

1                   A bill to be entitled  
2           An act relating to the judiciary; repealing s. 25.051,  
3           F.S., relating to regular terms of the Supreme Court;  
4           repealing s. 26.21, F.S., relating to terms of the circuit  
5           courts; repealing s. 26.22, F.S., relating to terms of the  
6           First Judicial Circuit; repealing s. 26.23, F.S., relating  
7           to terms of the Second Judicial Circuit; repealing s.  
8           26.24, F.S., relating to terms of the Third Judicial  
9           Circuit; repealing s. 26.25, F.S., relating to terms of  
10          the Fourth Judicial Circuit; repealing s. 26.26, F.S.,  
11          relating to terms of the Fifth Judicial Circuit; repealing  
12          s. 26.27, F.S., relating to terms of the Sixth Judicial  
13          Circuit; repealing s. 26.28, F.S., relating to terms of  
14          the Seventh Judicial Circuit; repealing s. 26.29, F.S.,  
15          relating to terms of the Eighth Judicial Circuit;  
16          repealing s. 26.30, F.S., relating to terms of the Ninth  
17          Judicial Circuit; repealing s. 26.31, F.S., relating to  
18          terms of the Tenth Judicial Circuit; repealing s. 26.32,  
19          F.S., relating to terms of the Eleventh Judicial Circuit;  
20          repealing s. 26.33, F.S., relating to terms of the Twelfth  
21          Judicial Circuit; repealing s. 26.34, F.S., relating to  
22          terms of the Thirteenth Judicial Circuit; repealing s.  
23          26.35, F.S., relating to terms of the Fourteenth Judicial  
24          Circuit; repealing s. 26.36, F.S., relating to terms of  
25          the Fifteenth Judicial Circuit; repealing s. 26.361, F.S.,  
26          relating to terms of the Sixteenth Judicial Circuit;  
27          repealing s. 26.362, F.S., relating to terms of the  
28          Seventeenth Judicial Circuit; repealing s. 26.363, F.S.,

29 relating to terms of the Eighteenth Judicial Circuit;  
30 repealing s. 26.364, F.S., relating to terms of the  
31 Nineteenth Judicial Circuit; repealing s. 26.365, F.S.,  
32 relating to terms of the Twentieth Judicial Circuit;  
33 repealing s. 26.37, F.S., relating to requiring a judge to  
34 attend the first day of each term of the circuit court;  
35 repealing s. 26.38, F.S., relating to a requirement for a  
36 judge to state a reason for nonattendance; repealing s.  
37 26.39, F.S., relating to penalty for nonattendance of  
38 judge; repealing s. 26.40, F.S., relating to adjournment  
39 of the circuit court upon nonattendance of the judge;  
40 repealing s. 26.42, F.S., relating to calling all cases on  
41 the docket at the end of each term; repealing s. 35.10,  
42 F.S., relating to regular terms of the district courts of  
43 appeal; repealing s. 35.11, F.S., relating to special  
44 terms of the district courts of appeal; repealing s.  
45 907.05, F.S., relating to a requirement that criminal  
46 trials be heard in the term of court prior to civil cases;  
47 repealing s. 907.055, F.S., relating to a requirement that  
48 persons in custody be arraigned and tried in the term of  
49 court unless good cause is shown; amending ss. 26.46,  
50 27.04, 30.12, 30.15, 34.13, 35.05, and 38.23, F.S.;  
51 conforming provisions to changes made by the act; creating  
52 s. 43.43, F.S.; allowing the Supreme Court to set terms of  
53 court for the Supreme Court, district courts of appeal,  
54 and circuit courts; creating s. 43.44, F.S.; providing  
55 that appellate courts may withdraw a mandate within 120  
56 days after its issuance; amending ss. 112.19, 206.215,

57 450.121, 831.10, 831.17, 877.08, 902.19, 903.32, 905.01,  
 58 905.09, 905.095, 914.03, 924.065, and 932.47, F.S.;  
 59 conforming provisions to changes made by the act;  
 60 providing state policy and legislative intent; requiring  
 61 each pretrial release program established by ordinance of  
 62 a county commission, by administrative order of a court,  
 63 or by any other means in order to assist in the release of  
 64 a defendant from pretrial custody to conform to the  
 65 eligibility criteria set forth in the act; preempting any  
 66 conflicting local ordinances, orders, or practices;  
 67 requiring that the defendant satisfy certain eligibility  
 68 criteria in order to be assigned to a pretrial release  
 69 program; providing that the act does not prohibit a court  
 70 from releasing a defendant on the defendant's own  
 71 recognizance or imposing any other reasonable condition of  
 72 release on the defendant; authorizing a county to  
 73 reimburse a licensed surety agent for the premium costs of  
 74 a bail bond for the pretrial release of an indigent  
 75 defendant under certain circumstances; providing effective  
 76 dates.

