatment.

The above-mentioned services and programs provide inmates with skills and tools to assist with an inmate's successful transition into the community upon release. These services are not offered at all prisons, therefore, services that an inmate needs to best provide rehabilitative programming are paramount to placement decisions.³⁰ The DOC reports that an estimated six percent of the department's spending is being used to pay for all prison programming.³¹

The DOC reports that the creation of a trust fund for the benefit of inmates in state-operated facilities will provide the DOC and its inmates with valuable resources to combat inmate idleness and improve safety within state-operated institutions as well as assist in expanding the above-mentioned programming efforts allowing the DOC to better attain its overall goal of developing, improving, and readying the people in its care to return to their communities. Further, the DOC reports that studies have shown that inmates who are provided with programming and wellness opportunities and other recreational equipment are better suited in an incarcerated environment resulting in far less instances of inmate-on-inmate violence.³²

III. Effect of Proposed Changes:

The bill creates s. 944.73, F.S., establishing a State-Operated Institutions Inmate Welfare Trust Fund within the DOC that is substantively the same as the POIWTF, but with the stated purpose to benefit and provide for the welfare of inmates incarcerated in state-operated correctional

²⁵ The DOC, *Annual Report Fiscal Year 2017-18*, p. 13, available at http://www.dc.state.fl.us/pub/annual/1718/FDC_AR2017-18.pdf (last visited January 14, 2020)(hereinafter cited a "Annual Report").

²⁶ See Annual Report, p. 45.

²⁷ Sections 944.701-944.708, F.S.

²⁸ Section 944.801, F.S. In FY 2017-18, the DOC had 16,630 inmates participating in educational programs, 18,734 in academic programs, and 6,328 in vocational programs. Annual Report, at 33.

²⁹ Section 944.803, F.S., encourages the DOC to operate faith- and character-based facilities, which emphasize the importance of personal responsibility, meaningful work, education, substance abuse treatment, and peer support.

³⁰ Annual Report, at 33.

³¹ The DOC, SB 1118 Agency Analysis, p. 3-4 (hereinafter cited as "The DOC SB 1118 Agency Analysis")(on file with the Senate Criminal Justice Committee).

³² See The DOC SB 1116 Agency Analysis, p. 2 and the DOC SB 1118 Agency Analysis, p. 4.

facilities. Money is required to be deposited into and the expenditures made from the trust fund as provided in s. 945.215, F.S.

As with POIWTF, the newly created s. 944.73, F.S., provides that notwithstanding s. 216.301, F.S., and pursuant to s. 216.351, F.S., any balance in the trust fund at the end of any fiscal year must remain in the trust fund at the end of the year and be available for carrying out the purposes of the trust fund.

As required by the Florida Constitution, the bill provides that the State-Operated Institutions Inmate Welfare Trust Fund will terminate on July 1, 2024, unless terminated sooner or recreated. Additionally, the bill requires the trust fund to be reviewed as provided in s. 215.3206(1) and (2), F.S., before its scheduled termination.

The bill is effective July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

Art. III, s. 19(f)(1) of the Florida Constitution specifies that a trust fund may be created or re-created only by a three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only.

Art. III, s. 19(f)(2) of the Florida Constitution specifies that state trust funds must terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund. By law the Legislature may set a shorter time period for which any trust fund is authorized.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill creates a trust fund and requires that specified proceeds and donations be deposited into the trust fund, rather than the General Revenue Fund, which will result in less funds being deposited into the General Revenue Fund. However, the funds deposited into the Inmate Welfare Trust Fund pursuant to the bill must be used to fund services and programming that are required to be provided to inmates.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 944.73 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Brandes

24-01048A-20

20201116__

1 A bill to be entitled
2 An act relating to trust funds; creating s. 944.73,
3 F.S.; creating the State-Operated Institutions Inmate
4 Welfare Trust Fund within the Department of
5 Corrections; providing the purpose of the trust fund;
6 providing for future review and termination or re-
7 creation of the trust fund; providing an effective
8 date.

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

11
12 Section 1. Section 944.73, Florida Statutes, is created to
13 read:

14 944.73 State-Operated Institutions Inmate Welfare Trust
15 Fund.—

16 (1) The State-Operated Institutions Inmate Welfare Trust
17 Fund is created within the Department of Corrections. The
18 purpose of the trust fund is to benefit and provide for the
19 welfare of inmates incarcerated in state-operated correctional
20 facilities.

21 (2) Moneys shall be deposited and the expenditures made
22 from the trust fund as provided in s. 945.215.

23 (3) Notwithstanding s. 216.301 and pursuant to s. 216.351,
24 any balance in the trust fund at the end of any fiscal year
25 shall remain in the trust fund at the end of the year and shall
26 be available for carrying out the purposes of the trust fund.

27 (4) In accordance with s. 19(f), Art. III of the State
28 Constitution, the State-Operated Institutions Inmate Welfare
29 Trust Fund, unless terminated sooner, shall be terminated on

24-01048A-20

20201116__

30 July 1, 2024. Before its scheduled termination, the trust fund
31 shall be reviewed as provided in s. 215.3206(1) and (2).

32 Section 2. This act shall take effect July 1, 2020.

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/13/20

Meeting Date

SB 1116

Bill Number (if applicable)

Topic SB 1116

Amendment Barcode (if applicable)

Name Jared Torres

Job Title Legislative Affairs Director

Address 501 S. Callahan ST.

Phone 850-717-3045

Street

Tallahassee

City

FL

State

32399

Zip

Email Jared.Torres@flda.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FL Department of Corrections

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Criminal and Civil Justice

BILL: PCS/CS/SB 1118 (773884)

INTRODUCER: Appropriations Subcommittee on Criminal and Civil Justice; Criminal Justice Committee; and Senators Brandes and Pizzo

SUBJECT: Inmate Welfare Trust Funds

DATE: February 17, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cox</u>	<u>Jones</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Forbes</u>	<u>Jameson</u>	<u>ACJ</u>	<u>Recommend: Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

PCS/CS/SB 1118, which is linked to the passage of SB 1116, amends section 945.215, Florida Statutes, to authorize, up to \$10 million collected from certain proceeds and donations by the Department of Corrections (DOC) relating to inmates to be deposited into the State-Operated Institutions Inmate Welfare Trust Fund, rather than into the General Revenue Fund. Any proceeds or funds above the \$10 million cap must be deposited into the General Revenue Fund. Further, funds in the trust fund may only be expended pursuant to legislative appropriation.

In addition, the bill specifies that for an inmate who is transferred between department facilities, is released, dies, or escapes during incarceration, any unexpended inmate trust fund account balances of less than \$1 shall be transferred to the trust fund, or to general revenue if the fund has reached the \$10 million cap. Similarly, if an inmate escapes, any forfeited prisoner earnings shall be deposited in the trust fund or general revenue.

SB 1116, which is linked to this bill, creates the State-Operated Institutions Inmate Welfare Trust Fund within the DOC to benefit and provide for the welfare of inmates incarcerated in state-operated correctional facilities.

The bill provides that the State-Operated Institutions Inmate Welfare Trust Fund is a trust held by the DOC for the benefit and welfare of inmates incarcerated in correctional facilities operated directly by the DOC. Additionally, the bill specifically enumerates the ways that the DOC may

use the funds deposited into the State-Operated Institutions Inmate Welfare Trust Fund and requires the funds to be used exclusively to provide for or operate specified programming needs at correctional facilities operated by the DOC.

The bill requires the DOC to compile and submit a report detailing specific information related to the State-Operated Institutions Inmate Welfare Trust Fund to the Executive Office of the Governor and the chairs of the appropriate substantive and fiscal committees of the Senate and the House of Representatives annually by October 1 of each year.

The bill provides an appropriation of \$10 million in recurring funds for FY 2020-2021 from the State-Operated Institutions Inmate Welfare Trust Fund to the DOC for the purpose of providing for the welfare of inmates incarcerated in correctional facilities operated directly by the DOC pursuant to section 945.215(2), Florida Statutes.

The bill requires that a specified amount of proceeds and donations from certain sources be deposited into the State-Operated Institutions Inmate Welfare Trust Fund, rather than the General Revenue Fund. However, the funds deposited into the State-Operated Institutions Inmate Welfare Trust Fund must be used to fund services and programming for inmates. To the extent that the bill transitions the funding of such programming, the bill will have an indeterminate fiscal impact on the DOC and the General Revenue Fund. See Section V.

The bill is effective on the same date that SB 1116 or similar legislation takes effect, if such legislation is enacted in the same legislative session or an extension thereof and becomes a law.

II. Present Situation:

Trust Funds

A trust fund may be created by law only by the Legislature and only if passed by a three-fifths vote of the membership of each house in a separate bill for that purpose only.¹ The Florida Constitution requires that state trust funds must terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund.² By law the Legislature may set a shorter time period for which any trust fund is authorized.³ The Legislature must review all state trust funds at least once every 4 years,⁴ prior to the regular session of the Legislature immediately preceding the date on which any executive or judicial branch trust fund is scheduled to be terminated,⁵ or such earlier date as the Legislature may specify⁶ and recommend to the President of the Senate and the Speaker of the House of Representatives whether the trust fund should be allowed to terminate or should be re-created.⁷

¹ Section 215.3207, F.S.

² Art. III, s. 19(f)(2), Fla. Const.

³ *Id.*

⁴ Section 215.3208(1), F.S.

⁵ Pursuant to Art. III, s. 19(f), Fla. Const.

⁶ Section 215.3206(1), F.S.

⁷ *Id.*

SB 1116, which is linked to this bill, establishes the State-Operated Institutions Inmate Welfare Trust Fund within the DOC to benefit and provide for the welfare of inmates incarcerated in state-operated correctional facilities.

Inmate Welfare

In part, s. 945.215, F.S., requires that certain proceeds from specified revenue streams or donations related to inmates in the DOC be deposited into the General Revenue Fund, including:

- Proceeds from operating inmate canteens, vending machines used primarily by inmates and visitors, hobby shops, and other such facilities.⁸
- Proceeds from contracted telephone commissions.⁹
- Any funds that may be assigned by inmates or donated to the DOC by the general public or an inmate service organization.¹⁰
- All proceeds from the following sources:
 - The confiscation and liquidation of any contraband found upon, or in the possession of, any inmate;
 - Disciplinary fines imposed against inmates;
 - Forfeitures of inmate earnings; and
 - Unexpended balances in individual inmate trust fund accounts of less than \$1.¹¹

The DOC does not currently have a trust fund to be used for the welfare of inmates incarcerated in state-operated facilities, but one was in operation from 1998 to 2003.¹² The 2003 Legislature passed and the Governor signed SB 954 (2003), which terminated the Inmate Welfare Trust Fund and required all proceeds and donations from inmates in state-operated correctional facilities to be deposited into the General Revenue Fund rather than the Inmate Welfare Trust Fund. The DOC reports that it has deposited the following amount of funds into General Revenue related to canteen commissions, vending commissions, and medical copay:

- Fiscal Year 2016-2017: \$34,150,970;
- Fiscal Year 2017-2018: \$36,569,593; and
- Fiscal Year 2018-2019: \$35,760,957.¹³

Privately Operated Inmate Welfare Trust Fund

Section 944.72, F.S., establishes the Privately Operated Institutions Inmate Welfare Trust Fund (POIWTF) within the DOC. The purpose of the POIWTF is for the benefit and welfare of inmates incarcerated in private correctional facilities under contract with the DOC pursuant to ch. 944, F.S., or the Department of Management Services (DMS) pursuant to ch. 957, F.S.¹⁴

⁸ Section 945.215(1)(a), F.S. Funds necessary to purchase items for resale at inmate canteens and vending machines are required to be deposited into local bank accounts designated by the DOC.

