

STORAGE NAME: h1705.LTC

DATE: April 3, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
Elder Affairs & Long Term Care
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1705

RELATING TO: Access to the Courts for Vulnerable Elders

SPONSOR(S): Representative Peaden

STATUTE(S) AFFECTED:

COMPANION BILL(S): SB 1526

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) Elder Affairs & Long Term Care
- (2) Civil Justice and Claims
- (3)
- (4)
- (5)

I. SUMMARY:

HB 1705 provides Legislative findings regarding the need to provide the state's vulnerable elders with access to the Courts. The Legislature further recommends that the judiciary assume a leadership role in removing barriers and enhancing linkages between elders, the courts, and prospective social and legal services.

The bill defines the term "elder" and requests that the Judicial Management Council (JMC) or other court committee evaluate how the courts handle cases involving an elder. The designated court committee is requested to submit its findings to the Chief Justice of the Supreme Court, the Governor, the President of the Senate, the Speaker of the House, and the Minority Leaders of the Senate and the House of Representatives. The report is due no later than December 1, 1999.

The Office of the State Courts Administrator is to provide staff to the designated court committee. The act shall take effect July 1, 1997. It has a fiscal impact of less than \$50,000 for two years, and the Office reports that they have planned this expenditure into their budget.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The Judicial branch of government has authority and autonomy in how it chooses to organize itself administratively and organizationally. Article V section 7, Florida Constitution, provides that “[a]ll courts except the supreme court may sit in divisions as may be established by general law.” Section 43.30, Florida Statutes, provides that “[a]ll courts except the supreme court may sit in divisions as may be established by local rule approved by the supreme court.”

Currently, no judicial circuit in the state is using a dedicated court and court staff to handle cases in which an elder is involved. Particularly in cases of abuse, neglect, and exploitation, knowledge of the special needs and vulnerabilities of the elderly can assist the court in rendering justice with compassion, elder advocates argue.

Over the past year, staff from the Office of the State Courts Administrator and staff from the Department of Elder Affairs have been exploring the concept of a court dedicated to serving elders, especially in those areas of the state where there is a large concentration of elderly persons. The Office of the State Courts Administrator acknowledges the value of this study.

B. EFFECT OF PROPOSED CHANGES:

The Court, through the Judicial Management Committee or other appropriate committee, will study how cases involving elderly persons are currently handled and consider recommendations about court organization and procedures; court staffing; support services, and other resources; availability of alternative dispute resolution; additional judicial and court personnel training; and public education needs.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A.

(2) what is the cost of such responsibility at the new level/agency?

N/A.

(3) how is the new agency accountable to the people governed?

N/A.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A.

- (2) Who makes the decisions?

N/A.

- (3) Are private alternatives permitted?

N/A.

- (4) Are families required to participate in a program?

No.

(5) Are families penalized for not participating in a program?

No.

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A.

(2) service providers?

(3) government employees/agencies?

N/A.

D. SECTION-BY-SECTION RESEARCH:

This section need be completed only in the discretion of the Committee.

Section 1. Provides Legislative findings that there is continuous and rapid growth of seniors in the state and that there are infirmities of aging which manifest physically, mentally, or emotionally to an extent that the elder person needs assistance to secure his or her own care, protection, rights, or access to the courts.

The bill recognizes several studies and action plans related to the courts and the special needs of elderly persons. The Legislature further finds an acute need to provide vulnerable elders with access to the judicial system. Elder is defined as a person 60 years or older.

The Legislature requests that the Judicial Management Council or other court committee review how the courts handle cases in which an elderly person is involved. The designated committee of the court is requested to submit a report of its findings to the Chief Justice of the Supreme Court, the Governor, and designated Legislative leaders no later than December 1, 1999.

Section 2. Provides an effective date of July 1, 1999.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

	Year 1	Year 2
3 Council meetings per year	\$7,800	\$7,800
10 regional focus groups (10 x \$2,000)	\$20,000	0
Miscellaneous (supplies, printing, consultant's fees)	\$6,000	\$4,200
TOTAL	\$33,800	\$12,000

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

STORAGE NAME: h1705.LTC

DATE: April 3, 1997

PAGE 7

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

STORAGE NAME: h1705.LTC

DATE: April 3, 1997

PAGE 8

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON Elder Affairs & Long Term Care:

Prepared by:

Legislative Research Director:

Melanie Meyer

Tom Batchelor, Ph.D.