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HOUSE OF REPRESENTATIVES
FISCAL RESPONSIBILITY COUNCIL
ANALYSIS

BILL #: HB 1455
RELATING TO: Family Court Reform
SPONSOR(S): Representative Murman
TIED BILL(S): none

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

- (1) JUDICIAL OVERSIGHT YEAS 8 NAYS 0
 - (2) FISCAL RESPONSIBILITY COUNCIL
 - (3) COUNCIL FOR SMARTER GOVERNMENT
 - (4)
 - (5)
-

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

This bill provides legislative intent to continue support for family court reform and provides for Statutory Revision to reorganize specified chapters of the Florida Statutes to create a "Family Code". The bill contains a number of provisions related to family courts that would allow the courts to collect certain information on individuals and clarify precedence of orders relating to child custody and visitation and domestic violence injunctions. The bill also repeals the provisions of the Uniform Child Custody Jurisdiction Act and provides for the replacement of that act with the Uniform Child Custody Jurisdiction and Enforcement Act. The bill encourages the State Technology Office to assist the courts and clerks of courts in establishing a workgroup to assess information technology needs for family courts.

On February 21, 2002, the Committee on Judicial Oversight adopted a strike everything amendment which made several significant additions to the bill.

Specifically, the amendment imposes a fee of \$65 on all orders for modification of a final judgment of dissolution. The resulting revenue would be used by the Supreme Court to establish presuit mediation pilot programs. It provides for the development of a certification and monitoring program for supervised visitation facilities. It provides an unspecified appropriation from the General Revenue fund to allow the Office of State Courts Administrator to do studies to allow the state to earn Federal Title IV-D funds for mediation services. It requests each chief circuit judge to establish a collaboration initiative between the circuit court and social service agencies in the community. It creates a workgroup to examine issues related to children involved with both dependency and delinquency programs. Please see section VI of this analysis for further details.

The bill will have an indeterminate fiscal impact on state government and no fiscal impact on local governments. The strike everything amendment provides for an unspecified appropriation and will also generate new revenue at both the state and local levels of government due to the imposition of the \$65 fee. According to the Office of State Courts Administrator, the studies required by the strike-everything amendment will require \$200,000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

While the original bill does not appear to directly affect the principles enumerated above, the strike-everything amendment adopted by the Committee on Judicial Oversight mandates a fee that is now a local option and increases the amount of the fee by \$20. The fee would be used to establish pre-suit mediation pilot programs under the direction of the Supreme Court. In addition, the amendment provides for a new certification and monitoring program for supervised visitation facilities. Please see section VI for a more detailed explanation of the strike-everything amendment.

B. PRESENT SITUATION:

Unified Family Court Model

Florida's initiative for family court reform began as a result of the increasing demands being placed on the judicial system by the large volume of cases involving children and families. Florida initiated its own family court reform over 10 years ago. In 1990, the Legislature established and directed the Commission on Family Courts to make recommendations for the implementation of a family division in each court. The focus of the Commission's recommendations was to develop a judicial process that coordinated the court's consideration of all matters affecting a child and family, regardless of which legal matter had initiated court involvement or intervention.

Since that time, the volume of family law cases has continued to rise. Domestic relations court filings increased by almost 70% from 1986 to 2000, while juvenile delinquency and dependency court filings increased by almost 60% during the same time period. In 2000, these cases accounted for 44.4% of all cases heard in circuit courts. In addition, the cases have become much more complex, with many involving children or families with previous, concurrent or subsequent involvement in other related family law cases including delinquency and dependency. The cases are often complicated by underlying non-legal issues that create or exacerbate the child's or family's legal problems, which if detected or addressed earlier, might have facilitated resolution of the legal matters or eliminated the need for judicial intervention or involvement altogether. Because of a lack of such early intervention, many children and families repeatedly and unnecessarily appear before the court trying to resolve the same or more serious civil, if not criminal, issues. Finally, an increasing number of litigants in family court cases are foregoing legal counsel. Many of these pro-se litigants are minimally or totally unfamiliar with the judicial process and their cases traditionally create greater demands for time and assistance on the judicial system.