77  
 78 Be It Enacted by the Legislature of the State of Florida:

79  
 80 Section 1. Sections 25.051, 26.21, 26.22, 26.23, 26.24,  
 81 26.25, 26.26, 26.27, 26.28, 26.29, 26.30, 26.31, 26.32, 26.33,  
 82 26.34, 26.35, 26.36, 26.361, 26.362, 26.363, 26.364, 26.365,  
 83 26.37, 26.38, 26.39, 26.40, 26.42, 35.10, 35.11, 907.05, and  
 84 907.055, Florida Statutes, are repealed.

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85 Section 2. Section 26.46, Florida Statutes, is amended to  
86 read:

87 26.46 Jurisdiction of resident judge after assignment.—  
88 When a circuit judge is assigned to another circuit, none of the  
89 circuit judges in such other circuit shall, because of such  
90 assignment, be deprived of or affected in his or her  
91 jurisdiction other than to the extent essential so as not to  
92 conflict with the authority of the temporarily assigned circuit  
93 judge as to the particular case or cases or class of cases, ~~or~~  
94 ~~in presiding at the particular term or part of term named or~~  
95 ~~specified in the assignment.~~

96 Section 3. Section 27.04, Florida Statutes, is amended to  
97 read:

98 27.04 Summoning and examining witnesses for state.—The  
99 state attorney shall have summoned all witnesses required on  
100 behalf of the state; and he or she is allowed the process of his  
101 or her court to summon witnesses from throughout the state to  
102 appear before the state attorney ~~in or out of term time~~ at such  
103 convenient places in the state attorney's judicial circuit and  
104 at such convenient times as may be designated in the summons, to  
105 testify before him or her as to any violation of the law upon  
106 which they may be interrogated, and he or she is empowered to  
107 administer oaths to all witnesses summoned to testify by the  
108 process of his or her court or who may voluntarily appear before  
109 the state attorney to testify as to any violation or violations  
110 of the law.

111 Section 4. Section 30.12, Florida Statutes, is amended to  
112 read:

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113           30.12 Power to appoint sheriff.—Whenever any sheriff in  
 114 the state shall fail to attend, in person or by deputy, ~~any term~~  
 115 ~~of~~ the circuit court or county court of the county, from  
 116 sickness, death, or other cause, the judge attending said court  
 117 may appoint an interim a sheriff, who shall assume all the  
 118 responsibilities, perform all the duties, and receive the same  
 119 compensation as if he or she had been duly appointed sheriff,  
 120 for only the said term of nonattendance ~~court~~ and no longer.

121           Section 5. Paragraph (c) of subsection (1) of section  
 122 30.15, Florida Statutes, is amended to read:

123           30.15 Powers, duties, and obligations.—

124           (1) Sheriffs, in their respective counties, in person or  
 125 by deputy, shall:

126           (c) Attend all sessions ~~terms~~ of the circuit court and  
 127 county court held in their counties.

128           Section 6. Subsection (2) of section 34.13, Florida  
 129 Statutes, is amended to read:

130           34.13 Method of prosecution.—

131           (2) Upon the finding of indictments by the grand jury for  
 132 crimes cognizable by the county court, the clerk of the court,  
 133 without any order therefor, shall docket the same on the trial  
 134 docket of the county court ~~on or before the first day of its~~  
 135 ~~next succeeding term.~~

136           Section 7. Subsection (2) of section 35.05, Florida  
 137 Statutes, is amended to read:

138           35.05 Headquarters.—

139           (2) A district court of appeal may designate other  
 140 locations within its district as branch headquarters for the

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141 | conduct of the business of the court ~~in special or regular term~~  
 142 | and as the official headquarters of its officers or employees  
 143 | pursuant to s. 112.061.

