

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 Judiciary Committee

BILL: CS/CS/SB 878

INTRODUCER: Judiciary Committee, Children, Families, and Elder Affairs Committee, Senator Rich, and others

SUBJECT: Court Actions Involving Families

DATE: March 5, 2009

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Walsh	CF	Fav/CS
2.	Daniell	Maclure	JU	Fav/CS
3.			JA	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- A. COMMITTEE SUBSTITUTE..... ☒ Statement of Substantial Changes
B. AMENDMENTS..... ☐ Technical amendments were recommended
☐ Amendments were recommended
☐ Significant amendments were recommended

I. Summary:

This bill amends and creates several sections of law to reflect legislative intent regarding the goal of implementing unified family court programs in the circuit courts. These additional provisions of legislative intent are added to statutory sections involving children and families.

This bill substantially amends the following sections of the Florida Statutes: 39.001, 61.001, 63.022, 68.07, 984.01, and 985.01. This bill creates the following sections of the Florida Statutes: 88.1041, 742.016, 743.001, and 1003.201.

II. Present Situation:

Unified Family Court

Families come before the courts in a variety of ways: through divorce, domestic violence, substance abuse, abandonment or abuse of children, or delinquency of children.¹ These families

¹ Claudia Wright, *Representation of Children in a Unified Family Court System in Florida*, 14 U. FLA. J.L. & PUB. POL'Y 179, 180 (2003).

often move from courtroom to courtroom, where substantial expenditures in time and money are made, although core problems are not necessarily addressed.² In many cases, the parties are appearing before a different judge in each proceeding, making it possible for a judge to be unaware of previous or pending related legal matters involving the same children or family. The purpose of the unified family court is to bring the child and his or her family before one specialized court to solve problems.³ Judges who have implemented a unified family court see “tremendous advantages, particularly in family matters, to have a judge who is familiar with the family.”⁴

Family court in Florida includes domestic relations (ch. 61, F.S.), juvenile delinquency (ch. 985, F.S.), and juvenile dependency (ch. 39, F.S.) cases.⁵ In FY 2007-08, there were 346,910 circuit family court case filings.⁶ These cases constituted almost 32 percent of all circuit court filings in Florida.⁷

In 1994, the Florida Supreme Court created the Family Court Steering Committee to, among other things, advise the Court about the circuit courts’ responses to families in litigation and to make recommendations on the characteristics of a model family court.⁸ In its May 3, 2001, order adopting the findings and recommendations of the Report of the Family Court Steering Committee, the Florida Supreme Court declared:

If the judicial system encourages alternatives to the adversarial process, empowers litigants to reach their own solutions, and assists in crafting solutions that promote long-term stability in matters involving children and families, the likelihood of future court intervention in the family should be decreased - whether this be through minimizing post-judgment litigation or preventing the dependent child of today from becoming the delinquent child of tomorrow. Our ultimate goal remains to facilitate the resolution of disputes involving children and families in a fair, timely, effective, and cost-efficient manner. . . . We therefore reaffirm our continued commitment to the broad principles espoused for a model family court in Florida⁹

In 2005, the Legislature supported the Supreme Court’s recommendations by:

- Authorizing the Court to create a unique identifier for each person by which to identify all court cases related to that person or his or her family;

² *Id.*

³ *Id.*

⁴ Georgene Kaleina, *Judicial Objectivity Crucial in All Courts*, Unified Family Court Connection, 4 (2008) (quoting Judge Audrey J.S. Carrion, Baltimore City Circuit Court Family Division), available at http://law.ubalt.edu/downloads/law_downloads/UFC_Win_2008.pdf (last visited Feb. 23, 2009).

⁵ Florida Office of the State Courts Administrator, *Florida’s Trial Court, Statistical Reference Guide*, 6-1 (Jan. 2009), available at http://www.flcourts.org/gen_public/stats/reference_guide07_08.shtml (follow “Circuit Family Court Statistics” hyperlink) (last visited Feb. 23, 2009).

⁶ *Id.*

⁷ *Id.* at 3-5 (follow “Overall Statistics” hyperlink).

⁸ *In re Report of the Comm’n on Family Courts*, 633 So. 2d 14, 18-19 (Fla. 1994).

⁹ *In re Report of the Family Court Steering Comm.*, 794 So. 2d 518, 535-36 (Fla. 2001).

- Providing that specified orders entered pursuant to ch. 39, F.S., take precedence over court orders entered in other civil proceedings; and
- Providing that final orders and evidence admitted in proceedings under ch. 39, F.S., are admissible as evidence in subsequent civil proceedings under certain circumstances.¹⁰

According to the Office of the State Courts Administrator (OSCA), the following are necessary to implement unified family courts:

- Access to court and social services;
- Case management;
- Family Law Advisory Group;
- Alternative dispute resolution;
- Adequate security;
- Continuing education for judges and court staff; and
- Increased technology.¹¹

In November 2006, the Committee on Judiciary released an interim project report titled “Implementation of the Unified Family Court Model,” indicating that all 20 judicial circuits have implemented some form of a unified family court. According to the report, each circuit’s unified family court is unique, but all circuits have implemented some of the best practices endorsed by the Supreme Court, such as case management/coordination, increased use of alternative dispute resolution, and use of magistrates and hearing officers. Factors influencing which elements of a unified family court that circuits have implemented include the size of the circuit, technology available to the courts in the circuit, and the availability of related services in the circuit. The reasons most frequently cited by circuits for limited implementation of a unified family court included lack of technology and funding.¹²

More recently, budget cuts have significantly curtailed local efforts to implement unified family courts. According to OSCA, it appears that some of the most critical resources needed for implementation (e.g., improved technology, case management, and community resources) have also been the most vulnerable to cuts.¹³

III. Effect of Proposed Changes:

This bill amends several sections of current law, as well as creates new law, to reflect the Legislature’s goal of moving toward a unified family court system. The bill adds the following legislative intent or purpose to specified sections of Florida Statutes:

- All children and families should be provided with a fully integrated, comprehensive approach to handling all cases that involve children and families, and family disputes should be resolved in a fair, timely, efficient, and cost-effective manner.