Considering all of these factors over the last 10 years, the Florida Supreme Court, through the efforts of the Family Court Steering Committee which succeeded the Commission, continued to

work on and refine the Commission's recommendations. The Court formulated specific family division measures that focus on the needs of children involved in litigation, that refer families to needed court-based and community services, that coordinate cases to provide consistent results, and that strive to leave families in better condition than when they entered the judicial system. The prevailing court model offered for advancing this conceptual approach is the unified family court model whose underlying principles and concept the Florida Supreme Court recently endorsed. See *In Re: Report of the Family Court Steering Committee*, 794 So.2d 518, (Fla. 2001).

To further the court's efforts to fulfill the legislative initiative on family court reform, the Legislature appropriated funds for three unified family court model pilot programs to begin July 2001. A joint interim project conducted by the Senate Committee on Children and Families and the Senate Committee on Judiciary also conducted a review of the family court divisions and the unified family court model. Through questionnaires, workshop discussions and other forms of input from key stakeholders, major legislatively-based issues and proposed actions were identified. For purposes of dedicating appropriate attention to specific issues in the development of legislation, the Committee on Judiciary took primary oversight in matters relating to the court system and related services. (See Senate Interim Project Report 2002-141, *Review of Family Courts Division and the Model Family Court: Court Services and System*). The Committee on Children and Families took primary oversight in matters relating to other services and systems for children and families. (See Senate Interim Project Report 2002-121, *Review of Family Courts Division and the Model Family Court: Other Services and Systems for Children and Families*).

The Senate reports that the initial focus of the interim project was on legislative action that would be necessary to facilitate the future implementation of both the concept and structural framework for a unified family court model in Florida. However, during the course of the interim project, it became clear that specific statutory changes also could substantially improve the ability of the court to tailor a comprehensive resolution to a child or family's legal matters in current and other pending related matters within the existing structure of the family, delinquency and dependency court divisions.

Under current law, legal issues involving children and families are frequently addressed piecemeal by different divisions of the court, particularly in larger judicial circuits. In many cases, the parties are appearing before a different judge in each proceeding. Frequently, due to lack of information sharing, coordination or case management, the judge is completely unaware of previous or pending related legal matters involving the same children or family before the court. Moreover, the child or family's underlying non-legal issues may go undetected or unaddressed. Consequently, these non-legal matters may have caused or served to exacerbate a child's and family's legal problems, necessitating further judicial intervention or court appearances.

Judicial Case Coordination and Information Sharing

Currently, there is no single or uniform system of judicial case coordination in the state. Initial anecdotal evidence from the unified family court model pilot programs indicate that the components of a judicial case management system will necessarily vary between counties based on the demographics, resources available, and the nature of cases.

It has also been generally acknowledged that enhanced technology is the key to implementing effective judicial case management and resolution of matters impacting a child and family. Although a number of existing information systems exist throughout the state, many of them are not coordinated or integrated to facilitate information sharing either within or outside the court system. In addition, the courts' current ability to track and coordinate related cases is complicated by the increased mobility of family households between circuits and the divergent and evolving nature of family household dynamics. Therefore, a number of stakeholders in the family court arena,

including the courts, have begun to conduct assessments of existing technology within each of their areas.

Like many entities, some courts and clerks of court have come to rely on the social security number, either in its entirety or in part, as they move to develop unique identifier systems to link, coordinate and manage cases. It is not clear, however, that statutory authority currently exists for the collection and use for this purpose.

Jurisdictional Conflicts/Precedence of Orders

As the court system moves to implement measures to coordinate all related cases involving a single child or family, there is the need to clarify the precedence of specified orders in subsequent legal proceedings. Since relief for matters such as custody, visitation and support may arise through a number of different proceedings such as a dependency action, a dissolution of marriage action and a paternity action, it is not uncommon for each court with respective jurisdiction of the proceedings to enter, without knowledge of the pending actions, an order ruling on the same matter. The issue arises as to which order should take precedence and under what circumstances.

Currently, Florida law does recognize that dependency orders, or orders issued by the court with jurisdiction over dependency matters, should take precedence over other orders that may overlap or conflict in pending or subsequent civil matters (See s. 39.013 and 39.521, Florida Statutes). The rationale for this is that the state has had to intervene to protect a child from potential abuse or neglect, thereby in effect, overriding a parent's constitutionally implied right to raise or otherwise determine matters relating to their child until the court determines otherwise what is in the child's best interest. Therefore, if a court hearing a dissolution of marriage enters, without knowledge of a pending dependency matter, an order affecting custody which is in direct conflict with an existing order affecting custody in a dependency order, the dependency order should take precedence. However, the law is unclear about the continuing precedence of that order if the dependency court has terminated jurisdiction.

