



387558

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
05/18/2011	.	
Floor: 1/AD/2R	.	
05/05/2011 07:47 PM	.	
	.	

The Committee on Judiciary (Bogdanoff) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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26.363, 26.364, 26.365, 26.37, 26.38, 26.39, 26.40, 26.42, 35.10, 35.11, 907.05, and 907.055, Florida Statutes, are repealed.

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



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13 26.46 Jurisdiction of resident judge after assignment.—When
14 a circuit judge is assigned to another circuit, none of the
15 circuit judges in such other circuit shall, because of such
16 assignment, be deprived of or affected in his or her
17 jurisdiction other than to the extent essential so as not to
18 conflict with the authority of the temporarily assigned circuit
19 judge as to the particular case or cases or class of cases, ~~or~~
20 ~~in presiding at the particular term or part of term named or~~
21 ~~specified in the assignment.~~

22 Section 3. Section 27.04, Florida Statutes, is amended to
23 read:

24 27.04 Summoning and examining witnesses for state.—The
25 state attorney shall have summoned all witnesses required on
26 behalf of the state; and he or she is allowed the process of his
27 or her court to summon witnesses from throughout the state to
28 appear before the state attorney ~~in or out of term time~~ at such
29 convenient places in the state attorney's judicial circuit and
30 at such convenient times as may be designated in the summons, to
31 testify before him or her as to any violation of the law upon
32 which they may be interrogated, and he or she is empowered to
33 administer oaths to all witnesses summoned to testify by the
34 process of his or her court or who may voluntarily appear before
35 the state attorney to testify as to any violation or violations
36 of the law.

37 Section 4. Section 30.12, Florida Statutes, is amended to
38 read:

39 30.12 Power to appoint sheriff.—Whenever any sheriff in the
40 state shall fail to attend, in person or by deputy, ~~any term of~~
41 the circuit court or county court of the county, from sickness,



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42 death, or other cause, the judge attending said court may
43 appoint an interim a sheriff, who shall assume all the
44 responsibilities, perform all the duties, and receive the same
45 compensation as if he or she had been duly appointed sheriff,
46 for only the ~~said~~ term of nonattendance ~~court~~ and no longer.

47 Section 5. Paragraph (c) of subsection (1) of section
48 30.15, Florida Statutes, is amended to read:

49 30.15 Powers, duties, and obligations.—

50 (1) Sheriffs, in their respective counties, in person or by
51 deputy, shall:

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

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

56 34.13 Method of prosecution.—

57 (2) Upon the finding of indictments by the grand jury for
58 crimes cognizable by the county court, the clerk of the court,
59 without any order therefor, shall docket the same on the trial
60 docket of the county court ~~on or before the first day of its~~
61 ~~next succeeding term.~~

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

64 35.05 Headquarters.—

65 (2) A district court of appeal may designate other
66 locations within its district as branch headquarters for the
67 conduct of the business of the court ~~in special or regular term~~
68 and as the official headquarters of its officers or employees
69 pursuant to s. 112.061.

70 Section 8. Section 38.23, Florida Statutes, is amended to



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71 read:

72 38.23 Contempt ~~Contempts~~ defined.—A refusal to obey any
73 legal order, mandate or decree, made or given by any judge
74 ~~either in term time or in vacation~~ relative to any of the
75 business of said court, after due notice thereof, shall be
76 considered a contempt, and punished accordingly. ~~But nothing~~
77 ~~said or written, or published, in vacation, to or of any judge,~~
78 ~~or of any decision made by a judge, shall in any case be~~
79 ~~construed to be a contempt.~~

80 Section 9. Section 43.43, Florida Statutes, is created to
81 read:

82 43.43 Terms of courts.—The Supreme Court may establish
83 terms of court for the Supreme Court, the district courts of
84 appeal, and the circuit courts; may provide that district courts
85 and circuit courts may establish their own terms of court; or
86 may dispense with terms of court.