⁹ Section 945.215(1)(b), F.S.

¹⁰ Section 945.215(1)(c), F.S. However, the department shall not accept any donation from, or on behalf of, any individual inmate.

¹¹ Section 945.215(1)(d), F.S.

¹² Chapter 98-388, L.O.F., created the Inmate Welfare Trust Fund. Chapter 2003-179, L.O.F., terminated the Inmate Welfare Trust Fund.

¹³ The DOC, Email from Scotti Vaughan, Deputy Legislative Affairs Director, Re: GR Deposits, January 14, 2020 (on file with Senate Criminal Justice Committee)(hereinafter cited as “The DOC Email”).

¹⁴ Section 945.215(2)(a), F.S.

Moneys are required to be deposited in the trust fund and expenditures made from the POIWTF as provided in s. 945.215, F.S.¹⁵ Further, notwithstanding the provisions of s. 216.301, F.S., and pursuant to s. 216.351, F.S., any balance in the trust fund at the end of any fiscal year must remain in the POIWTF at the end of the year and be available for carrying out the purposes of the POIWTF.¹⁶

The net proceeds derived from inmate canteens, vending machines used primarily by inmates, telephone commissions, and similar sources at private correctional facilities must be deposited into the POIWTF. The funds in the POIWTF must be expended only pursuant to legislative appropriation.¹⁷

The DMS is required to annually compile a report that documents POIWTF receipts and expenditures at each private correctional facility, including to specifically identify receipt sources and expenditures. The DMS is required to compile this report for the prior fiscal year and submit the report by September 1 of each year to the chairs of the appropriate substantive and fiscal committees of the Senate and House of Representatives and to the Executive Office of the Governor.¹⁸

Programming for Inmates in State-Operated Facilities

All major institutions, or prisons, are similar to small towns in that they have their own academic and vocational schools, places of worship, medical services, maintenance facilities, parks (for visiting family), and often their own water supplies. Placement is based on institutional and individual need such as programs, education, health, and availability of bed space.¹⁹ Chapter 944, F.S., requires the DOC to provide a variety of services and programming to inmates committed to the custody of the DOC, including:

- Substance abuse treatment programs;²⁰
- Transitional services;²¹
- Educational and vocational programs;²² and
- Faith- and character-based programs.²³

¹⁵ Section 944.72(1), F.S.

¹⁶ Section 944.72(2), F.S. Section 216.301, F.S., specifically addresses an agency's duty to identify any incurred obligations and undisbursed balances at the end of each fiscal year. Section 216.351, F.S., provides that any subsequent inconsistent laws supersede ch. 216, F.S., only to the extent that they do so by express reference to s.216.351, F.S.

¹⁷ Section 945.215(2)(b), F.S.

¹⁸ Section 945.215(2)(c), F.S.

¹⁹ The DOC, *Annual Report Fiscal Year 2017-18*, p. 13, available at http://www.dc.state.fl.us/pub/annual/1718/FDC_AR2017-18.pdf (last visited January 14, 2020)(hereinafter cited a "Annual Report").

²⁰ Section 944.473(2), F.S., requires each inmate to be assessed to determine if he or she qualifies to receive mandated substance-abuse treatment while incarcerated. The DOC provides four levels of inmate substance abuse programming, including intensive outpatient, residential therapeutic community, program centers, and work release centers. In FY 2017-18, a total of 10,844 inmates participated in some form of substance abuse treatment. *See Annual Report*, p. 45.

²¹ Sections 944.701-944.708, F.S.

²² Section 944.801, F.S. In Fiscal Year 2017-2018, the DOC had 16,630 inmates participating in educational programs, 18,734 in academic programs, and 6,328 in vocational programs. *Annual Report*, at 33.

²³ Section 944.803, F.S., encourages the DOC to operate faith- and character-based facilities, which emphasize the importance of personal responsibility, meaningful work, education, substance abuse treatment, and peer support.

These services and programs provide inmates with skills and tools to assist with an inmate's successful transition into the community upon release. These services are not offered at all prisons, therefore, services that an inmate needs to best provide rehabilitative programming are paramount to placement decisions.²⁴ The DOC reports that an estimated six percent of the department's spending is being used to pay for all prison programming.²⁵

III. Effect of Proposed Changes:

The bill amends s. 945.215, F.S, authorizing the deposit of up to \$10 million collected from the above-mentioned funds into the State-Operated Institutions Inmate Welfare Trust Fund, created by SB 1116, rather than into the General Revenue Fund, including proceeds and donations collected from the:

- Proceeds from operating inmate canteens, vending machines used primarily by inmates and visitors, hobby shops, and other such facilities.
- Proceeds from contracted telephone commissions.
- Any funds that may be assigned by inmates or donated to the DOC by the general public or an inmate service organization.
- All proceeds from the following sources:
 - The confiscation and liquidation of any contraband found upon, or in the possession of, any inmate;
 - Disciplinary fines imposed against inmates;
 - Forfeitures of inmate earnings; and
 - Unexpended balances in individual inmate trust fund accounts of less than \$1.

The bill requires any proceeds or funds collected in a fiscal year above the \$10 million cap must be deposited into the General Revenue Fund. Further, funds in the trust fund may only be expended pursuant to legislative appropriation.

The bill requires that when an inmate is transferred between DOC facilities, is released, dies, or escapes during incarceration, any unexpended inmate trust fund account balance of less than \$1 must be transferred to the trust fund, or to general revenue if the \$10 million cap has been reached. In the case of an escape, any portion of inmates' earnings that are forfeited shall be deposited into the trust fund, or into general revenue.

The bill provides that the State-Operated Institutions Inmate Welfare Trust Fund is a trust held by the DOC for the benefit and welfare of inmates incarcerated in correctional facilities operated directly by the DOC.

Additionally, the bill restricts the manner with which the funds deposited into the State-Operated Institutions Inmate Welfare Trust Fund may be expended. The bill provides that the funds must be used exclusively to provide for or operate specified programming needs at correctional facilities operated by the DOC, specifically including:

- Literacy programs, vocational training programs, and educational programs.

²⁴ Annual Report, at 33.

²⁵ The DOC, SB 1118 Agency Analysis, p. 3-4 (hereinafter cited as "The DOC SB 1118 Agency Analysis")(on file with the Senate Criminal Justice Committee).

- Inmate chapels, faith-based programs, visiting pavilions, visiting services and programs, family services and programs, and libraries.
- Inmate substance abuse treatment programs and transition and life skills training programs.
- The purchase, rental, maintenance, or repair of electronic or audiovisual equipment, media, services, and programming used by inmates.
- The purchase, rental, maintenance, or repair of recreation and wellness equipment.
- The purchase, rental, maintenance, or repair of bicycles used by inmates traveling to and from employment in the work-release program authorized under s. 945.091(1)(b), F.S.

The bill also requires the DOC to compile and submit a report to the Executive Office of the Governor and the chairs of the appropriate substantive and fiscal committees of the Senate and the House of Representatives annually by October 1 of each year documenting the receipts and expenditures of the State-Operated Institutions Inmate Welfare Trust Fund for the previous fiscal year. The report must be compiled at both the statewide and institutional levels.

The bill provides an appropriation of \$10 million in recurring funds for the 2020-2021 fiscal year from the State-Operated Institutions Inmate Welfare Trust Fund to the DOC for the purpose of providing for the welfare of inmates incarcerated in correctional facilities operated directly by the DOC pursuant to s. 945.215(2), F.S.

The bill is effective on the same date that SB 1116 or similar legislation takes effect if such legislation is enacted in the same legislative session or an extension thereof and becomes a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill provides an appropriation of \$10 million in recurring funds for the 2020-2021 fiscal year from the State-Operated Institutions Inmate Welfare Trust Fund to the DOC for the purpose of providing for the welfare of inmates incarcerated in correctional facilities operated directly by the DOC pursuant to s. 945.215(2), F.S.

The bill requires that specified proceeds and donations be deposited into the State-Operated Institutions Inmate Welfare Trust Fund. Currently, annual proceeds in the amount of \$36 million are deposited into the General Revenue Fund each year from inmate canteen and vending receipts. The bill redirects \$10 million in General Revenue funds to the newly created trust fund. The funds deposited into the State-Operated Institutions Inmate Welfare Trust Fund pursuant to the bill are required to be used to fund services and programming for inmates.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 945.215 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS/CS by Appropriations Subcommittee on Criminal and Civil Justice on February 13, 2020:

The committee substitute amends s. 944.516, F.S., to require that when an inmate is transferred between DOC facilities, is released, dies, or escapes, any unexpended inmate trust fund account balance of less than \$1 must be transferred to the State-Operated Institution Inmate Welfare Trust Fund, or as provide in s. 945.215 (2) (b), to general revenue as is currently is done. In addition, the committee substitute amends s. 946.002, F.S., to require

that if a prisoner escapes, any forfeited earnings shall be deposited into the trust fund of DOC or, as provided in s. 945.215(2) (b), into general revenue.

CS by Criminal Justice on January 21, 2020:

The committee substitute adds the specific linked bill number, SB 1116, to the contingent effective date language.

B. Amendments:

None.

By the Committee on Criminal Justice; and Senators Brandes and Pizzo

591-02399-20

20201118c1

1 A bill to be entitled
2 An act relating to inmate welfare trust funds;
3 amending s. 945.215, F.S.; requiring that specified
4 proceeds and funds be deposited into the State-
5 Operated Institutions Inmate Welfare Trust Fund;
6 providing that the trust fund is a trust held by the
7 Department of Corrections for the benefit and welfare
8 of certain inmates; prohibiting deposits into the
9 trust fund from exceeding a specified amount per
10 fiscal year; requiring that deposits in excess of that
11 amount be deposited into the General Revenue Fund;
12 requiring that funds of the trust fund be used
13 exclusively for specified purposes at correctional
14 facilities operated by the department; requiring that
15 funds from the trust fund be expended only pursuant to
16 legislative appropriation; requiring the department to
17 annually compile a report documenting trust fund
18 receipts and expenditures; requiring the department to
19 submit the report to the Governor and the Legislature
20 by a specified date each year; providing an
21 appropriation; providing a contingent effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Present subsections (2) and (3) of section
26 945.215, Florida Statutes, are redesignated as subsections (3)
27 and (4), respectively, a new subsection (2) is added to that
28 section, and paragraphs (a) through (d) of subsection (1) of
29 that section are amended, to read:

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20201118c1

30 945.215 Inmate welfare and employee benefit trust funds.—

31 (1) INMATE PURCHASES; DEPARTMENT OF CORRECTIONS.—

32 (a) The net proceeds from operating inmate canteens,
33 vending machines used primarily by inmates and visitors, hobby
34 shops, and other such facilities must be deposited into the
35 State-Operated Institutions Inmate Welfare Trust Fund or, as
36 provided in paragraph (2) (b), into ~~in~~ the General Revenue Fund;
37 however, funds necessary to purchase items for resale at inmate
38 canteens and vending machines must be deposited into local bank
39 accounts designated by the department.