Another area of confusion and conflict is the continuing precedence of temporary orders on custody and visitation entered in domestic violence proceedings over other such orders in other civil proceedings. Current law permits a court hearing a domestic violence injunction to include a determination on issues of custody, visitation or support at the ex parte hearing and the final hearing, but that determination is entered only as a temporary order which suggests that if there is a pending action or if there is none, that a subsequent separate proceeding potentially under chapter 61 must be filed in order to secure a ruling on permanent custody, visitation or support (See s. 741.30, Florida Statutes). Additionally, it has been anecdotally suggested that this process is sometimes manipulated to allow one person to secure a determination on temporary custody and support at the ex parte hearing before the court with the pending dissolution proceeding has had an opportunity to address custody and support issues. Alternatively, that temporary order on custody and support in the injunction may then be inappropriately relied upon as permanent determinations of custody and support without satisfying the full evidentiary burden required under a dissolution of marriage or paternity proceeding.

Alternatives to Litigation

With the increasing volume of family law cases and of unrepresented litigants, more attention is being focused on the creation and implementation of alternative dispute resolution options that are less adversarial than the court process. These options are potentially more effective in diffusing the highly charged emotions and better at addressing complex family problems underlying these cases. As a result, unified court efforts in other states have examined and begun integrating opportunities for alternative dispute resolution.

Chapter 44, Florida Statutes, sets forth the statutory framework for mediation alternatives to judicial action. Its primary focus is on court-ordered mediation and arbitration, which occur after litigation has already begun. The Supreme Court currently establishes standards and maintains a certification process for mediators and arbitrators. Court-ordered mediation is the alternative most frequently applied in family law cases. Statutory confidentiality provisions encourage the flow of information and disclosure by parties in mediation proceedings and limit their use in subsequent legal proceedings (See s. 44.102, Florida Statutes). Additionally, there is a provision providing for the court referral to mediation of certain contested family law issues in chapter 61, Florida Statutes (See s. 61.183, Florida Statutes). This section also provides for the confidentiality of communications made during the mediation. Concern was raised regarding conflict between mediation provisions in chapters 44 and 61, Florida Statutes, in that the same confidentiality provisions and other rules governing mediation were not, but should be, applicable to all specified matters relating to family law. It was also recommended that in order to encourage resolution of matters without resorting to the adversarial process, these provisions should also be available to pre-suit and voluntary mediations. Although presuit and voluntary mediation relating to family law matters do occur formally and informally, there are no express statutory provisions providing for the confidentiality of communications made in these types of mediation.

Other General Provisions

The conceptual approach of a family law division with comprehensive jurisdiction over all cases involving children and relating to the family, necessarily touches provisions under numerous chapters of Florida law, including but not limited to, chapters 39, 61, 63, 88, 741, 742, 743, 751, 752, 753, 984, and 985, Florida Statutes. Even without the formal implementation of a unified family court model program in each of the circuits, specific changes were identified in existing provisions that are needed to facilitate the court's coordination and resolution of related cases under the existing family law, dependency and delinquency court divisions. It has been noted that many provisions in these chapters have neither kept pace with nor reflect the complexity of the evolving and divergent dynamics of familial relationships in household units, particularly for parents who may never have been married to each other or lived together. Chapter 61, Florida Statutes, is heavily weighted on the presumption that the parent petitioning for child support, custody or visitation is or was a spouse. However, in many cases this may not be true.

Nonetheless, Chapter 742, Florida Statutes, relating to determination of parentage, does cross reference the provisions of chapter 61, Florida Statutes. Section 742.031(1), Florida Statutes, provides:

... The court shall determine the issues of paternity of the child and the ability of the parents to support the child ... The court shall order either or both parents owing a duty of support to the child to pay support pursuant to s. 61.30. The court shall issue, upon motion by a party, a temporary order requiring the provision of child support pursuant to s. 61.30 pending an administrative or judicial determination of parentage, if there is clear and convincing evidence of paternity on the basis of genetic tests or other evidence. The court may also make a determination as to the parental responsibility and residential care and custody of the minor children in accordance with chapter 61.