87 Section 10. Section 43.44, Florida Statutes, is created to
88 read:

89 43.44 Mandate of an appeals court.—An appellate court has
90 the jurisdiction and power, as the circumstances and justice of
91 the case may require, to reconsider, revise, reform, or modify
92 its own judgments for the purpose of making the same accord with
93 law and justice. Accordingly, an appellate court has the power
94 to recall its own mandate for the purpose of enabling it to
95 exercise such jurisdiction and power in a proper case. A mandate
96 may not be recalled more than 120 days after it is filed with
97 the lower tribunal.

98 Section 11. Paragraph (b) of subsection (1) of section
99 112.19, Florida Statutes, is amended to read:



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100 112.19 Law enforcement, correctional, and correctional
101 probation officers; death benefits.—

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

103 (b) "Law enforcement, correctional, or correctional
104 probation officer" means any officer as defined in s. 943.10(14)
105 or employee of the state or any political subdivision of the
106 state, including any law enforcement officer, correctional
107 officer, correctional probation officer, state attorney
108 investigator, or public defender investigator, whose duties
109 require such officer or employee to investigate, pursue,
110 apprehend, arrest, transport, or maintain custody of persons who
111 are charged with, suspected of committing, or convicted of a
112 crime; and the term includes any member of a bomb disposal unit
113 whose primary responsibility is the location, handling, and
114 disposal of explosive devices. The term also includes any full-
115 time officer or employee of the state or any political
116 subdivision of the state, certified pursuant to chapter 943,
117 whose duties require such officer to serve process or to attend
118 session terms ~~terms~~ of a circuit or county court as bailiff.

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

121 206.215 Costs and expenses of proceedings.—

122 (2) The clerks of the courts performing duties under the
123 provisions aforesaid shall receive the same fees as prescribed
124 by the general law for the performance of similar duties, and
125 witnesses attending any investigation pursuant to subpoena shall
126 receive the same mileage and per diem as if attending as a
127 witness before the circuit court ~~in term time~~.

128 Section 13. Subsection (4) of section 450.121, Florida



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129 Statutes, is amended to read:

130 450.121 Enforcement of Child Labor Law.—

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

135 Section 14. Section 831.10, Florida Statutes, is amended to
136 read:

137 831.10 Second conviction of uttering forged bills.—Whoever,
138 having been convicted of the offense mentioned in s. 831.09 is
139 again convicted of the like offense committed after the former
140 conviction, ~~and whoever is at the same term of the court~~
141 ~~convicted upon three distinct charges of such offense,~~ shall be
142 deemed a common utterer of counterfeit bills, and shall be
143 punished as provided in s. 775.084.

144 Section 15. Section 831.17, Florida Statutes, is amended to
145 read:

146 831.17 Violation of s. 831.16; second or subsequent
147 conviction.—Whoever having been convicted of either of the
148 offenses mentioned in s. 831.16, is again convicted of either of
149 the same offenses, committed after the former conviction, ~~and~~
150 ~~whoever is at the same term of the court convicted upon three~~
151 ~~distinct charges of said offenses,~~ commits a felony of the
152 second degree, punishable as provided in s. 775.082, s. 775.083,
153 or s. 775.084.

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

156 877.08 Coin-operated vending machines and parking meters;
157 defined; prohibited acts, penalties.—



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

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

165 902.19 When prosecutor liable for costs.—

166 (1) When a person makes a complaint before a county court
167 judge that a crime has been committed and is recognized by the
168 county court judge to appear before ~~at the next term of the~~
169 court having jurisdiction to give evidence of the crime and
170 fails to appear, the person shall be liable for all costs
171 occasioned by his or her complaint, and the county court judge
172 may enter ~~obtain~~ a judgment and execution for the costs as in
173 other cases.