40 (b) All proceeds from contracted telephone commissions must
41 be deposited into the State-Operated Institutions Inmate Welfare
42 Trust Fund or, as provided in paragraph (2) (b), into ~~in~~ the
43 General Revenue Fund. The department shall develop and update,
44 as necessary, administrative procedures to verify that:

45 1. Contracted telephone companies accurately record and
46 report all telephone calls made by inmates incarcerated in
47 correctional facilities under the department's jurisdiction;

48 2. Persons who accept collect calls from inmates are
49 charged the contracted rate; and

50 3. The department receives the contracted telephone
51 commissions.

52 (c) Any funds that may be assigned by inmates or donated to
53 the department by the general public or an inmate service
54 organization must be deposited into the State-Operated
55 Institutions Inmate Welfare Trust Fund or, as provided in
56 paragraph (2) (b), into ~~in~~ the General Revenue Fund; however, the
57 department shall not accept any donation from, or on behalf of,
58 any individual inmate.

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20201118c1

59 (d) All proceeds from the following sources must be
60 deposited into the State-Operated Institutions Inmate Welfare
61 Trust Fund or, as provided in paragraph (2) (b), into ~~in~~ the
62 General Revenue Fund:

- 63 1. The confiscation and liquidation of any contraband found
64 upon, or in the possession of, any inmate;
- 65 2. Disciplinary fines imposed against inmates;
- 66 3. Forfeitures of inmate earnings; and
- 67 4. Unexpended balances in individual inmate trust fund
68 accounts of less than \$1.

69 (2) STATE-OPERATED INSTITUTIONS INMATE WELFARE TRUST FUND.-

70 (a) The State-Operated Institutions Inmate Welfare Trust
71 Fund constitutes a trust held by the department for the benefit
72 and welfare of inmates incarcerated in correctional facilities
73 operated directly by the department.

74 (b) Deposits into the trust fund may not exceed a total of
75 \$10 million in any fiscal year. Any proceeds or funds that would
76 cause deposits into the trust fund to exceed this limit must be
77 deposited into the General Revenue Fund.

78 (c) Funds in the trust fund shall be used exclusively to
79 provide for or operate any of the following at correctional
80 facilities operated by the department:

81 1. Literacy programs, vocational training programs, and
82 educational programs.

83 2. Inmate chapels, faith-based programs, visiting
84 pavilions, visiting services and programs, family services and
85 programs, and libraries.

86 3. Inmate substance abuse treatment programs and transition
87 and life skills training programs.

591-02399-20

20201118c1

88 4. The purchase, rental, maintenance, or repair of
89 electronic or audiovisual equipment, media, services, and
90 programming used by inmates.

91 5. The purchase, rental, maintenance, or repair of
92 recreation and wellness equipment.

93 6. The purchase, rental, maintenance, or repair of bicycles
94 used by inmates traveling to and from employment in the work-
95 release program authorized under s. 945.091(1)(b).

96 (d) Funds in the trust fund may be expended only pursuant
97 to legislative appropriation.

98 (e) The department shall annually compile a report that
99 documents State-Operated Institutions Inmate Welfare Trust Fund
100 receipts and expenditures. This report must be compiled at both
101 the statewide and institutional levels. The department must
102 submit the report for the previous fiscal year by October 1 of
103 each year to the Executive Office of the Governor and the chairs
104 of the appropriate substantive and fiscal committees of the
105 Senate and the House of Representatives.

106 Section 2. For the 2020-2021 fiscal year, the sum of \$10
107 million in recurring funds is appropriated from the State-
108 Operated Institutions Inmate Welfare Trust Fund to the
109 Department of Corrections for the purpose of providing for the
110 welfare of inmates incarcerated in correctional facilities
111 operated directly by the department pursuant to s. 945.215(2),
112 Florida Statutes.

113 Section 3. This act shall take effect on the same date that
114 SB 1116 or similar legislation takes effect if such legislation
115 is enacted in the same legislative session or an extension
116 thereof and becomes a law.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/13/20

Meeting Date

SB 1118

Bill Number (if applicable)

Topic SB 1118

Amendment Barcode (if applicable)

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Speaking: [] For [] Against [] Information

Waive Speaking: [X] In Support [] Against (The Chair will read this information into the record.)

Representing FL Department of Corrections

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Criminal and Civil Justice

BILL: PCS/SB 1144 (773848)
INTRODUCER: Appropriations Subcommittee on Criminal and Civil Justice and Senator Brandes
SUBJECT: Department of Juvenile Justice
DATE: February 17, 2020 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Stokes</u>	<u>Jones</u>	<u>CJ</u>	Favorable
2.	<u>Forbes</u>	<u>Jameson</u>	<u>ACJ</u>	Recommend: Fav/CS
3.	_____	_____	<u>AP</u>	_____

I. Summary:

PCS/SB 1144 amends section 20.316 Florida Statutes, to establish a new program entitled “Accountability and Program Support” within the Department of Juvenile Justice (DJJ). Creating this program will permit the secretary to appoint an assistant secretary to administer the program, thereby placing a greater focus on the DJJ’s contracting and program oversight efforts. The bill amends the existing program, “Prevention and Victim Services,” to be entitled “Prevention,” because victim services have not been provided in past years.

This bill also amends section 985.6865, Florida Statutes, to ensure that only a county that is not fiscally constrained and that does not provide for its own detention care contributes 50 percent of the detention cost. This bill also removes language related to detention cost-sharing that is no longer relevant.

Additionally, this bill repeals section 985.686, Florida Statutes. Section 985.686, Florida Statutes, formerly provided for a detention cost sharing plan between the DJJ and counties. This cost sharing plan is now governed by section 985.6865, Florida Statutes.

There is no fiscal impact. See Section V. Fiscal Impact Statement.

This bill is effective July 1, 2020.

II. Present Situation:

The DJJ has traditionally managed juveniles under a rehabilitative model of justice.¹ The mission of the DJJ is to increase public safety by reducing juvenile delinquency through effective

¹ Learn about the History of the Juvenile Justice System in Florida, *The Department of Juvenile Justice*, available at <http://www.djj.state.fl.us/about-us/history> (last visited January 7, 2020).

prevention, intervention, and treatment services that strengthen families and turn around the lives of troubled youth.² The secretary of the DJJ is appointed by the Governor and tasked with carrying out programs to help achieve this mission.

Programs within the Department of Juvenile Justice

Section 20.316, F.S., establishes 5 programs within the DJJ. The secretary of the DJJ appoints an assistant secretary to oversee these programs. The following DJJ programs have been established by this section:

- **Prevention and Victim Services.** The Prevention and Victim Services program offers voluntary youth crime prevention programs throughout the state.³
- **Intake and Detention.** Detention is the custody status for youth that are held pursuant to a court order or after being taken into custody for a violation of the law. The DJJ operates 21 secure detention centers in 21 counties.⁴
- **Residential and Correctional Facilities.** The Office of Residential Services oversees the Department's development, maintenance, and management of facilities and programs that meet the needs of Florida's adjudicated delinquent youths and promote public safety.⁵
- **Probation and Community Corrections.** When a youth is charged with a crime they may be referred to diversion, or court ordered sanctions or probation. Each youth is assigned a probation officer who monitors compliance and helps the youth connect with service providers.⁶
- **Administration.** The Office of Administration is responsible for providing services to department staff, including but not limited to, financial, computer information systems, personnel, and general services.^{7, 8}

The secretary of the DJJ is responsible for planning, coordinating, and managing the delivery of all programs and services within the DJJ.⁹ The secretary has many duties, including but not limited to:

- Ensuring that programs and services are implemented according to legislative intent; state and federal laws, rules, and regulations; statewide program standards; and performance objectives by reviewing and monitoring regional and circuit program operations and providing technical assistance to those programs.
- Identifying the need for and recommending the funding and implementation of an appropriate mix of programs and services, including prevention, diversion, nonresidential

² Learn about the Vision, Mission and Guiding Principles of the Department of Juvenile Justice, *The Department of Juvenile Justice*, available at <http://www.djj.state.fl.us/about-us/mission> (last visited January 7, 2020).

³ Prevention & Victim Services, *The Department of Juvenile Justice*, available at <http://www.djj.state.fl.us/services/prevention> (last visited January 15, 2020).

⁴ Detention Services, *The Department of Juvenile Justice*, available at <http://www.djj.state.fl.us/services/detention> (last visited January 15, 2020).

⁵ Residential Services, *The Department of Juvenile Justice*, available at <http://www.djj.state.fl.us/services/residential> (last visited January 15, 2020).

⁶ Probation & Community Intervention, *The Department of Juvenile Justice*, available at <http://www.djj.state.fl.us/services/probation> (last visited January 15, 2020).

⁷ Office of Administrative Services, *The Department of Juvenile Justice*, available at <http://www.djj.state.fl.us/services/support/administration> (last visited January 15, 2020).

⁸ Section 20.316(2), F.S.

⁹ Sections 20.316(1)(a) and (b), F.S.

and residential commitment programs, training schools, and conditional release programs and services, with an overlay of educational, vocational, alcohol, drug abuse, and mental health services where appropriate.

- Establishing program policies and rules and ensuring that those policies and rules encourage cooperation, collaboration, and information sharing with community partners in the juvenile justice system to the extent authorized by law.¹⁰

In order to carry out his or her duties, the secretary assigns an assistant secretary to administer each program. Currently, the DJJ has a Program Accountability (OPA) office under its support services. The OPA emphasizes the DJJ's commitment to ensuring programs operated or contracted by the DJJ effectively provide for the safety, well-being, and treatment of youth under the state's care.¹¹ However, the OPA is not established under statute as an official department program. Because it is not established by statute, it cannot be administered by an assigned assistant secretary.¹²

Juvenile Detention Cost Sharing

Detention cost sharing was previously governed by s. 985.686, F.S., and provided that non-fiscally constrained counties were responsible to pay all the costs of providing preadjudicatory detention care, exclusive of the costs of any nonmedical educational or therapeutic services. Section 985.686, F.S., required the state to pay all detention care costs of fiscally constrained counties.¹³ This cost-sharing methodology led to litigation between counties and the DJJ.

In 2016, as a response to the litigation on cost-sharing, the Legislature passed s. 985.6865, F.S., creating a new cost sharing methodology. The passage of s. 985.6865, F.S., has rendered s. 985.686, F.S., obsolete.

Section 985.6865, F.S., provides that, notwithstanding s. 985.686, F.S., each fiscal year, every county that is not fiscally constrained¹⁴ and that has dismissed any action or claim described in s. 985.6865(2), F.S.,¹⁵ must pay 50 percent of the total shared detention cost.¹⁶

The DJJ calculates a county's annual percentage share by dividing the total number of detention days for juveniles residing in the non-fiscally constrained county for the most recently completed

¹⁰ Section 20.316(1), F.S.