Another area in need of an update is the Uniform Child Custody Jurisdiction Act (UCCJA)(See s. 61.1302-.1348, Florida Statutes). Florida adopted the UCCJA in 1977, which is based on a 1968 draft of an uniform act by the National Conference of Commissioners on Uniform State Laws (NCCUSL). By 1981, all 50 states had adopted the uniform act which was intended to avoid jurisdictional competition and conflict among state courts in interstate child custody matters, to

discourage forum shopping, and to deter interstate kidnapping of children by their non-custodial parents. Over the last 25 years, specific problems have developed with the uniform act and major areas of concern have been identified as follows:

- Confusion over proceedings subject to the application of the Act;
- Conflicts over the establishment and relinquishment of primary jurisdiction;
- Ambiguity and inconsistency with applications and interpretations of subsequently adopted federal and international law;
- Lack of effective enforcement procedures; and
- Lack of uniformity due to state variations of the UCCJA. To date, over 27 states have enacted the new UCCJEA.

C. EFFECT OF PROPOSED CHANGES:

Unified Family Court Model

This bill provides legislative intent as to the Legislature's continued initiative to reform the family courts through the development of an integrated and comprehensive approach to handling cases involving children and families. The bill also sets forth the conceptual framework for the unified family court model which encompasses not only judicial resolution of legal matters, but also collaboration between the courts and social service providers to identify, refer and link a child and family to services addressing their non-legal needs outside the judicial system. It also acknowledges the value of information sharing and enhanced technology for case processing, management and resolution and provides recognition for the need to protect the rights, privileges and safety of the children and families who come before the court.

The bill also directs the Division of Statutory Revision to create a Family Code by reorganizing chapters of the Florida Statutes into a new Title XLVIII, Florida Statutes. The Family Code shall link by reference chapters 39 (dependency and termination of parental rights), 61 (dissolution of marriage, support and custody), 63 (adoption), 88 (uniform interstate support act), 741 (husband and wife), 742 (paternity), 743 (disability of minors), 751 (temporary custody by extended family), 752 (grandparent visitation), 753 (supervised visitation), 984 (CINS/FINS) and 985 (delinquency), Florida Statutes. It also directs the Division to reorganize in the next statutory edition, chapter 61, Florida Statutes, into major parts relating to dissolution of marriage, support and custody, guardian ad litem, and interstate custody. It also directs that chapter 741, Florida Statutes, relating to Husband and Wife be retitled as "Marriage; Domestic Violence" and divided into specified parts.

Judicial Case Coordination and Information Sharing

This bill creates s. 25.375, Florida Statutes, to provide statutory authorization for the courts and the clerks of court's to collect and use personal identifying information such as social security numbers for the sole purpose of developing a system for case management and tracking.

The bill also creates a workgroup to address the development of a technology network, to identify support issues and to facilitate the flow and integrity of needed information to, within and from the court through a coordinated and integrated database system. Focus will be directed on technological needs assessment by each entity, data collection and maintenance, statewide technological structure, integration of systems, coordination, and development of uniform standards. The Statewide Technology Office is encouraged to assist with the establishment of the workgroup. The workgroup must submit a final report by February 1, 2003, to include at a minimum, identification of information needs of the court, clerks of court, agencies and other stakeholders functioning under a unified family court model program, of information technology needs to facilitate

information sharing and flow, of funding needs and sources to meet those needs, and other recommendations.

Jurisdictional Conflicts/Precedence of Orders

The bill amends s. 39.013 and 39.521, Florida Statutes, respectively, to clarify that orders entered under chapter 39, Florida Statutes, shall take precedence over other prior, concurrent or subsequent orders relating to child custody or visitation in civil proceedings. However, if the court terminates jurisdiction, then an order entered under chapter 39, Florida Statutes, relating to the child, continues to take precedence until subsequently modified in other civil proceedings, provided notice is given to the Department of Children and Family Services.

The bill also amends s. 741.30, Florida Statutes, to clarify the continuing precedence of temporary orders relating to custody and visitation in domestic violence injunction proceedings. Such temporary orders shall remain effective until a determination of permanent custody is entered by a court of competent jurisdiction in a pending or subsequent civil proceeding affecting the placement of, access to, parental time with, or parental responsibility for the minor child.

Alternatives to Litigation

This bill creates definitions for voluntary and presuit mediation to apply solely to mediation of family matters including dependency. The bill also excludes from the privilege of confidentiality communications regarding issues that may be the subject of mandatory reporting requirements on abuse, acts or threats of violence, mediation contract disputes, and professional misconduct.