144 |       Section 8. Section 38.23, Florida Statutes, is amended to  
 145 | read:

146 |       38.23 Contempt ~~Contempts~~ defined.—A refusal to obey any  
 147 | legal order, mandate or decree, made or given by any judge  
 148 | ~~either in term time or in vacation~~ relative to any of the  
 149 | business of said court, after due notice thereof, shall be  
 150 | considered a contempt, and punished accordingly. ~~But nothing~~  
 151 | ~~said or written, or published, in vacation, to or of any judge,~~  
 152 | ~~or of any decision made by a judge, shall in any case be~~  
 153 | ~~construed to be a contempt.~~

154 |       Section 9. Section 43.43, Florida Statutes, is created to  
 155 | read:

156 |       43.43 Terms of courts.—The Supreme Court may establish  
 157 | terms of court for the Supreme Court, the district courts of  
 158 | appeal, and the circuit courts; may provide that district courts  
 159 | and circuit courts may establish their own terms of court; or  
 160 | may dispense with terms of court.

161 |       Section 10. Section 43.44, Florida Statutes, is created to  
 162 | read:

163 |       43.44 Mandate of an appeals court.—An appellate court has  
 164 | the jurisdiction and power, as the circumstances and justice of  
 165 | the case may require, to reconsider, revise, reform, or modify  
 166 | its own judgments for the purpose of making the same accord with  
 167 | law and justice. Accordingly, an appellate court has the power  
 168 | to recall its own mandate for the purpose of enabling it to

169 exercise such jurisdiction and power in a proper case. A mandate  
 170 may not be recalled more than 120 days after it is filed with  
 171 the lower tribunal.

172 Section 11. Paragraph (b) of subsection (1) of section  
 173 112.19, Florida Statutes, is amended to read:

174 112.19 Law enforcement, correctional, and correctional  
 175 probation officers; death benefits.—

176 (1) Whenever used in this section, the term:

177 (b) "Law enforcement, correctional, or correctional  
 178 probation officer" means any officer as defined in s. 943.10(14)  
 179 or employee of the state or any political subdivision of the  
 180 state, including any law enforcement officer, correctional  
 181 officer, correctional probation officer, state attorney  
 182 investigator, or public defender investigator, whose duties  
 183 require such officer or employee to investigate, pursue,  
 184 apprehend, arrest, transport, or maintain custody of persons who  
 185 are charged with, suspected of committing, or convicted of a  
 186 crime; and the term includes any member of a bomb disposal unit  
 187 whose primary responsibility is the location, handling, and  
 188 disposal of explosive devices. The term also includes any full-  
 189 time officer or employee of the state or any political  
 190 subdivision of the state, certified pursuant to chapter 943,  
 191 whose duties require such officer to serve process or to attend  
 192 session ~~terms~~ of a circuit or county court as bailiff.

193 Section 12. Subsection (2) of section 206.215, Florida  
 194 Statutes, is amended to read:

195 206.215 Costs and expenses of proceedings.—

196 (2) The clerks of the courts performing duties under the

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197 provisions aforesaid shall receive the same fees as prescribed  
 198 by the general law for the performance of similar duties, and  
 199 witnesses attending any investigation pursuant to subpoena shall  
 200 receive the same mileage and per diem as if attending as a  
 201 witness before the circuit court ~~in term time~~.

202 Section 13. Subsection (4) of section 450.121, Florida  
 203 Statutes, is amended to read:

204 450.121 Enforcement of Child Labor Law.—

205 (4) Grand juries shall have inquisitorial powers to  
 206 investigate violations of this chapter; also, trial court judges  
 207 shall specially charge the grand jury, ~~at the beginning of each~~  
 208 ~~term of the court,~~ to investigate violations of this chapter.

209 Section 14. Section 831.10, Florida Statutes, is amended  
 210 to read:

211 831.10 Second conviction of uttering forged bills.—  
 212 Whoever, having been convicted of the offense mentioned in s.  
 213 831.09 is again convicted of the like offense committed after  
 214 the former conviction, ~~and whoever is at the same term of the~~  
 215 ~~court convicted upon three distinct charges of such offense,~~  
 216 shall be deemed a common utterer of counterfeit bills, and shall  
 217 be punished as provided in s. 775.084.

218 Section 15. Section 831.17, Florida Statutes, is amended  
 219 to read:

220 831.17 Violation of s. 831.16; second or subsequent  
 221 conviction.—Whoever having been convicted of either of the  
 222 offenses mentioned in s. 831.16, is again convicted of either of  
 223 the same offenses, committed after the former conviction, ~~and~~  
 224 ~~whoever is at the same term of the court convicted upon three~~



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225 ~~distinct charges of said offenses,~~ commits a felony of the  
 226 second degree, punishable as provided in s. 775.082, s. 775.083,  
 227 or s. 775.084.