¹¹ Office of Program Accountability, *The Department of Juvenile Justice*, available at <http://www.djj.state.fl.us/services/support/OPA> (last visited January 15, 2020).

¹² Department of Juvenile Justice, *2020 Agency Analysis of SB 1144* (December 19, 2019). On file with the Senate Committee on Criminal Justice.

¹³ Sections 985.686(3) and (4), F.S.

¹⁴ Section 985.6865(3)(b), F.S., defines "fiscally constrained county" as a county within a rural area of opportunity as designated by the Governor pursuant to s. 288.0656, F.S., or each county for which the value of a mill will raise no more than \$5 million in revenue, based on the certified school taxable value certified pursuant to s. 1011.62(4)(a)1.a., F.S., from the previous July 1.

¹⁵ Various counties and the DJJ have engaged in a multitude of legal proceedings, including administrative or judicial claims, regarding detention cost sharing for juveniles. Such litigation has largely focused on how the DJJ calculates the detention costs that the counties are responsible for paying, leading to the overbilling of counties for a period of years. Sections 985.6865(1) and (2), F.S.,

¹⁶ Section 985.6865(4), F.S.

12-month period by the total number of detention days for juveniles in all non-fiscally constrained counties. The county must pay 50 percent of the annual percentage share in 12 equal payments, due on the first day of each month.¹⁷

Counties that are required to pay their share of detention costs must incorporate sufficient funds to pay its share of detention costs into its annual budget.¹⁸ Funds paid by the counties to the DJJ under this section must be deposited into the Shared County/State Juvenile Detention Trust Fund.¹⁹ The DJJ will determine quarterly whether counties are complying with this section.²⁰

The State must pay all costs of detention care for juveniles:

- Residing in a fiscally constrained county.
- Residing out of State.
- Housed in state detention centers from counties that provide their own detention care for juveniles.²¹

Section 985.6865, F.S., also contains language that refers back to past litigation arising from s. 985.686, F.S. This language is outdated and has become obsolete.

III. Effect of Proposed Changes:

This bill amends s. 20.316 F.S., to establish a new program entitled “Accountability and Program Support” within the DJJ. Creating this program will permit the secretary to appoint an assistant secretary to administer the program, thereby placing a greater focus on the DJJ’s contracting and program oversight efforts. The existing program, “Prevention and Victim Services,” is amended to be entitled “Prevention,” because victim services have not been provided in past years.

This bill also amends s. 985.6865, F.S., to ensure that only a county that is not fiscally constrained and that does not provide for its own detention care contributes 50 percent of the detention cost. This bill also removes language related to detention cost-sharing that is no longer relevant.

Additionally, this bill repeals s. 985.686, F.S. Section 985.686, F.S., formerly provided for a detention cost sharing plan between the DJJ and counties. This cost sharing plan is now governed by s. 985.6865, F.S.

This bill is effective July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁷ *Id.*

¹⁸ Section 985.6865(6), F.S.

¹⁹ Section 985.6865(7), F.S.

²⁰ Section 985.6865(8), F.S.

²¹ Section 985.6865(5), F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill establishes a new program entitled “Accountability and Program Support” within the DJJ. The DJJ FY 2020-21 Legislative Budget Request includes a reorganization issue that shifts full time equivalent positions and funding from existing programs to the new program, Accountability and Program Support. The DJJ indicates that there is no additional revenue required to support the new program.²²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.316 and 985.6865.

²² Department of Juvenile Justice, *2020 Agency Analysis of SB 1144* (December 19, 2019). On file with the Senate Committee on Criminal Justice.

This bill repeals section 985.686 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**Recommended CS by Appropriations Subcommittee on Criminal and Civil Justice
on February 13, 2020:**

The committee substitute deletes the term “victim services” from section 20.316, F.S.

- B. **Amendments:**

None.

By Senator Brandes

24-01137B-20

20201144__

1 A bill to be entitled
2 An act relating to the Department of Juvenile Justice;
3 amending s. 20.316, F.S.; revising the list of
4 programs within the department; repealing s. 985.686,
5 F.S., relating to shared county and state
6 responsibility for juvenile detention; amending s.
7 985.6865, F.S.; deleting provisions relating to
8 legislative findings and legislative intent; deleting
9 a provision requiring each county that is not a
10 fiscally constrained county to pay its annual
11 percentage share of the total shared detention costs;
12 requiring the Department of Juvenile Justice to
13 calculate and provide to each county that is not a
14 fiscally constrained county and that does not provide
15 its own detention care for juveniles its annual
16 percentage share; requiring each county that is not a
17 fiscally constrained county and that does not provide
18 its own detention care for juveniles to incorporate
19 into its annual budget sufficient funds to pay its
20 annual percentage share; conforming a provision to
21 changes made by the act; conforming a cross-reference;
22 providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Subsection (2) of section 20.316, Florida
27 Statutes, is amended to read:

28 20.316 Department of Juvenile Justice.—There is created a
29 Department of Juvenile Justice.

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20201144__

30 (2) DEPARTMENT PROGRAMS.—The following programs are
31 established within the Department of Juvenile Justice:

32 (a) Accountability and Program Support.

33 (d)~~(a)~~ Prevention and Victim Services.

34 (c)~~(b)~~ Intake and Detention.

35 (f)~~(e)~~ Residential and Correctional Facilities.

36 (e)~~(d)~~ Probation and Community Corrections.

37 (b)~~(e)~~ Administration.

38
39 The secretary may establish assistant secretary positions and a
40 chief of staff position as necessary to administer the
41 requirements of this section.

42 Section 2. Section 985.686, Florida Statutes, is repealed.

43 Section 3. Subsections (1) through (4) and (6) of section
44 985.6865, Florida Statutes, are amended to read:

45 985.6865 Juvenile detention.—

46 ~~(1) The Legislature finds that various counties and the
47 Department of Juvenile Justice have engaged in a multitude of
48 legal proceedings regarding detention cost sharing for
49 juveniles. Such litigation has largely focused on how the
50 Department of Juvenile Justice calculates the detention costs
51 that the counties are responsible for paying, leading to the
52 overbilling of counties for a period of years. Additionally,
53 litigation pending in 2016 is a financial burden on the
54 taxpayers of this state.~~

55 ~~(2) It is the intent of the Legislature that all counties
56 that are not fiscally constrained counties and that have pending
57 administrative or judicial claims or challenges file a notice of
58 voluntary dismissal with prejudice to dismiss all actions~~

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20201144__

59 ~~pending on or before February 1, 2016, against the state or any~~
60 ~~state agency related to juvenile detention cost sharing.~~
61 ~~Furthermore, all counties that are not fiscally constrained~~
62 ~~shall execute a release and waiver of any existing or future~~
63 ~~claims and actions arising from detention cost share prior to~~
64 ~~the 2016-2017 fiscal year. The department may not seek~~
65 ~~reimbursement from counties complying with this subsection for~~
66 ~~any underpayment for any cost sharing requirements before the~~
67 ~~2016-2017 fiscal year.~~

68 (1)~~(3)~~ As used in this section, the term:

69 (a) "Detention care" means secure detention and respite
70 beds for juveniles charged with a domestic violence crime.

71 (b) "Fiscally constrained county" means a county within a
72 rural area of opportunity as designated by the Governor pursuant
73 to s. 288.0656 or each county for which the value of a mill will
74 raise no more than \$5 million in revenue, based on the certified
75 school taxable value certified pursuant to s. 1011.62(4)(a)1.a.,
76 from the previous July 1.

77 (c) "Total shared detention costs" means the amount of
78 funds expended by the department for the costs of detention care
79 for the prior fiscal year. This amount includes the most recent
80 actual certify forward amounts minus any funds it expends on
81 detention care for juveniles residing in fiscally constrained
82 counties or out of state.

83 (2)~~(4)~~ Notwithstanding s. 985.686, for the 2017-2018 fiscal
84 year, and each fiscal year thereafter, each county that is not a
85 fiscally constrained county and that has taken the action
86 fulfilling the intent of this section as described in subsection
87 ~~(2)~~ shall pay its annual percentage share of 50 percent of the

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20201144__

88 ~~total shared detention costs. Annually~~ by July 15, 2017, ~~and~~
89 ~~each year thereafter,~~ the department shall calculate and provide
90 to each county that is not a fiscally constrained county and
91 that does not provide its own detention care for juveniles its
92 annual percentage share by dividing the total number of
93 detention days for juveniles residing in the county for the most
94 recently completed 12-month period by the total number of
95 detention days for juveniles in all counties that are not
96 fiscally constrained counties during the same period. The annual
97 percentage share of each county that is not a fiscally
98 constrained county and that does not provide its own detention
99 care for juveniles must be multiplied by 50 percent of the total
100 shared detention costs to determine that county's share of
101 detention costs. Beginning August 1, each such county shall pay
102 to the department its share of detention costs, which shall be
103 paid in 12 equal payments due on the first day of each month.
104 The state shall pay the remaining actual costs of detention
105 care.

106 (4) ~~(6)~~ Each county that is not a fiscally constrained
107 county and that does not provide its own detention care for
108 juveniles ~~has taken the action fulfilling the intent of this~~
109 ~~section as described in subsection (2)~~ shall incorporate into
110 its annual county budget sufficient funds to pay its annual
111 percentage share of the total shared detention costs required by
112 subsection (2) ~~(4)~~.

113 Section 4. This act shall take effect July 1, 2020.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/13/2020
Meeting Date

SB1144
Bill Number (if applicable)

Topic Department of Juvenile Justice

Amendment Barcode (if applicable)

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Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Department of Juvenile Justice

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Criminal and Civil Justice

BILL: PCS/CS/SB 1392 (552754)

INTRODUCER: Appropriations Subcommittee on Criminal and Civil Justice; Judiciary Committee; and Senator Simmons

SUBJECT: Official Headquarters of Judicial Officers

DATE: February 17, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Stallard</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
2.	<u>Dale</u>	<u>Jameson</u>	<u>ACJ</u>	<u>Recommend: Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1392 provides that a District Court of Appeal judge who lives more than 50 miles from his or her DCA's courthouse or other headquarters is eligible to have an alternative official headquarters and to be reimbursed for trips between these locations. Additionally, the bill expands the list of work-travel expenses for which a Supreme Court justice may be reimbursed.

A DCA judge who is approved for an alternative headquarters is eligible for reimbursement of the cost of the travel, lodging, and meals necessitated by travel to the DCA courthouse.

The alternative headquarters, which may serve only as judicial chambers and be used for official judicial business, may be in any appropriate facility, including a county courthouse. However, the bill expressly provides that no county is required to provide space to a DCA judge for his or her headquarters. And though the district court of appeal may enter into an agreement with a county regarding the use of courthouse space, the bill prohibits the payment of state funds for use of the space.

As to Supreme Court justices, the bill provides for reimbursement of additional expenses incurred on work-related trips compared to what is authorized under current law. These additional expenses include taxi fare, toll fees, and parking fees. Also, with the approval of the Chief Justice, a justice may choose between reimbursement for meals and lodging at the rates set

forth in the main state-employee-reimbursement statute or at a fixed rate prescribed by the Chief Justice.