Other General Provisions

The bill repeals the current Uniform Child Custody Jurisdiction Act (UCCJA) and replaces the Act with the revised Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). The new Act remedies many years of inconsistent interpretations of the interstate custody act and discrepancies with other state and federal enactments affecting interstate custody jurisdiction and enforcement. The major provisions of this Act apply to the modification and enforcement of child custody determinations. It provides for the establishment of priority court jurisdiction based on the child's home state, mechanisms for granting temporary emergency jurisdiction, and procedures for the enforcement of out-of-state custody orders, including assistance from state attorneys and law enforcement in locating a child and enforcing an out-of-state decree. It facilitates resolution of interstate custody matters as may arise in a unified family court model program or other civil proceeding impacting custody, residence, visitation or responsibility of a child. In addition, the bill conforms statutory cross-references to the Uniform Child Custody Jurisdiction and Enforcement Act.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Provides for legislative intent, relating to the continuation of a legislative initiative to reform the family courts.

Section 2. Provides for the creation of a "Family Code", by authorizing the Division of Statutory Revision to reorganize the language in chapters 39, 61, 63, 88, 741, 742, 743, 751, 752, 753, 984, and 985, Florida Statutes, into a new Title XLVIII, Florida Statutes, to consist of chapters 986-998, Florida Statutes.

Section 3. Creates s. 25.375, Florida Statutes, relating to the identification of related cases, which provides the Supreme Court with the authority to create a unique identifier for each individual in order to identify all court cases related to that individual.

Section 4. Amends s. 39.013, Florida Statutes, relating to procedures, jurisdiction, and right to counsel, to clarify that orders entered under chapter 39, Florida Statutes, shall take precedence over other prior, concurrent or subsequent orders relating to child custody or visitation in civil proceedings. However, if the court terminates jurisdiction, then an order entered under chapter 39, Florida Statutes, relating to the child, continues to take precedence until subsequently modified in other civil proceedings, provided notice is given to the Department of Children and Families.

Section 5. Amends s. 39.502, Florida Statutes, relating to notice, process, and service, to conform a cross reference.

Section 6. Amends s. 39.521, Florida Statutes, relating to disposition hearings, to clarify that orders entered under chapter 39, Florida Statutes, shall take precedence over other prior, concurrent or subsequent orders relating to child custody or visitation in civil proceedings. However, if the court terminates jurisdiction, then an order entered under chapter 39, Florida Statutes, relating to the child, continues to take precedence until subsequently modified in other civil proceedings, provided notice is given to the Department of Children and Families.

Section 7. Amends s. 44.1011, Florida Statutes, relating to definitions, to create definitions for "presuit mediation" and "voluntary mediation".

Section 8. Amends s. 44.102, Florida Statutes, relating to mediation, to provide for the express confidentiality of communications disclosed in presuit and voluntary mediation as defined, with exceptions. Similar to the existing confidentiality provisions for court-ordered mediation and specified family law mediation in s. 61.183, F.S., it also excludes from the privilege of confidentiality communications regarding matters that may be the subject of mandatory reporting requirements on abuse, acts or threats of violence, mediation contract disputes, and professional misconduct.

Section 9. Amends s. 61.09, Florida Statutes, relating to alimony and child support unconnected with dissolution of marriage, to clarify that a parent need not be a current or former spouse in order to avail themselves of these statutory provisions.

Section 10. Amends s. 61.10, Florida Statutes, relating to the determination of support obligations, custody, and visitation unconnected with a dissolution, to clarify that a parent need not be a current or former spouse in order to avail themselves of these statutory provisions.

Section 11. Amends s. 61.13, Florida Statutes, relating to custody and support of children, to conform cross-references to the Uniform Child Custody Jurisdiction and Enforcement Act, to remove language related to grandparent visitation rights, and to clarify that the court has the authority to determine all matters related to child support in any proceeding under chapter 61, Florida Statutes.

Section 12. Repeals s. 61.1302-61.1348, Florida Statutes, which constitute the Uniform Child Custody Jurisdiction Act (UCCJA).

Section 13. Repeals s. 61.183, Florida Statutes, relating to mediation of certain contested issues.

Section 14. Transfers and renumbers s. 61.19 and 61.191, Florida Statutes, as s. 61.053 and 61.054, respectively. Section 61.19, Florida Statutes, provides for a 20 day delay period from the time

a petition for dissolution of marriage is filed until a final judgment is entered. Section 61.191, Florida Statutes, provides for application of the act.