228 Section 16. Subsection (4) of section 877.08, Florida  
 229 Statutes, is amended to read:

230 877.08 Coin-operated vending machines and parking meters;  
 231 defined; prohibited acts, penalties.—

232 (4) Whoever violates ~~the provisions of~~ subsection (3) a  
 233 second or subsequent time commits, ~~and is convicted of such~~  
 234 ~~second separate offense, either at the same term or a subsequent~~  
 235 ~~term of court,~~ shall be guilty of a felony of the third degree,  
 236 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

237 Section 17. Subsection (1) of section 902.19, Florida  
 238 Statutes, is amended to read:

239 902.19 When prosecutor liable for costs.—

240 (1) When a person makes a complaint before a county court  
 241 judge that a crime has been committed and is recognized by the  
 242 county court judge to appear before ~~at the next term of~~ the  
 243 court having jurisdiction to give evidence of the crime and  
 244 fails to appear, the person shall be liable for all costs  
 245 occasioned by his or her complaint, and the county court judge  
 246 may enter ~~obtain~~ a judgment and execution for the costs as in  
 247 other cases.

248 Section 18. Subsection (2) of section 903.32, Florida  
 249 Statutes, is amended to read:

250 903.32 Defects in bond.—

251 (2) If no day, or an impossible day, is stated in a bond  
 252 for the defendant's appearance before a trial court judge for a

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253 hearing or trial, the defendant shall be bound to appear 10 days  
 254 after receipt of notice to appear by the defendant, the  
 255 defendant's counsel, or any surety on the undertaking. ~~If no~~  
 256 ~~day, or an impossible day, is stated in a bond for the~~  
 257 ~~defendant's appearance for trial, the defendant shall be bound~~  
 258 ~~to appear on the first day of the next term of court that will~~  
 259 ~~commence more than 3 days after the undertaking is given.~~

260 Section 19. Subsection (3) of section 905.01, Florida  
 261 Statutes, is amended to read:

262 905.01 Number and procurement of grand jury; replacement  
 263 of member; term of grand jury.—

264 (3) The chief judge of each ~~any~~ circuit court shall  
 265 regularly order ~~may dispense with~~ the convening of the grand  
 266 jury for a ~~at any~~ term of 6 months ~~court by filing a written~~  
 267 ~~order with the clerk of court directing that a grand jury not be~~  
 268 ~~summoned.~~

269 Section 20. Section 905.09, Florida Statutes, is amended  
 270 to read:

271 905.09 Discharge and recall of grand jury.—A grand jury  
 272 that has been dismissed may be recalled at any time during the  
 273 ~~same~~ term of the grand jury ~~court~~.

274 Section 21. Section 905.095, Florida Statutes, is amended  
 275 to read:

276 905.095 Extension of grand jury term.—Upon petition of the  
 277 state attorney or the foreperson of the grand jury acting on  
 278 behalf of a majority of the grand jurors, the circuit court may  
 279 extend the term of a grand jury impaneled under this chapter  
 280 beyond the term ~~of court~~ in which it was originally impaneled. A

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281 grand jury whose term has been extended as provided herein shall  
 282 have the same composition and the same powers and duties it had  
 283 during its original term. In the event the term of the grand  
 284 jury is extended under this section, it shall be extended for a  
 285 time certain, not to exceed a total of 90 days, and only for the  
 286 purpose of concluding one or more specified investigative  
 287 matters initiated during its original term.

288 Section 22. Section 914.03, Florida Statutes, is amended  
 289 to read:

290 914.03 Attendance of witnesses.—A witness summoned by a  
 291 grand jury ~~or in a criminal case~~ shall remain in attendance  
 292 until excused by the grand jury. A witness summoned in a  
 293 criminal case shall remain in attendance until excused by the  
 294 court. A witness who departs without permission of the court  
 295 shall be in criminal contempt of court. ~~A witness shall attend~~  
 296 ~~each succeeding term of court until the case is terminated.~~

297 Section 23. Subsection (2) of section 924.065, Florida  
 298 Statutes, is amended to read:

299 924.065 Denial of motion for new trial or arrest of  
 300 judgment; appeal bond; supersedeas.—

301 (2) An appeal shall not be a supersedeas to the execution  
 302 of the judgment, sentence, or order until the appellant has  
 303 entered into a bond with at least two sureties to secure the  
 304 payment of the judgment, fine, and any future costs that may be  
 305 adjudged by the appellate court. The bond shall be conditioned  
 306 on the appellant's personally answering and abiding by the final  
 307 order, sentence, or judgment of the appellate court and, if the  
 308 action is remanded, on the appellant's appearing before ~~at the~~

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309 ~~next term~~ of the court in which the case was originally  
 310 determined and not departing without leave of court.