As part of its Fiscal Year 2020-2021 legislative budget request, the judicial branch has requested \$125,000 in recurring funds for travel reimbursement for eligible district court of appeal (DCA) judges. Currently, SB 2500, Senate General Appropriations Bill for Fiscal Year 2020-2021, includes \$125,000 recurring General Revenue funds for this purpose.

The bill takes effect July 1, 2020.

II. Present Situation:

DCA Headquarters

Section 35.05(1), F.S., provides the following official headquarters for the five DCAs:

- First DCA: Second Judicial Circuit, Tallahassee, Leon County.
- Second DCA: Tenth Judicial Circuit, Lakeland, Polk County.
 - Branch Office: Thirteenth Judicial Circuit, Tampa, Hillsborough County.
- Third DCA: Eleventh Judicial Circuit, Miami-Dade County.
- Fourth DCA: Fifteenth Judicial Circuit, Palm Beach County.
- Fifth DCA: Seventh Judicial Circuit, Daytona Beach, Volusia County.

A DCA judge is entitled to reimbursement for expenses incurred in work-related trips away from his or her headquarters—which by default is each judge’s DCA courthouse. The Second DCA is headquartered in Lakeland, Florida.¹ However, s. 35.05(2), F.S., provides that a “district court of appeal may designate other locations within its district as branch headquarters for the conduct of the business of the court and *as the official headquarters of its officers or employees* pursuant to s. 112.061.”² Currently, the Second DCA is the only DCA in Florida which has a designated branch headquarters.

State Employee and Officer Reimbursement for Work-Related Travel

Section 112.061, F.S., is the main statute governing state employee and officer reimbursement for work-related travel. This section provides for reimbursement of travel, subsistence, and lodging in differing amounts based on several factors, including the duration and distance of a trip.

In regards to “headquarters for purposes of travel reimbursement,” s. 112.061(4), F.S., provides that “[t]he official headquarters of an officer or employee assigned to an office shall be the city or town in which the office is located,” with the following exceptions:

- The official headquarters of a person located in the field is the city or town nearest to the area where the majority of the person’s work is performed, or such other city, town, or area designated by the agency head provided that the

¹ Section 35.05(1), F.S.

² Emphasis added.

designation is in the best interests of the agency and not for the convenience of the employee.

- When any state employee is stationed in a city or town for a period of over 30 continuous workdays, that city or town is the employee's official headquarters, and he or she is not allowed per diem or subsistence, after the 30 continuous workdays have elapsed, unless that time period is extended by the agency head or his or her designee.
- Additionally, s. 112.061(1)(b)1., F.S., provides that: employee may leave his or her assigned post to return home overnight, over a weekend, or during a holiday, but time lost from work must be taken as annual leave. The employee cannot be reimbursed for travel expenses other than per diem allowable had he or she remained at the temporary post. However, when an employee is temporarily assigned away from his or her official headquarters for more than 30 days, he or she can receive reimbursement for travel expenses for one round trip for each 30-day period actually taken to his or her home.³

An employee may leave his or her assigned post to return home overnight, over a weekend, or during a holiday, but time lost from work must be taken as annual leave. The employee cannot be reimbursed for travel expenses other than per diem allowable had he or she remained at the temporary post. However, when an employee is temporarily assigned away from his or her official headquarters for more than 30 days, he or she can receive reimbursement for travel expenses for one round trip for each 30-day period actually taken to his or her home. Additionally, s. 112.061(1)(b)1., F.S., provides that:

To preserve the standardization established by this law . . . The provisions of this section shall prevail over any conflicting provisions in a general law, present or future, to the extent of the conflict; but if any such general law contains a specific exemption from this section, including a specific reference to this section, such general law shall prevail, but only to the extent of the exemption.

Alternative Official Headquarters for Supreme Court Justices

In 2019, the Legislature enacted s. 25.025, F.S., authorizing alternative official headquarters for justices who reside outside of Leon County. More particularly, under this statute a justice who resides outside of Leon County may:

- Request that a district court of appeal courthouse, a county courthouse, or other appropriate facility in the justice's district be designated as his or her official headquarters and serve as the justice's private chambers; and
- Be reimbursed for travel and subsistence while in Tallahassee to the extent funding is available, as determined by the Chief Justice.

Section 25.025, F.S., also provides that the Chief Justice is required to coordinate with the justice seeking private chambers in his or her district and any state and local officials as necessary. The Supreme Court and a county courthouse may enter into an agreement to establish private chambers at the county courthouse for a justice, but the courthouse is under no obligation to

³ Section 112.061(4)(a)-(c), F.S.

provide space for the justice. Additionally, the Supreme Court may *not* use state funds to lease space in a county courthouse for use as a private chamber.

III. Effect of Proposed Changes:

The bill provides that a District Court of Appeal judge who lives more than 50 miles from his or her DCA's courthouse or other headquarters is eligible to have an alternative official headquarters and to be reimbursed for trips between these locations. Additionally, the bill expands the list of work-travel expenses for which a Supreme Court justice may be reimbursed.

A DCA judge who is approved for an alternative headquarters is eligible for reimbursement of the cost of the travel, lodging, and meals necessitated by travel to the DCA courthouse.

The alternative headquarters, which may serve only as judicial chambers and be used for official judicial business, may be in any appropriate facility, including a county courthouse. However, the bill expressly provides that no county is required to provide space to a DCA judge for his or her headquarters. And though the district court of appeal may enter into an agreement with a county regarding the use of courthouse space, the bill prohibits the payment of state funds for use of the space.

As to Supreme Court justices, the bill provides for reimbursement of additional expenses incurred on work-related trips compared to what is authorized under current law. These additional expenses include taxi fare, toll fees, and parking fees. Also, with the approval of the Chief Justice, a justice may choose between reimbursement for meals and lodging at the rates set forth in the main state-employee-reimbursement statute or at a fixed rate prescribed by the Chief Justice.

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. **Other Constitutional Issues:**

None identified.

V. Fiscal Impact Statement:

A. **Tax/Fee Issues:**

None.

B. **Private Sector Impact:**

None.

C. **Government Sector Impact:**

The bill amends an existing statute that authorizes the payment of travel expenses for eligible justices who travel between an alternate headquarters and the Supreme Court's headquarters. As part of the Fiscal Year 2018-2019 General Appropriations Act (Specific Appropriation 3129, s. 7, ch. 2018-9, Laws of Fla.), the Legislature appropriated \$209,930 in recurring funds for reimbursement of such travel expenses by justices. Thus, the judicial branch's base budget includes funding for this purpose. The State Courts System does not anticipate that the refinements to the existing statute related to the reimbursement of additional expenses incurred on work-related trips for Supreme Court justices will necessitate additional funding.

The bill also creates comparable statutory authority to reimburse eligible district court of appeal judges for travel between an alternate headquarters and the headquarters of the court. As part of its Fiscal Year 2020-2021 legislative budget request, the judicial branch requested \$125,000 in recurring funds for travel reimbursement for eligible district court of appeal (DCA) judges. Currently, SB 2500, the Senate General Appropriations Bill for Fiscal Year 2020-2021, includes \$125,000 recurring General Revenue funds for this purpose.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 25.025 of the Florida Statutes.

This bill creates section 35.051 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS by Appropriations Subcommittee on Criminal and Civil Justice on February 13, 2020:

The committee substitute makes a technical change to correct the placement of the reference to “branch headquarters” so that it is consistent with other references in the bill.

CS by Judiciary on January 21, 2020:

The committee substitute authorizes the Chief Justice to set policies and parameters for the use of alternative headquarters and travel reimbursement by eligible justices. Additionally, the committee substitute specifies that its provisions control over any conflicting provision in the travel-reimbursement statute that applies to all state employees and officers.

- B. **Amendments:**

None.

By the Committee on Judiciary; and Senator Simmons

590-02413-20

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1 A bill to be entitled
2 An act relating to official headquarters of judicial
3 officers; amending s. 25.025, F.S.; revising
4 provisions governing the payment of subsistence and
5 travel reimbursement for Supreme Court justices who
6 designate an official headquarters other than the
7 headquarters of the Supreme Court; authorizing the
8 Chief Justice of the Supreme Court to establish
9 certain parameters in administering the act; providing
10 for construction; creating s. 35.051, F.S.;
11 authorizing district court of appeal judges who meet
12 certain criteria to have an appropriate facility in
13 their county of residence designated as their official
14 headquarters; providing restrictions; specifying
15 eligibility for subsistence and travel reimbursement,
16 subject to the availability of funds; requiring the
17 Chief Justice to coordinate with certain officials in
18 implementing the act; providing that a county is not
19 required to provide space for a judge in a county
20 courthouse; authorizing counties to enter into
21 agreements with a district court of appeal for use of
22 county courthouse space; prohibiting a district court
23 of appeal from using state funds to lease space to
24 establish a judge's official headquarters; authorizing
25 the Chief Justice to establish certain parameters in
26 administering the act; providing for construction;
27 providing an effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 25.025, Florida Statutes, is amended to read:

25.025 Headquarters.—

(1) (a) A Supreme Court justice who permanently resides outside Leon County is eligible for the designation of ~~shall, if he or she so requests, have~~ a district court of appeal courthouse, a county courthouse, or another appropriate facility in his or her district of residence ~~designated~~ as his or her official headquarters for purposes of ~~pursuant to~~ s. 112.061. This official headquarters may serve only as the justice's private chambers.

(b) 1. A justice for whom an official headquarters is designated in his or her district of residence under this subsection is eligible for subsistence at a rate to be established by the Chief Justice for each day or partial day that the justice is at the headquarters of the Supreme Court to Building for the conduct court of the business, as authorized by the Chief Justice of the court. The Chief Justice may authorize a justice to choose between subsistence based on lodging at a single-occupancy rate and meal reimbursement as provided in s. 112.061 and subsistence at a fixed rate prescribed by the Chief Justice.

2. In addition to ~~the subsistence allowance,~~ a justice is eligible for reimbursement for travel ~~transportation~~ expenses as provided in s. 112.061(7) and (8) for travel between the justice's official headquarters and the headquarters of the Supreme Court to Building for the conduct court of the business of the court.

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59 (c) Payment of subsistence and reimbursement for travel
60 ~~transportation~~ expenses ~~relating to travel~~ between a justice's
61 official headquarters and the headquarters of the Supreme Court
62 shall ~~Building must~~ be made to the extent that appropriated
63 funds are available, as determined by the Chief Justice.

64 (2) The Chief Justice shall coordinate with each affected
65 justice and other state and local officials as necessary to
66 implement subsection (1) ~~paragraph (1)(a)~~.

67 (3) (a) This section does not require a county to provide
68 space in a county courthouse for a justice. A county may enter
69 into an agreement with the Supreme Court governing the use of
70 space in a county courthouse.

71 (b) The Supreme Court may not use state funds to lease
72 space in a district court of appeal courthouse, county
73 courthouse, or other facility to allow a justice to establish an
74 official headquarters pursuant to subsection (1).

75 (4) The Chief Justice may establish parameters governing
76 the authority provided in this section, including, but not
77 limited to, specifying minimum operational requirements for the
78 designated headquarters, limiting the number of days for which
79 subsistence and travel reimbursement may be provided, and
80 prescribing activities that qualify as the conduct of court
81 business.