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

176 903.32 Defects in bond.—

177 (2) If no day, or an impossible day, is stated in a bond
178 for the defendant's appearance before a trial court judge for a
179 hearing or trial, the defendant shall be bound to appear 10 days
180 after receipt of notice to appear by the defendant, the
181 defendant's counsel, or any surety on the undertaking. ~~If no~~
182 ~~day, or an impossible day, is stated in a bond for the~~
183 ~~defendant's appearance for trial, the defendant shall be bound~~
184 ~~to appear on the first day of the next term of court that will~~
185 ~~commence more than 3 days after the undertaking is given.~~

186 Section 19. Section 905.01, Florida Statutes, is amended to



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187 read:

188 905.01 Number and procurement of grand jury; replacement of
189 member; term of grand jury.—

190 (1) The grand jury shall consist of not fewer than 15 nor
191 more than 21 persons. The provisions of law governing the
192 qualifications, disqualifications, excusals, drawing, summoning,
193 supplying deficiencies, compensation, and procurement of petit
194 jurors apply to grand jurors. In addition, an elected public
195 official is not eligible for service on a grand jury.

196 (2) The chief judge of any circuit court may provide for
197 the replacement of any grand juror who, for good cause, is
198 unable to complete the term of the grand jury. Such replacement
199 shall be made by appropriate order of the chief judge from the
200 list of prospective jurors from which the grand juror to be
201 replaced was selected.

202 (3) The chief judge of each ~~any~~ circuit court shall
203 regularly order ~~may dispense with~~ the convening of the grand
204 jury for a at any term of 6 months ~~court by filing a written~~
205 ~~order with the clerk of court directing that a grand jury not be~~
206 ~~summoned~~.

207 Section 20. Section 905.09, Florida Statutes, is amended to
208 read:

209 905.09 Discharge and recall of grand jury.—A grand jury
210 that has been dismissed may be recalled at any time during the
211 ~~same~~ term of the grand jury ~~court~~.

212 Section 21. Section 905.095, Florida Statutes, is amended
213 to read:

214 905.095 Extension of grand jury term.—Upon petition of the
215 state attorney or the foreperson of the grand jury acting on



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216 behalf of a majority of the grand jurors, the circuit court may
217 extend the term of a grand jury impaneled under this chapter
218 beyond the term ~~of court~~ in which it was originally impaneled. A
219 grand jury whose term has been extended as provided herein shall
220 have the same composition and the same powers and duties it had
221 during its original term. In the event the term of the grand
222 jury is extended under this section, it shall be extended for a
223 time certain, not to exceed a total of 90 days, and only for the
224 purpose of concluding one or more specified investigative
225 matters initiated during its original term.

226 Section 22. Section 914.03, Florida Statutes, is amended to
227 read:

228 914.03 Attendance of witnesses.—A witness summoned by a
229 grand jury ~~or in a criminal case~~ shall remain in attendance
230 until excused by the grand jury. A witness summoned in a
231 criminal case shall remain in attendance until excused by the
232 court. A witness who departs without permission of the court
233 shall be in criminal contempt of court. ~~A witness shall attend~~
234 ~~each succeeding term of court until the case is terminated.~~

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

237 924.065 Denial of motion for new trial or arrest of
238 judgment; appeal bond; supersedeas.—

239 (2) An appeal shall not be a supersedeas to the execution
240 of the judgment, sentence, or order until the appellant has
241 entered into a bond with at least two sureties to secure the
242 payment of the judgment, fine, and any future costs that may be
243 adjudged by the appellate court. The bond shall be conditioned
244 on the appellant's personally answering and abiding by the final



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245 order, sentence, or judgment of the appellate court and, if the
246 action is remanded, on the appellant's appearing before ~~at the~~
247 ~~next term of~~ the court in which the case was originally
248 determined and not departing without leave of court.

249 Section 24. Section 932.47, Florida Statutes, is amended to
250 read:

251 932.47 Informations filed by prosecuting attorneys.-
252 Informations may be filed by the prosecuting attorney of the
253 circuit court with the clerk of the circuit court ~~in vacation or~~
254 ~~in term~~ without leave of the court first being obtained.

255 Section 25. Eligibility criteria for government-funded
256 pretrial release.-

257 (1) It is the policy of this state that only defendants who
258 are indigent and therefore qualify for representation by the
259 public defender are eligible for government-funded pretrial
260 release. Further, it is the policy of this state that, to the
261 greatest extent possible, the resources of the private sector be
262 used to assist in the pretrial release of defendants. It is the
263 intent of the Legislature that this section not be interpreted
264 to limit the discretion of courts with respect to ordering
265 reasonable conditions for pretrial release for any defendant.
266 However, it is the intent of the Legislature that government-
267 funded pretrial release be ordered only as an alternative to
268 release on a defendant's own recognizance or release by the
269 posting of a surety bond.