¹⁰ Chapter 2005-239, ss. 1, 3-4, Laws of Fla.

¹¹ Office of the State Courts Administrator, *Judicial Impact Statement SB 878*, 3-4 (Feb. 13, 2009) (on file with the Senate Committee on Judiciary).

¹² See Comm. on Judiciary, Fla. Senate, *Implementation of the Unified Family Court Model* (Interim Project Report 2007-133) (Nov. 2006).

¹³ Office of the State Courts Administrator, *supra* note 11, at 5.

- The courts should embrace methods of resolving disputes which do not cause additional emotional harm to the children and families who are required to interact with the judicial system.
- The development of a unified family court should be supported, as should the state court system's efforts to improve the resolution of disputes involving children and families through a fully integrated, comprehensive approach that includes coordinated case management, the concept of "one family, one judge," community collaboration, and alternative dispute resolution. The bill does not specify what the term "support" means as it relates to the Legislature.
- The legal system should focus on the needs of children who are involved in litigation, refer families to resources that will make their relationships stronger, coordinate families' cases to provide consistent results, and strive to leave families in better condition than when they entered the system.

This language is added to, or created in, the following places in Florida Statutes:

- Chapter 39 (proceedings relating to children);
- Chapter 61 (dissolution of marriage);
- Chapter 63 (adoption);
- Section 68.07 (name change);
- Chapter 88 (interstate family support act);
- Chapter 742 (parentage);
- Chapter 743 (removal of disability of nonage of minors);
- Chapter 984 (children and families in need of services);
- Chapter 985 (juvenile justice); and
- Chapter 1003 (public K-12 education).

This bill provides that the act will take effect upon becoming a law. Since the implementation of unified family court practices, the Florida Supreme Court has monitored the impact of these practices on court rules. According to the Office of the State Court Administrator (OSCA), further implementation of unified family court practices, as intended by this bill, will require changes in the juvenile and family law rules of procedure to amend conflicting rules and create new rules.¹⁴ At the direction of the Florida Supreme Court, the 2006-2008 Steering Committee on Families and Children in the Court (FCC) reviewed existing rules and statutes to identify problem areas, and at the conclusion of the 2006-2008 term, the FCC recommended the creation of one complete set of Family Court Rules. Because creation of a complete set of rules will take some time, the FCC identified nine areas where work was needed immediately. The Court then charged the 2008-2010 FCC with recommending resolutions to the nine impediments identified. The current FCC will submit its final report to the Chief Justice of the Florida Supreme Court by June 30, 2010, at which time the Court will determine the best course of action. According to OSCA, the bill's current effective date does not provide the Court with enough time to adopt new or amended rules before the new law would take effect.¹⁵

¹⁴ *Id.* at 2.

¹⁵ *Id.*

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article V, section 2(a) of the Florida Constitution vests the Florida Supreme Court with the responsibility of, *inter alia*, adopting rules for practice and procedure in Florida's courts and supervising the administration of the courts. To the extent this bill may be construed as a legislative attempt to accomplish those tasks, it may be subject to challenge under the doctrine of separation of powers. However, the bill provides primarily legislative intent rather than mandating action by the courts.

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

None.

B. Private Sector Impact:

To the extent the unified family court concepts in the bill would result in a reduction of the number of hearings private parties are required to attend, the parties would save time and attorney's fees. However, the precise cost savings to private parties cannot be determined because neither the number of hearings that would be eliminated, nor the average length of time per hearing, is known.

C. Government Sector Impact:

The Office of the State Courts Administrator does not anticipate immediate expenditures as a result of this bill; however, it does note that its efforts to reach full implementation of a unified family court system would be furthered with additional resources including: improved technology, child support enforcement hearing officers, additional case managers, and on-site mediators.¹⁶

¹⁶ *Id.*

VI. Technical Deficiencies:

None.

VII. Related Issues:

This bill codifies virtually identical legislative intent language regarding a unified family court in multiple sections and chapters of the Florida Statutes. This approach does create a risk that – over time – the language may be revised in one section but inadvertently not in others, resulting in potentially inconsistent provisions. The Legislature may wish to consider creating one section to articulate its intent on this subject and specifying within that section that it is designed to apply to multiple policy areas.

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

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

CS/CS by Judiciary on March 4, 2009:

The committee substitute removes legislative intent language regarding the goal of implementing unified family court programs in the circuit courts from s. 741.2902, F.S., relating to domestic violence.

CS by Children, Families, and Elder Affairs on February 18, 2009:

The committee substitute deletes provisions relating to the appointment of guardians ad litem in dissolution proceedings, and moves the unified family court language from s. 985.02, F.S., relating to protections for children in the juvenile justice system, to s. 985.01, F.S., relating to the purposes and intent of the chapter addressing the juvenile justice system.

B. Amendments:

None.