82 (5) If any term of this section conflicts with s. 112.061,
83 this section shall control to the extent of the conflict.

84 Section 2. Section 35.051, Florida Statutes, is created to
85 read:

86 35.051 Subsistence and travel reimbursement for judges with
87 alternate headquarters.-

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88 (1) (a) A district court of appeal judge is eligible for the
89 designation of a county courthouse or another appropriate
90 facility in his or her county of residence as his or her
91 official headquarters for purposes of s. 112.061 if the judge
92 permanently resides more than 50 miles from:

93 1. The appellate district's headquarters as prescribed
94 under s. 35.05(1), if the judge is assigned to such
95 headquarters; or

96 2. The appellate district's branch headquarters established
97 under s. 35.05(2), if the judge is assigned to such branch
98 headquarters.

99
100 The official headquarters may serve only as the judge's private
101 chambers.

102 (b)1. A district court of appeal judge for whom an official
103 headquarters is designated in his or her county of residence
104 under this subsection is eligible for subsistence at a rate to
105 be established by the Chief Justice for each day or partial day
106 that the judge is at the headquarters or branch headquarters of
107 his or her appellate district to conduct court business, as
108 authorized by the chief judge of that district court of appeal.
109 The Chief Justice may authorize a judge to choose between
110 subsistence based on lodging at a single-occupancy rate and meal
111 reimbursement as provided in s. 112.061 and subsistence at a
112 fixed rate prescribed by the Chief Justice.

113 2. In addition to subsistence, a district court of appeal
114 judge is eligible for reimbursement for travel expenses as
115 provided in s. 112.061(7) and (8) for travel between the judge's
116 official headquarters and the headquarters or branch

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117 headquarters of the appellate district to conduct court
118 business.

119 (c) Payment of subsistence and reimbursement for travel
120 expenses between the judge's official headquarters or branch
121 headquarters and the headquarters of his or her appellate
122 district shall be made to the extent that appropriated funds are
123 available, as determined by the Chief Justice.

124 (2) The Chief Justice shall coordinate with each affected
125 district court of appeal judge and other state and local
126 officials as necessary to implement subsection (1).

127 (3) (a) This section does not require a county to provide
128 space in a county courthouse for a district court of appeal
129 judge. A county may enter into an agreement with a district
130 court of appeal governing the use of space in a county
131 courthouse.

132 (b) A district court of appeal may not use state funds to
133 lease space in a county courthouse or other facility to allow a
134 district court of appeal judge to establish an official
135 headquarters pursuant to subsection (1).

136 (4) The Chief Justice may establish parameters governing
137 the authority provided in this section, including, but not
138 limited to, specifying minimum operational requirements for the
139 designated headquarters, limiting the number of days for which
140 subsistence and travel reimbursement may be provided, and
141 prescribing activities that qualify as the conduct of court
142 business.

143 (5) If any term of this section conflicts with s. 112.061,
144 this section shall control to the extent of the conflict.

145 Section 3. This act shall take effect July 1, 2020.



The Florida Senate

Committee Agenda Request

To: Senator Jeff Brandes, Chair
Appropriations Subcommittee on Criminal and Civil Justice

Subject: Committee Agenda Request

Date: January 23, 2020

I respectfully request that **Senate Bill 1392**, relating to Official Headquarters of Judicial Officers, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read "David Simmons".

Senator David Simmons
Florida Senate, District 9

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/13/2020

Meeting Date

CS/SB 1392

Bill Number (if applicable)

Topic Headquarters of Judicial Officers

Amendment Barcode (if applicable)

Name Honorable Clay Roberts

Job Title Judge, First District Court of Appeal

Address 2000 Drayton Drive

Phone 850-487-1000

Street

Tallahassee

FL

32399

Email _____

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing District Court of Appeal Budget Commission/State Courts System

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Criminal and Civil Justice

BILL: CS/SB 1510

INTRODUCER: Judiciary Committee and Senator Brandes

SUBJECT: Jurisdiction of Courts

DATE: February 12, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cibula	Cibula	JU	Fav/CS
2.	Dale	Jameson	ACJ	Pre-meeting
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1510 transfers the jurisdiction of circuit courts to hear appeals of county court civil and criminal cases to the district courts of appeal. The bill is based on the recommendations of a recent report by the Supreme Court’s Judicial Management Council’s Workgroup on Appellate Review of County Court Decisions.

The bill has a fiscal impact. See Section V.

The effective date of the bill is January 1, 2021.

II. Present Situation:

The State Constitution establishes a four-level court system consisting of a Supreme Court, five district courts of appeal, 20 circuit courts, and 67 county courts. The circuit courts and county courts primarily serve as trial courts, but the circuit courts also hear appeals from county courts involving many different types of cases and appeals from administrative bodies.

The Constitution also permits the Legislature to substantially define the jurisdictions of the circuit courts and county courts by statute.¹ As defined by statute, the circuit courts have

¹ Article V, s. 6(b) states that “[t]he county courts shall exercise the jurisdiction prescribed by general law.” Under Article V, s. 5(b), the jurisdiction the circuit courts includes “original jurisdiction not vested in the county courts, and jurisdiction of

exclusive jurisdiction over several case types, including felony cases and probate matters, but the primary distinction between the jurisdictions of the courts is a monetary threshold.²

Recent Legislative Changes to Trial Court Jurisdiction

During the 2019 Legislative Session, the Legislature increased the monetary threshold in a way that expands the jurisdiction of the county courts. Since 1995, this threshold had been set at \$15,000.³ Claims exceeding \$15,000 were to be filed in the circuit court, and county courts had jurisdiction to hear claims valued up to that amount. With the 2019 legislation, effective January 1, 2020, the threshold became \$30,000. The threshold increases again, effective January 1, 2023, to \$50,000.

Although the 2019 legislation increased the value of claims that could be litigated in a county court, the legislation did not similarly or contemporaneously increase the jurisdiction of circuit courts to hear appeals from county courts. “Appeals of county court orders or judgments where the amount in controversy is greater than \$15,000,” according to the 2019 legislation, will continue to be heard by a district court of appeal until January 1, 2023.⁴ Appeals of county court orders or judgments involving amounts of \$15,000 or less will continue to be heard by a circuit court.

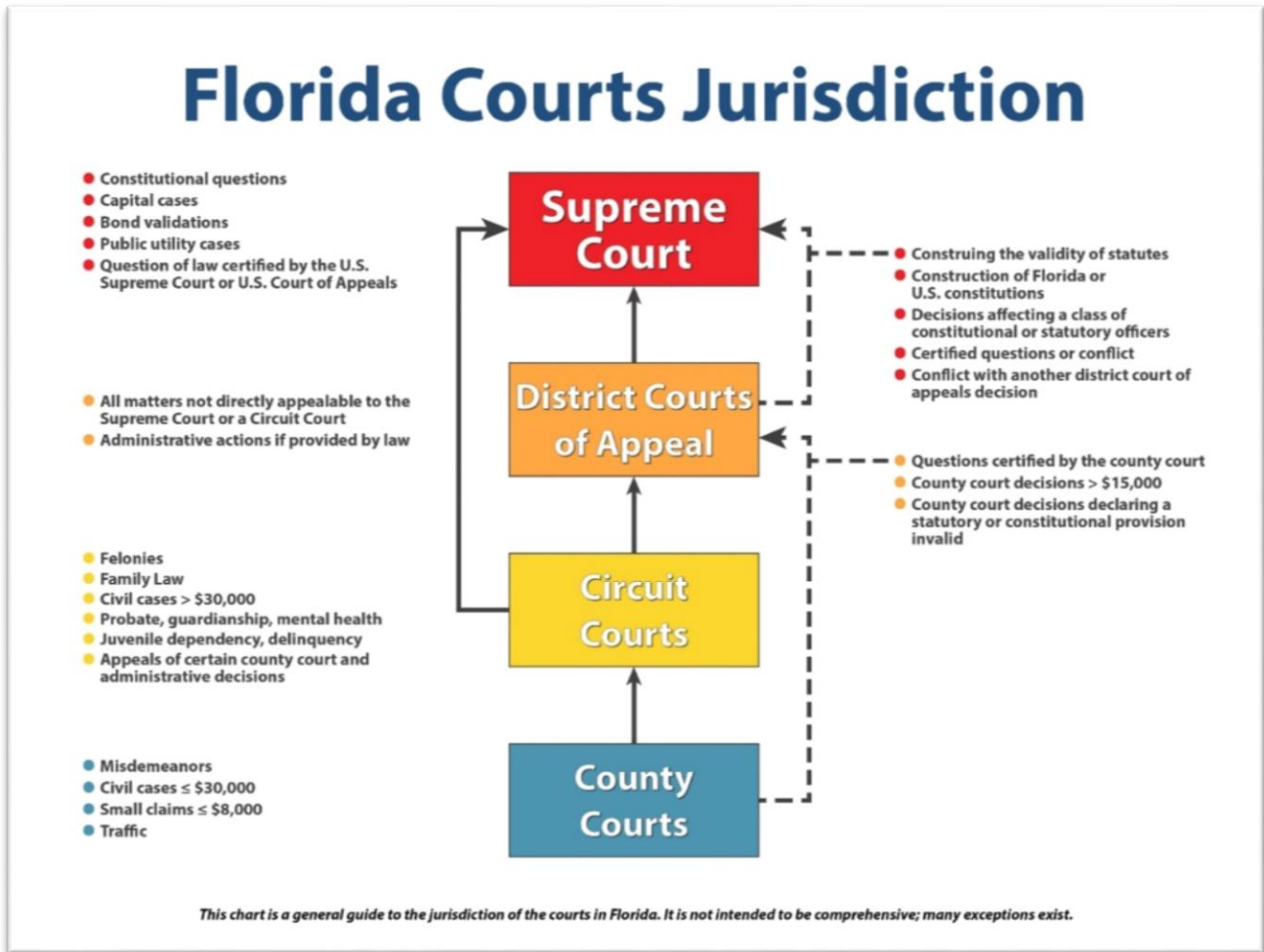
appeals when provided by general law.” Circuit courts also “shall have the power of direct review of administrative action prescribed by general law.” *Id.*

² Section 26.012, F.S. (defining the jurisdiction of the circuit courts) and s. 34.01, F.S. (defining the jurisdiction of the county courts).

³ Chapter 2019-58, ss. 1 and 9, Laws of Fla.

⁴ Chapter 2019-58, s. 1, Laws of Fla., amending s. 26.012(1), F.S., provides that limitation on the appellate jurisdiction of circuit courts to matters where the amount in controversy is \$15,000 or less is repealed on January 1, 2023.