270 (2) A pretrial release program established by an ordinance
271 of the county commission, an administrative order of the court,
272 or by any other means in order to assist in the release of
273 defendants from pretrial custody is subject to the eligibility



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274 criteria set forth in this section. These eligibility criteria
275 supersede and preempt all conflicting local ordinances, orders,
276 or practices. Each pretrial release program shall certify
277 annually, in writing, to the chief circuit court judge, that it
278 has complied with the reporting requirements of s. 907.043(4),
279 Florida Statutes.

280 (3) A defendant is eligible to receive government-funded
281 pretrial release only by order of the court after the court
282 finds in writing upon consideration of the defendant's affidavit
283 of indigence that the defendant is indigent or partially
284 indigent as set forth in Rule 3.111, Florida Rules of Criminal
285 Procedure, and that the defendant has not previously failed to
286 appear at any required court proceeding. A defendant may not
287 receive a government-funded pretrial release if the defendant's
288 income is above 300 percent of the then-current federal poverty
289 guidelines prescribed for the size of the household of the
290 defendant by the United States Department of Health and Human
291 Services, unless the defendant is receiving Temporary Assistance
292 for Needy Families-Cash Assistance, poverty-related veterans'
293 benefits, Supplemental Security Income (SSI), food stamps, or
294 Medicaid.

295 (4) If a defendant seeks to post a surety bond pursuant to
296 a bond schedule established by administrative order as an
297 alternative to government-funded pretrial release, the defendant
298 shall be permitted to do so without any interference or
299 restriction by a pretrial release program.

300 (5) This section does not prohibit the court from:

301 (a) Releasing a defendant on the defendant's own
302 recognizance.



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

309 (6) In lieu of using a government-funded program to ensure
310 the court appearance of any defendant, a county may reimburse a
311 licensed surety agent for the premium costs of a surety bail
312 bond that secures the appearance of an indigent defendant at all
313 court proceedings if the court establishes a bail bond amount
314 for the indigent defendant.

315 (7) A defendant who is not otherwise eligible for
316 government-funded pretrial release under subsection (3) is
317 eligible for government-funded pretrial release 48 hours after
318 the defendant's arrest.

319 (8) The income eligibility limitations applicable to
320 government-funded pretrial release programs apply only to those
321 counties with a population equal to or greater than 350,000
322 persons.

323 (9) This section does not prohibit a law enforcement
324 officer or a code enforcement officer authorized under s.
325 162.23, Florida Statutes, from issuing a notice to appear in
326 lieu of jail.

327 Section 26. (1) Sections 1 through 24 of this act shall
328 take effect January 1, 2012.

329 (2) Section 25 of this act pertaining to government-funded
330 pretrial release shall take effect October 1, 2011.

331 Section 27. Except as otherwise expressly provided in this



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332 act, this act shall take effect October 1, 2011.

333
334 ===== T I T L E A M E N D M E N T =====

335 And the title is amended as follows:

336 Delete everything before the enacting clause
337 and insert:

338 A bill to be entitled

339 An act relating to the judiciary; repealing s. 25.051,
340 F.S., relating to regular terms of the Supreme Court; repealing
341 s. 26.21, F.S., relating to terms of the circuit courts;
342 repealing s. 26.22, F.S., relating to terms of the First
343 Judicial Circuit; repealing s. 26.23, F.S., relating to terms of
344 the Second Judicial Circuit; repealing s. 26.24, F.S., relating
345 to terms of the Third Judicial Circuit; repealing s. 26.25,
346 F.S., relating to terms of the Fourth Judicial Circuit;
347 repealing s. 26.26, F.S., relating to terms of the Fifth
348 Judicial Circuit; repealing s. 26.27, F.S., relating to terms of
349 the Sixth Judicial Circuit; repealing s. 26.28, F.S., relating
350 to terms of the Seventh Judicial Circuit; repealing s. 26.29,
351 F.S., relating to terms of the Eighth Judicial Circuit;
352 repealing s. 26.30, F.S., relating to terms of the Ninth
353 Judicial Circuit; repealing s. 26.31, F.S., relating to terms of
354 the Tenth Judicial Circuit; repealing s. 26.32, F.S., relating
355 to terms of the Eleventh Judicial Circuit; repealing s. 26.33,
356 F.S., relating to terms of the Twelfth Judicial Circuit;
357 repealing s. 26.34, F.S., relating to terms of the Thirteenth
358 Judicial Circuit; repealing s. 26.35, F.S., relating to terms of
359 the Fourteenth Judicial Circuit; repealing s. 26.36, F.S.,
360 relating to terms of the Fifteenth Judicial Circuit; repealing



