

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4125 Judges

SPONSOR(S): Stargel

TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	14 Y, 0 N	Bond	Bond
2) Judiciary Committee			

SUMMARY ANALYSIS

This bill repeals an 1887 law regarding the appointment of a judge ad litem upon consent of the parties after disqualification of a judge. The provision has been superseded by court rules providing for assignment of other judges in the circuit and by laws providing for voluntary binding arbitration or voluntary trial resolution.

This bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Section 38.13, F.S. was first enacted in 1887. The statute provides that, where a judge is disqualified from hearing a case, the parties may agree to the selection of a private attorney to act as the judge ad litem to hear the case. The law was enacted at a time when there were few judges in the state, and disqualification could require travel to another part of the state for hearings in front of a different judge. This no longer applies.

The Chief Judge of each judicial circuit is responsible for, among other duties, the establishment of a system for assignment of judges, including the transfer of a case to a new judge upon disqualification.¹ Additionally, the parties to a lawsuit can agree to voluntary binding arbitration or voluntary trial resolution, with or without disqualification of the state court judge, which hearing is fundamentally no different than a hearing before a judge ad litem.²

The current Florida Rules of Judicial Administration do not address appointment of a judge ad litem or otherwise implementing s. 38.13, F.S.

This bill repeals s. 38.13, F.S.

B. SECTION DIRECTORY:

Section 1 repeals s. 38.13, F.S.

Section 2 provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill does not appear to have any impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any direct economic impact on the private sector.

¹ Rule 2.215(b)(4) of the Florida Rules of Judicial Administration.

² See s. 44.104, F.S.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.