311 Section 24. Section 932.47, Florida Statutes, is amended  
 312 to read:

313 932.47 Informations filed by prosecuting attorneys.—  
 314 Informations may be filed by the prosecuting attorney of the  
 315 circuit court with the clerk of the circuit court ~~in vacation or~~  
 316 ~~in term~~ without leave of the court first being obtained.

317 Section 25. Effective October 1, 2011, the following  
 318 section is created to read:

319 Eligibility criteria for government-funded pretrial  
 320 release.—

321 (1) It is the policy of this state that only defendants  
 322 who are indigent and therefore qualify for representation by the  
 323 public defender are eligible for government-funded pretrial  
 324 release. Further, it is the policy of this state that, to the  
 325 greatest extent possible, the resources of the private sector be  
 326 used to assist in the pretrial release of defendants. It is the  
 327 intent of the Legislature that this section not be interpreted  
 328 to limit the discretion of courts with respect to ordering  
 329 reasonable conditions for pretrial release for any defendant.  
 330 However, it is the intent of the Legislature that government-  
 331 funded pretrial release be ordered only as an alternative to  
 332 release on a defendant's own recognizance or release by the  
 333 posting of a surety bond.

334 (2) A pretrial release program established by an ordinance  
 335 of the county commission, an administrative order of the court,  
 336 or by any other means in order to assist in the release of

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337 defendants from pretrial custody is subject to the eligibility  
338 criteria set forth in this section. These eligibility criteria  
339 supersede and preempt all conflicting local ordinances, orders,  
340 or practices. Each pretrial release program shall certify  
341 annually, in writing, to the chief circuit court judge, that it  
342 has complied with the reporting requirements of s. 907.043(4),  
343 Florida Statutes.

344 (3) A defendant is eligible to receive government-funded  
345 pretrial release only by order of the court after the court  
346 finds in writing upon consideration of the defendant's affidavit  
347 of indigence that the defendant is indigent or partially  
348 indigent as set forth in Rule 3.111, Florida Rules of Criminal  
349 Procedure, and that the defendant has not previously failed to  
350 appear at any required court proceeding. A defendant may not  
351 receive a government-funded pretrial release if the defendant's  
352 income is above 300 percent of the then-current federal poverty  
353 guidelines prescribed for the size of the household of the  
354 defendant by the United States Department of Health and Human  
355 Services, unless the defendant is receiving Temporary Assistance  
356 for Needy Families-Cash Assistance, poverty-related veterans'  
357 benefits, Supplemental Security Income (SSI), food stamps, or  
358 Medicaid.

359 (4) If a defendant seeks to post a surety bond pursuant to  
360 a bond schedule established by administrative order as an  
361 alternative to government-funded pretrial release, the defendant  
362 shall be permitted to do so without any interference or  
363 restriction by a pretrial release program.

364 (5) This section does not prohibit a court from:

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365 (a) Releasing a defendant on the defendant's own  
366 recognizance.

367 (b) Imposing upon the defendant any additional reasonable  
368 condition of release as part of release on the defendant's own  
369 recognizance or the posting of a surety bond upon a finding of  
370 need in the interest of public safety, including, but not  
371 limited to, electronic monitoring, drug testing, substance abuse  
372 treatment, or attending a batterers' intervention program.

373 (6) In lieu of using a government-funded program to ensure  
374 the court appearance of any defendant, a county may reimburse a  
375 licensed surety agent for the premium costs of a surety bail  
376 bond that secures the appearance of an indigent defendant at all  
377 court proceedings if the court establishes a bail bond amount  
378 for the indigent defendant.

379 (7) A defendant who is not otherwise eligible for  
380 government-funded pretrial release under subsection (3) is  
381 eligible for government-funded pretrial release 48 hours after  
382 the defendant's arrest.

383 (8) The income eligibility limitations applicable to  
384 government-funded pretrial release programs apply only to those  
385 counties having a population equal to or greater than 350,000  
386 persons.

387 (9) This section does not prohibit a law enforcement  
388 officer or a code enforcement officer authorized under s.  
389 162.23, Florida Statutes, from issuing a notice to appear in  
390 lieu of jail.

391 Section 26. Except as otherwise expressly provided in this  
392 act and except for this section, which shall take effect upon

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393 | this act becoming a law, this act shall take effect January 1,  
394 | 2012.