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361 s. 26.361, F.S., relating to terms of the Sixteenth Judicial
362 Circuit; repealing s. 26.362, F.S., relating to terms of the
363 Seventeenth Judicial Circuit; repealing s. 26.363, F.S.,
364 relating to terms of the Eighteenth Judicial Circuit; repealing
365 s. 26.364, F.S., relating to terms of the Nineteenth Judicial
366 Circuit; repealing s. 26.365, F.S., relating to terms of the
367 Twentieth Judicial Circuit; repealing s. 26.37, F.S., relating
368 to requiring a judge to attend the first day of each term of the
369 circuit court; repealing s. 26.38, F.S., relating to a
370 requirement for a judge to state a reason for nonattendance;
371 repealing s. 26.39, F.S., relating to penalty for nonattendance
372 of judge; repealing s. 26.40, F.S., relating to adjournment of
373 the circuit court upon nonattendance of the judge; repealing s.
374 26.42, F.S., relating to calling all cases on the docket at the
375 end of each term; repealing s. 35.10, F.S., relating to regular
376 terms of the district courts of appeal; repealing s. 35.11,
377 F.S., relating to special terms of the district courts of
378 appeal; repealing s. 907.05, F.S., relating to a requirement
379 that criminal trials be heard in the term of court prior to
380 civil cases; repealing s. 907.055, F.S., relating to a
381 requirement that persons in custody be arraigned and tried in
382 the term of court unless good cause is shown; amending ss.
383 26.46, 27.04, 30.12, 30.15, 34.13, 35.05, and 38.23, F.S.;
384 conforming provisions to changes made by the act; creating s.
385 43.43, F.S.; allowing the Supreme Court to set terms of court
386 for the Supreme Court, district courts of appeal, and circuit
387 courts; creating s. 43.44, F.S.; providing that appellate courts
388 may withdraw a mandate within 120 days after its issuance;
389 amending ss. 112.19, 206.215, 450.121, 831.10, 831.17, 877.08,



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390 902.19, 903.32, 905.01, 905.09, 905.095, 914.03, 924.065, and
391 932.47, F.S.; conforming provisions to changes made by the act;
392 providing state policy and legislative intent; requiring each
393 pretrial release program established by ordinance of a county
394 commission, by administrative order of a court, or by any other
395 means in order to assist in the release of a defendant from
396 pretrial custody to conform to the eligibility criteria set
397 forth in the act; preempting any conflicting local ordinances,
398 orders, or practices; requiring that the defendant satisfy
399 certain eligibility criteria in order to be assigned to a
400 pretrial release program; providing that the act does not
401 prohibit a court from releasing a defendant on the defendant's
402 own recognizance or imposing any other reasonable condition of
403 release on the defendant; authorizing a county to reimburse a
404 licensed surety agent for the premium costs of a bail bond for
405 the pretrial release of an indigent defendant under certain
406 circumstances; providing that a defendant who is not otherwise
407 eligible for government-funded pretrial release becomes eligible
408 for government-funded pretrial release 48 hours after the
409 defendant's arrest; providing that the income eligibility
410 limitations applicable to government-funded pretrial release
411 programs apply only to certain specified counties; providing
412 that the act does not prohibit a law enforcement officer or a
413 code enforcement officer from issuing a notice to appear in
414 certain conditions; providing effective dates.