The Florida Supreme Court has described the jurisdictions of Florida’s courts as shown.⁵



Recommended Changes to Appellate Court Jurisdiction

About the same time the 2019 legislation was filed increasing the monetary jurisdictional threshold, the Chief Justice of the Florida Supreme Court issued an administrative order directing the Workgroup on Appellate Review of County Court Decisions to:

1. Study whether the circuit courts should be uniformly required to hear appeals in panels and propose appropriate amendments to the Rules of Judicial Administration or the Rules of Appellate Procedure if the Workgroup determines that such amendments are necessary.
2. Review the following recommendation made by the Judicial Management Council’s Work Group on County Court Jurisdiction, and propose appropriate

⁵ The chart is a duplicate of Diagram of the State Courts System effective 1/1/2020 by the Supreme Court of Florida. The diagram is available on the Supreme Court’s website at <https://www.floridasupremecourt.org/content/download/543675/6126128/Florida-Courts-Jurisdiction-Chart-2020.pdf>.

amendments to law or rule if the Workgroup determines that such amendments are necessary:

2.3 The Work Group recommends that any modification to the [county court] jurisdictional amount include a provision allowing intra- and intercircuit conflicts in circuit court appellate decisions within the same district to be certified to the district court of appeal for that district.

3. Consider whether other changes to the process for appellate review of county court decisions would improve the administration of justice. If so, the Workgroup may propose any revisions in the law and rules necessary to implement such recommended changes.⁶

In October 2019, the Workgroup issued a report containing its recommendations. The Workgroup's primary recommendation was that the Supreme Court:

Approve the proposal of statutory amendments to transfer the circuit courts' appellate and related extraordinary writ authority to the DCAs in county civil cases, including non-criminal violations, county, criminal cases, and administrative cases. If the new law is adopted during the 2021 Regular Legislative Session, an effective date of January 1, 2022, is recommended to allow time to make operational changes for the court system and to adopt conforming amendments to the Florida Rules of Court.⁷

The Supreme Court agreed with the recommendation, but supported more expeditious changes:

The Supreme Court supports the Legislature's consideration of proposed legislation during the 2020 Regular Session to transfer the referenced circuit court appellate and related extraordinary writ authority to the DCAs. Further, the Supreme Court supports an effective date for the legislation that is no earlier than January 1, 2021, to allow adequate time for implementation.⁸

Authority to Define Appellate Court Jurisdiction

Although the Legislature has broad authority to define the jurisdiction of the circuit and county courts, its authority to define the jurisdiction of the district courts of appeal is more limited. Under Article V, s. (4)(b)(1) and (2) of the State Constitution:

(1) District courts of appeal shall have jurisdiction to hear appeals, that may be taken as a matter of right, from final judgments or orders of trial courts, including

⁶ Supreme Court of Florida, In Re: Workgroup on Appellate Review of County Court Decisions, Administrative Order No. AOSC19-3, (Jan. 4, 2019), <https://www.floridasupremecourt.org/content/download/425765/4589231/AOSC19-3.pdf>.

⁷ Supreme Court of Florida, Judicial Management Council, *Workgroup on Appellate Review of County Court Decisions: Final Report*, Oct. 10, 2019.

⁸ *Id.*

those entered on review of administrative action, not directly appealable to the supreme court or a circuit court. They may review interlocutory orders in such cases to the extent provided by rules adopted by the supreme court.

(2) District courts of appeal shall have the power of direct review of administrative action, as prescribed by general law.

These provisions mean that a litigant has a right to only one appeal. As such, a litigant may appeal a final order of a county court or an administrative entity to a circuit court, but the litigant has no right to further appeal to a district court of appeal.⁹ The order may be reviewed by a district court only by a writ of certiorari, which means that the district court has the discretion to hear the case.¹⁰ Moreover, a review by certiorari is much more limited in scope than a review by appeal.¹¹

The certiorari jurisdiction of the district courts is defined, not by statute, but by the Florida Rules of Appellate Procedure.¹² Similarly, the authority for a district court to hear the appeal of an interlocutory order, which is a non-final order from a lower tribunal, is defined by court rules and not by statutes.

Because the Constitution divides the authority to define the appellate jurisdiction of the courts between the Supreme Court and the Legislature, expanding the appellate jurisdiction of the district courts of appeal while reducing the appellate jurisdiction of the circuit courts requires cooperation between the judiciary and the Legislature. The Legislature must make some statutory changes, and the Supreme Court must make changes to the Florida Rules of Appellate Procedure.

For example, the Legislature, in many cases, can provide for the appeal of a final order of a county court to a district court of appeal by eliminating the statutory authority for the appeal to be heard by a circuit court. By default, the appeal would have to be heard by a district court of appeal. However, without changes to the court rules, interlocutory appeals from a county court case would continue to be heard by a circuit court that would not have jurisdiction to hear the appeal of a final order from the case.¹³ This result would seem to be inefficient.

⁹ *City of Deerfield Beach v. Valliant*, 419 So. 2d 624, 625 (Fla. 1982).

¹⁰ *Id.*

¹¹ When a matter is appealed “all errors below may be corrected: jurisdictional, procedural, and substantive.” *Haines City Cmty. Dev. v. Heggs*, 658 So. 2d 523, n.3. (Fla. 1995). In contrast, “[c]ertiorari review is ‘intended to fill the interstices between direct appeal and the other prerogative writs’ and allow a court to reach down and halt a miscarriage of justice where no other remedy exists; it ‘was never intended to redress mere legal error.’” *Broward County v. G.B.V. Int’l, Ltd.*, 787 So. 2d 838, 842 (Fla. 2001).

¹² Fla. R. Civ. P. 9.030(b)(2).

¹³ Similarly, the State Constitution does not allow the Legislature to authorize a party to take an interlocutory appeal of an order of a circuit court to a district court of appeal.

Any statute purporting to grant the right to take an interlocutory appeal is merely a declaration of legislative policy and is ineffective to accomplish its purpose; only if the Florida Supreme Court incorporates the statutory language into the appellate rules can appellate jurisdiction be broadened.

Osceola County v. Best Diversified, Inc., 830 So. 2d 139, 140-41 (Fla. 3d DCA 2002) (citing *State v. Gaines*, 770 So. 2d 1221 (Fla. 2000); *State v. Smith*, 260 So. 2d 489 (Fla. 1972)).

Problem of Conflicting Circuit Court Appellate Decisions

Decisions of circuit courts in their appellate capacity are binding on all county courts within their circuit.¹⁴ However, circuit courts are not bound by decisions of other courts within their circuits. As a result, conflicting appellate decisions within a circuit court create instability in the law. County court judges and non-parties to the prior litigation do not know how or which appellate decisions to follow.¹⁵

When conflicting decisions are rendered by different panels of judges within the same district court of appeal, the Florida Rules of Appellate Procedure permit the court to conduct an en banc proceeding.¹⁶ These proceedings allow the full court to reconcile its potentially conflicting decisions.¹⁷ In contrast, judicial circuits have no similar mechanism that enables them to reconcile their intra-circuit conflicting opinions. Moreover, a circuit court is not authorized to certify intra-circuit court conflicting opinions to a district court of appeal for review.¹⁸

Appellate Filing Fees

For **appeals from the county to the circuit court**, the clerk of the circuit court may collect up to \$280 of which, \$260 is retained by the clerk of the court and \$20 is remitted to the Department of Revenue for deposit into the General Revenue Fund.¹⁹

For appeals to the **district court of appeal**, the circuit court charges a \$100 fee for filing a notice of appeal,²⁰ and the clerk of the district court of appeal collects a filing fee of \$300 for each case docketed.²¹ Of the \$100 circuit court fee, \$80 is retained by the clerk and \$20 is deposited into the General Revenue Fund.²² Of the district court filing fee, \$50 is deposited into the State Courts Revenue Trust Fund and the remaining \$250 is deposited into the State Treasury to be credited to the General Revenue Fund.²³

III. Effect of Proposed Changes:

This bill transfers to the district courts of appeal the jurisdiction to hear appeals of decisions of county courts in civil and criminal cases. Under current law, these appeals are heard by circuit courts. The bill is based on the recommendations of a recent report by the Judicial Management

¹⁴ See *Fieselman v. State*, 566 So. 2d 768, 770 (Fla. 1990).

¹⁵ See Sebastien Rogers, *The Chasm in Florida Appellate Law: Intra-Circuit Conflicting Appellate Decisions*, Vol. 92, No. 4 FLA. BAR J. 52 (Apr. 2008).

¹⁶ Fla. R. Civ. P. 9.331.

¹⁷ *Id.*

¹⁸ Rogers, *supra* n. 15.

¹⁹ Section 28.241(2), F.S.

²⁰ *Id.*

²¹ Section 35.22(2)(a), F.S.

²² Page 11 Lines 124-126 Court Clerks and Comptrollers 2019 Distribution Schedule

https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/advisories/advisories_2019/19bull113_Attach_2_2019_Dist.pdf (last visited February 6, 2020).

²³ Section 35.22(5), F.S. The clerk of the district court of appeal also collects \$295 for cross-appeals or additional parties, and this fee is remitted entirely to the DOR for deposit into the General Revenue fund. Section 35.255(2)(b), F.S.

Council's Workgroup on Appellate Review of County Court Decisions. The specific changes made by each section of the bill are described below.

Section 1. Jurisdiction of the circuit court (s. 26.012, F.S.)

The changes made by section 1 broadly eliminate the authority of the circuit courts to hear appeals from county courts in civil and criminal cases. Circuit courts, however, retain jurisdiction to hear appeals from final administrative orders of local code enforcement boards and to hear appeals and review other matters as expressly provided by law. By operation of Article V, s. 4(b)(1) of the State Constitution, the district courts of appeal will have jurisdiction on appeals from final orders of county courts in civil and criminal cases by default.

Section 2. Certification of questions to district court of appeal (s. 34.017, F.S.)

Currently s. 34.017, F.S., authorizes a county court to certify important questions to a district court of appeal in a final judgment. The district court has absolute discretion to answer the certified question or transfer the case back to the circuit court having appellate jurisdiction.

As amended by the bill, s. 34.017, F.S., a county court may certify important questions to a district court of appeal only in a final judgment that is appealable to a circuit court. This conforming change recognizes that there is no need for a county court to certify questions relating to matters that a litigant may appeal to a district court as a matter of right.

Section 3. Review of judgment or order certified by county court to be of great public importance (s. 35.065, F.S.)

Currently s. 35.065, F.S., allows a district court of appeal to review any order or judgment of a county court which is certified by the county court to be of great public importance.

As amended by the bill, s. 35.065, F.S., a district court of appeal may review an order or judgment of a county court that is certified to be of great public importance only in an order or judgment that is appealable to a circuit court. This conforming change recognizes that there is no need for a county court to certify questions relating to matters that a litigant may appeal to a district court as a matter of right.

Section 4. Courts of appeal (s. 924.08, F.S.)

This section repeals a statute that gives jurisdiction to circuit courts to hear appeals of judgments in misdemeanor cases.

Effective Date

The bill takes effect January 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill may affect the private sector to the extent that it will necessitate changes in the filing fees for appeals.

C. Government Sector Impact:

Revenue / Fee Impact

The revenue impact to various funds based on the differences in the appellate filing fees described in the “Present Situation” are expected to result in a negative revenue impact to the Clerks of Court Trust Fund and a positive impact to the State Courts Revenue Trust Fund and the General Revenue Fund.²⁴

²⁴ Office of State Courts Administrator, *2020 Judicial Impact Statement for CS/SB 1510* (Feb. 6, 2020) (on file with the Senate Appropriations Subcommittee on Criminal and Civil Justice).