Section 15. Creates Part IV of chapter 61, Florida Statutes, consisting of sections 61.501-61.542, Florida Statutes, which provides for the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). This Act replaces the UCCJA repealed in section 12 of the bill. The UCCJEA :

- Gives prioritization to the home state as a ground for taking jurisdiction.
- Provides that a state which makes the initial custody determination has continuing exclusive jurisdiction so long as a party to the original custody determination remains in that state.
- Provides that a state with continuing exclusive jurisdiction is the only state that can modify a custody order. If it determines that another state has a more significant connection to the child, it may relinquish its authority.
- Clarifies the provisions regarding emergency jurisdiction, allowing a court to take jurisdiction even though it is not the home state, if the child is present in the state and has been abandoned, or is subjected to or threatened with mistreatment or abuse. An order issued by a court with emergency jurisdiction is temporary.
- Provides procedures for expedited enforcement hearings.
- Provides for the ability to issue warrants to take physical possession of the child.
- Provides a duty to enforce a custody determination of another state.
- Provides for civil enforcement of custody orders. Under the UCCJEA, the state attorney is authorized to locate a child and utilize any civil proceeding to secure the enforcement of the custody determination. Law enforcement officials may assist in locating a child and enforcing the custody determination.

Section 16. Transfers and renumbers s. 741.24, Florida Statutes, as s. 772.115, Florida Statutes. Section 741.24, Florida Statutes, provides for civil action against parents relating to willful destruction or theft of property by a minor dependent.

Section 17. Amends s. 741.30, Florida Statutes, relating to the domestic violence injunction process, to clarify the continuing precedence of temporary orders relating to custody and visitation in domestic violence injunction proceedings until such other relief is afforded by some other pending civil action or proceeding. Otherwise such temporary orders shall remain effective until a determination of permanent custody is entered by a court of competent jurisdiction in a pending or subsequent civil proceeding affecting the placement of, access to, parental time with, or parental responsibility for the minor child.

Section 18. Amends s. 787.03, Florida Statutes, relating to interference with custody, to conform references to the proposed Uniform Child Custody Jurisdiction and Enforcement Act.

Section 19. Encourages the State Technology Office to assist the courts and clerks of courts in establishing a workgroup to assess information needs and to assess the technology support and resources for meeting those needs, related to the unified family court model.

Section 20. Provides a severability clause that provides for the continued effect of other provisions of this act in the event a provision is declared unconstitutional.

Section 21. Provides for an effective date of upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

Please see fiscal comments for notes on the strike-all amendment traveling with the bill.

2. Expenditures:

Indeterminate.

Please see fiscal comments for notes on the strike-all amendment traveling with the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

Please see fiscal comments for notes on the strike-all amendment traveling with the bill.

2. Expenditures:

None.

Please see fiscal comments for notes on the strike all amendment traveling with the bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Please see fiscal comments for notes on the strike-all amendment traveling with the bill.

D. FISCAL COMMENTS:

According to the fiscal note submitted by the Office of State Courts Administrator, the implementation of technology required to implement family courts will involve "some fiscal impact." The analysis further states that implementation will be over a five year period which coincides "with the standard upgrade cycle of automated systems and will be accomplished as part of the technology needs of the entire state court system."

The following comments relate to provisions in the strike everything amendment that is traveling with the bill:

The amendment would impose a \$65 fee statewide for individuals seeking a modification of an order of dissolution. The state Mediation and Arbitration Trust Fund would receive \$21 of this fee. Currently this fee is set at \$45 with \$1 going to the state and is optional in each county. This \$20 portion of the fee that would go to the state is expected to generate approximately \$251,000 in revenue for the state. Counties that do not currently impose the fee would receive additional revenue.

The state funds generated by this fee would be earmarked for use by the Supreme Court to implement a statewide, pre-suit mediation pilot program. In counties that currently do not impose the fee, new family mediation programs may be established since these services would represent the only permissible use of the new revenue.

Individuals in counties that currently impose the fee would experience a \$20 increase in the fee. Individuals in counties that do not impose the fee would experience a \$65 increase in the cost of filing for a modification of dissolution.

The costs of developing standards for certification and monitoring of supervised visitation programs is unknown. The ongoing costs of regulation of these programs once standards are established is also unknown.

The Office of State Courts Administrator notes that the trial courts may ultimately rely to some extent on county resources for implementation of the collaborative initiatives that chief judges would be asked to establish. These costs could eventually be shifted to the state after the transition of funding requirements mandated by Revision 7 to Article V of the State Constitution. The Office of State Courts Administrator indicates that it will need 1 FTE and \$65,668 from General Revenue for the collaboration initiative.

The amendment contains an appropriation from the General Revenue fund of an unspecified amount for the study required to enable the state to earn Federal Title IV-D funds for mediation in child support cases. Any Title IV-D funds that may be earned would have to be matched at 33%.

If the mediation pilot programs established by the amendment are successful, the Office of State Courts Administrator expects that this would lessen judicial workload. This may allow the state at some point in the future to reduce the number of judges in the system without an adverse impact.

The costs of participation on the various workgroups established by the amendment is indeterminate.

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 expenditures of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities 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:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 21, 2002, the Committee on Judicial Oversight adopted a strike everything amendment which did the following:

- Provides legislative intent and findings regarding the continuance of the legislative initiative for family court reform, the conceptual framework for the unified family court model, and the collaboration and coordination between the courts and other entities in the provision of delivery of services outside the judicial system;
- Authorizes the courts to create a unique identifier for each individual in order to identify all court cases related to that individual or his or her family. Until October 2, 2007, the courts and the clerks of court are authorized to collect and use social security numbers for purposes of case management and identification of related cases;
- Clarifies provisions regarding the continuing precedence of orders in chapter 39, F.S., over similar prior, concurrent or subsequent orders entered in civil proceedings;
- Provides for the limited admissibility of orders and evidentiary matters in subsequent civil proceedings affecting the placement of, access to, parental time with or parental responsibility for a child;
- Clarifies provisions regarding the continuing precedence of temporary orders governing custody and visitation entered in domestic violence injunction proceedings over other similar orders or proceedings affecting the placement of, access to, parental time with, or parental responsibility for a child;
- Creates the Uniform Child Custody Jurisdiction and Enforcement Act to replace the outdated Uniform Child Custody Jurisdiction Act in chapter 61, F.S.;
- Promotes participation in presuit and voluntary mediation by requesting the establishment of a formal court process to file and obtain approval of stipulated agreements without the necessity of court appearances, by providing confidentiality provisions in presuit and voluntary mediations, by authorizing the establishment of presuit mediation pilot programs for the modification or enforcement of judgments relating to family matters; converting the \$45 locally-imposed service charge into a \$65 mandated statewide service charge on modification of dissolutions of marriages to fund specified mediation services; authorizing the Department of Revenue and Office of State Courts Administrator to pursue federal Title IV-D funds for mediation services; and appropriating for a study thereof;
- Imposes an earlier deadline for parents to complete parent education courses in dissolution of marriage proceedings in order to maximize the benefits of the course;
- Clarifies the mandatory co-residency requirement in the definitions of "domestic violence" and "family or household member" except under specified circumstances, and expands the

definitions to include individuals who have or have had a “dating relationship” as specifically defined;

- Sets forth a statutory framework to begin the establishment of a statewide certification and monitoring system to improve the quality and safety of supervised visitation and exchange programs and provides incentives for law enforcement officers to secure educational credits and to volunteer for their participation in these types of programs.
- Promotes systems of coordination between the court and social service agencies by providing a framework for them to collaborate in the development of a system that ensures access to services for children and families in the court system
- Promotes systems of coordination between the Department of Juvenile Justice, the Department of Children and Families, and the Department of Education, by requiring them to organize interagency workgroups, to enter into interagency agreements for handling issues relating to services for children who cross agency jurisdictional lines, and to report on the workgroup efforts;
- Creates a legislative technology workgroup of major stakeholders to address how and when to initiate legislative action regarding the direction and coordination of efforts of various entities for the development of a technology network, to identify support issues, and to facilitate the flow and integrity of needed information to, within, and from the court through a coordinated and integrated database system; and
- Includes a severability clause.

The bill was then reported favorably, as amended.

VII. SIGNATURES:

COMMITTEE ON JUDICIAL OVERSIGHT:

Prepared by:

Carol Preston

Staff Director:

Nathan L. Bond, J.D.

AS REVISED BY THE FISCAL RESPONSIBILITY COUNCIL:

Prepared by:

James P. DeBeaugrine

Staff Director:

David Coburn