**Estimated Impact in Filing Fee Revenue Generated by
Changing the County Court Appellate Process**

	Fee Distribution	Revenue Impact Based on 1,836 Appellate Cases
Revenue Generating Appellate Cases Filed in District Court of Appeal		
Clerks of Court	\$80.00	\$146,896
State Courts Revenue Trust Fund	\$50.00	\$91,810
General Revenue	\$270.00	\$495,775
Total	\$400.00	\$734,482
Revenue Generating Appellate Cases Filed in Circuit Court		
Clerks of Court	\$260.00	\$477,413
State Courts Revenue Trust Fund	\$1.00	\$1,836
General Revenue	\$20.00	\$36,724
Total	\$281.00	\$515,973
Difference		
Clerks of Court		-\$330,517
State Courts Revenue Trust Fund		\$89,974
General Revenue		\$459,051
Total		\$218,508

These estimates were derived based on the following FY 2018-19 eligible filings currently appealed to a circuit court. This is likely a worse-case estimate. Also, as more issues become settled in the district courts, the number of appeals are expected to trend downward.

FY 2018-2019 Eligible Filings Appealed to a Circuit Court			
Threshold	Criminal (501 cases less 27.48% of cases filed by an indigent person)	Civil (1,609 cases less 8.46% of cases filed by an indigent person)	Criminal and Civil Appeals FY 2019-19
County Civil and Criminal Cases Up to \$15,000 (current law in FY 2018-19)	363	1,473	1,836

Workload Impact

Courts

The jurisdictional changes in the bill will result in some level of increased workload for the DCAs. Assuming the number of appeals remains the same, at least in the beginning of the jurisdictional change, the courts indicated a need for Other Personal Services (OPS) staff as follows:

12-Month Funding Need

Six OPS Positions (five appellate staff attorneys and one deputy clerk III)
Salaries & Benefits: \$417,421
HR Services: \$1,218
Total: \$418,639 (recurring)

However, the bill will also lead to a decrease in the workloads of the circuit courts. Additionally, conforming amendments to the Florida Rules of Civil Procedure, Appellate Procedure, Judicial Administration, and other rules of court would be required upon passage.

Public Defenders

The public defenders do not anticipate the need for additional resources at this time. A realignment of resources may be required at a later date between the trial and appellate entities. See Section VI. Technical Deficiencies for public defender concerns.

State Attorneys and the Department of Legal Affairs

The state attorneys are responsible for handling appeals of county court decisions in criminal cases to circuit courts. Pursuant to Section 16.01(4), Fla. Stat. the Criminal Appeals Division of the Office of the Attorney General is the sole government entity that handles all criminal appeals arising from judgments and sentences entered by the state trial courts. Because the bill provides for the appeals from county courts to bypass circuit courts, the bill will increase the appellate workload of the Department of Legal Affairs (DLA). The DLA believes that their Criminal Appeals Division could initially absorb a yearly increase of 500 cases generated from the changes to the appellate court jurisdictions. However, if the numbers of appeals increase based on more recent data and additions to the types of cases or increases in certified cases to the district courts caseloads, reconsideration of personnel needs could be required. To minimize this workload shift, the Legislature may wish to consider whether state attorneys should remain responsible for some or all of the appeals originating from county courts.

VI. Technical Deficiencies:

The public defenders have indicated that an amendment to the bill may be required to conform s. 27.51, F.S. to allow for the public defender appellate entities to have proper jurisdiction for the cases that will now bypass the circuit courts.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 26.012, 34.017, and 35.065.

This bill repeals section 924.08 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Judiciary on January 21, 2020:

The committee substitute is narrower in scope than the underlying bill. The underlying bill would have given district courts of appeal jurisdiction to hear appeals of decisions of county courts in criminal and civil cases and to hear appeals relating to a variety of administrative decisions and noncriminal infractions. The committee substitute does not transfer to the district courts of appeal the appellate jurisdiction of circuit courts to hear administrative decisions and appeals relating to noncriminal infractions.

- B. **Amendments:**

None.

By the Committee on Judiciary; and Senator Brandes

590-02410-20

20201510c1

1 A bill to be entitled
 2 An act relating to the jurisdiction of courts;
 3 amending s. 26.012, F.S.; limiting the appellate
 4 jurisdiction of the circuit courts to appeals from
 5 final administrative orders of local code enforcement
 6 boards and other reviews and appeals expressly
 7 provided by law; amending s. 34.017, F.S.; authorizing
 8 a county court to certify a question to a district
 9 court of appeal in a final judgment that is appealable
 10 to a circuit court; amending s. 35.065, F.S.;
 11 authorizing a district court of appeal to review
 12 certain questions certified by a county court;
 13 repealing s. 924.08, F.S., relating to the
 14 jurisdiction of the circuit court to hear appeals from
 15 final judgments in misdemeanor cases; providing an
 16 effective date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

19
 20 Section 1. Section 26.012, Florida Statutes, is amended to
 21 read:

22 26.012 Jurisdiction of circuit court.-

23 ~~(1) Circuit courts shall have jurisdiction of appeals from~~
 24 ~~county courts except:~~

25 ~~(a) Appeals of county court orders or judgments where the~~
 26 ~~amount in controversy is greater than \$15,000. This paragraph is~~
 27 ~~repealed on January 1, 2023.~~

28 ~~(b) Appeals of county court orders or judgments declaring~~
 29 ~~invalid a state statute or a provision of the State~~

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30 Constitution.

31 ~~(c) Orders or judgments of a county court which are~~
32 ~~certified by the county court to the district court of appeal to~~
33 ~~be of great public importance and which are accepted by the~~
34 ~~district court of appeal for review.~~ Circuit courts shall have
35 jurisdiction of appeals from final administrative orders of
36 local government code enforcement boards and of reviews and
37 appeals as otherwise expressly provided by law.

38 (2) Circuit courts ~~They~~ shall have exclusive original
39 jurisdiction:

40 (a) In all actions at law not cognizable by the county
41 courts;

42 (b) Of proceedings relating to the settlement of the
43 estates of decedents and minors, the granting of letters
44 testamentary, guardianship, involuntary hospitalization, the
45 determination of incompetency, and other jurisdiction usually
46 pertaining to courts of probate;

47 (c) In all cases in equity including all cases relating to
48 juveniles except traffic offenses as provided in chapters 316
49 and 985;

50 (d) Of all felonies and of all misdemeanors arising out of
51 the same circumstances as a felony which is also charged;

52 (e) In all cases involving legality of any tax assessment
53 or toll or denial of refund, except as provided in s. 72.011;

54 (f) In actions of ejectment; and

55 (g) In all actions involving the title and boundaries of
56 real property.

57 (3) The circuit court may issue injunctions.

58 (4) The chief judge of a circuit may authorize a county

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20201510c1

59 court judge to order emergency hospitalizations pursuant to part
60 I of chapter 394 in the absence from the county of the circuit
61 judge; and the county court judge shall have the power to issue
62 all temporary orders and temporary injunctions necessary or
63 proper to the complete exercise of such jurisdiction.

64 (5) A circuit court is a trial court.

65 Section 2. Section 34.017, Florida Statutes, is amended to
66 read:

67 34.017 Certification of questions to district court of
68 appeal.—

69 (1) A county court may ~~is permitted to~~ certify a question
70 to the district court of appeal in a final judgment that is
71 appealable to the circuit court if the question may have
72 statewide application, and:

73 (a) Is of great public importance; or

74 (b) Will affect the uniform administration of justice.

75 (2) In the final judgment, the trial court shall:

76 (a) Make findings of fact and conclusions of law; and

77 (b) State concisely the question to be certified.

78 (3) The decision to certify the question to the district
79 court of appeal is within the sole discretion of the county
80 court.

81 (4) The district court of appeal has absolute discretion as
82 to whether to answer a question certified by the county court.

83 (a) If the district court agrees to answer the certified
84 question, it shall decide all appealable issues that have been
85 raised from the final judgment.

86 (b) If the district court declines to answer the certified
87 question, the case shall be transferred to the circuit court

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88 which has appellate jurisdiction.

89 Section 3. Section 35.065, Florida Statutes, is amended to
90 read:

91 35.065 Review of judgment or order certified by county
92 court to be of great public importance.—Pursuant to s. 34.017, a
93 district court of appeal may review any order or judgment of a
94 county court which is certified by the county court to be of
95 great public importance.

96 Section 4. Section 924.08, Florida Statutes, is repealed.

97 Section 5. This act shall take effect January 1, 2021.

CourtSmart Tag Report

Room: LL 37

Case No.:

Type:

Caption: Senate Appropriations Subcommittee on Criminal and Civil Justice

Judge:

Started: 2/13/2020 10:02:27 AM

Ends: 2/13/2020 10:22:22 AM

Length: 00:19:56

10:02:38 AM Sen. Brandes (Chair)
10:03:13 AM S 590
10:03:17 AM Sen. Hooper
10:04:02 AM Am. 870820
10:04:09 AM Am. 727604
10:04:19 AM Sen. Hooper
10:04:55 AM S 590 (cont.)
10:05:02 AM Sen. Harrell
10:05:29 AM Sen. Hooper
10:06:13 AM Jason Welty, Budget and Communications Director, Florida Clerks of Court Operations Corporation (waives in support)
10:06:19 AM Ken Burke, Clerk of the Circuit Court and Comptroller for Pinellas County, Florida Court Clerks and Comptrollers (waives in support)
10:06:26 AM Jason Harrell, Director of Legislative and Public Affairs, Florida Court Clerks and Comptrollers (waives in support)
10:07:19 AM Sen. Bracy (Chair)
10:07:41 AM S 1118
10:07:47 AM Sen. Brandes
10:08:15 AM Am. 622368
10:08:20 AM Sen. Brandes
10:09:07 AM S 1118 (cont.)
10:09:12 AM Jared Torres, Legislative Affairs Director, Florida Department of Corrections (waives in support)
10:10:03 AM S 1144
10:10:08 AM Sen. Brandes
10:10:37 AM Am. 431456
10:10:44 AM Sen. Brandes
10:11:10 AM Sen. Harrell
10:11:15 AM S 1144 (cont.)
10:11:32 AM Sen. Brandes
10:11:47 AM PK Jameson, Staff Director, Appropriations Subcommittee on Criminal and Civil Justice
10:12:03 AM Am. 399954
10:12:09 AM Sen. Bracy
10:12:12 AM S 1144 (cont.)
10:12:20 AM Rachel Moscoso, Legislative Affairs Director, Department of Juvenile Justice (waives in support)
10:13:11 AM S 1116
10:13:20 AM Sen. Brandes
10:13:42 AM Jared Torres, Legislative Affairs Director, Florida Department of Corrections (waives in support)
10:14:23 AM Sen. Brandes (Chair)
10:14:33 AM Recording Paused
10:18:24 AM Recording Resumed
10:18:25 AM Sen. Bracy (chair)
10:18:32 AM S 1392
10:19:35 AM Sen. Simmons
10:19:37 AM Am. 806756
10:19:54 AM Sen. Simmons
10:20:45 AM S 1392 (cont.)
10:20:57 AM Clay Roberts, Judge, District Court of Appeal Budget Commission/State Courts System (waives in support)
10:21:39 AM S 1510
10:21:49 AM Sen. Gainer
10:22:13 AM Sen. Bracy