

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 571 Marshal of Supreme Court
SPONSOR(S): Criminal Justice Subcommittee; Roberson and others
TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 496

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	12 Y, 0 N, As CS	Arguelles	Cunningham
2) Justice Appropriations Subcommittee	11 Y, 0 N	McAuliffe	Jones Darity
3) Judiciary Committee	18 Y, 0 N	Arguelles	Havlicak

SUMMARY ANALYSIS

Section 25.271, F.S., specifies that the Marshal of the Florida Supreme Court (Court) is the conservator of the peace and authorizes the Marshal to apprehend, without a warrant, any person disturbing the peace without a warrant and deliver such person to an appropriate law enforcement officer. However, the Marshal's authority as conservator of the peace is limited to *the Court building or any building where the Court is sitting*.

Section 25.251, F.S., requires the Marshal and his or her assistants to successfully complete a minimum standards training program approved by the Criminal Justice Standards and Training Commission (CJSTC). Notably, the statute does not require the Marshal and his or her assistants to be certified officers (i.e., they do not have to meet *all* of the requirements in s. 943.13, F.S.).

The bill:

- Replaces the term "assistant" with the word "deputy;"
- Removes the language in s. 25.271, F.S., specifying that the Marshal and his or her assistants are conservators of the peace in the Court building, or in any building where the Court is sitting; and
- Creates a new subsection (3) in s. 25.251, F.S., specifying that the Marshal and his or her deputies are law enforcement officers with the authority to bear arms and make arrests in accordance with the laws of the state and in connection with the performance of their official duties for the Court.

As a result, the Marshal's jurisdiction will be statewide, and no longer limited to the Court building or buildings where the Court is sitting.

The bill also amends s. 25.251, F.S., to require the Marshal and his or her deputies to comply with the *all* of the requirements of s. 943.13, F.S., rather than the single requirement of successfully completing a CJSTC-approved basic training program. As a result, CJSTC will be required to certify the Marshal and his or her deputies must be certified by the CJSTC as law enforcement officers.

According to the Office of the State Courts Administrator, the bill does not have a fiscal impact because it simply codifies the current hiring practice of the Court, which is to fill vacancies in the Marshal's Office with certified officers (i.e., persons who meet all of the requirements of s. 943.13, F.S.). Citing the same rationale, the Florida Department of Law Enforcement reports that the bill does not have a fiscal impact on the department.

The bill is effective upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Florida Supreme Court Marshal - Background

Article V, Section 3 of the Florida Constitution and s. 25.251, F.S., require the Florida Supreme Court (Court) to appoint a Marshal. The Marshal is the custodian of the building and grounds of the Court,¹ which includes responsibility for Court security; custodianship of all Court property, buildings, and grounds maintenance; and the administration of Court building facilities.² The Marshal is also responsible for ensuring the execution of all the Court's orders throughout the state.³

Florida Supreme Court Marshal – Training Requirements

The Criminal Justice Standards and Training Commission (CJSTC), housed within the Florida Department of Law Enforcement (FDLE), establishes uniform minimum standards for the employment and training of full-time, part-time, and auxiliary law enforcement officers (LEOs). Currently, CJSTC must certify a person for employment as a LEO if:

- The person complies with s. 943.13(1)-(10), F.S., which requires every person employed or appointed as a LEO to:
 - Be at least 19 years of age;
 - Be a citizen of the United States;
 - Be a high school graduate or its “equivalent;”
 - Not have been convicted of any felony or of a misdemeanor involving perjury or a false statement, or have received a dishonorable discharge from any of the Armed Forces of the United States;
 - Have documentation of his or her fingerprints on file with the employing agency;
 - Pass a physical examination by a licensed physician, physician assistant, or certified advanced registered nurse practitioner, based on specifications established by CJSTC;
 - Have a good moral character as determined by a background investigation under procedures established by CJSTC;
 - Execute and submit to the employing agency an affidavit-of-applicant form, adopted by CJSTC, attesting to his or her compliance with s. 943.13(1)-(7), F.S.;
 - Complete a CJSTC-approved basic recruit training program for the applicable criminal justice discipline, unless exempt;
 - Achieve an acceptable score on the officer certification examination for the applicable criminal justice discipline; and
- The employing agency⁴ complies with s. 943.133(2) and (3), F.S.^{5,6}

In 2005, FDLE determined that the Court was an “employing agency” for purposes of ch. 943, F.S.⁷ However, s. 25.251, F.S., only requires the Marshal and his or her assistants to successfully complete a minimum standards training program approved by CJSTC - it does not require compliance with *all* of the criteria in s. 943.13, F.S. As such, unless the Marshal or his or her assistants voluntarily elect to comply with all of the requirements of s. 943.13, F.S., CJSTC would not be able to certify them.

¹ Section 25.271(1), F.S.

² <http://www.floridasupremecourt.org/about/marshal.shtml> (last visited on February 26, 2013).

³ *Id.* Also see, s. 25.262, F.S.

⁴ Section 943.10, F.S., defines the term “employing agency” as any agency or unit of government or any municipality or the state or any political subdivision thereof, or any agent thereof, which has constitutional or statutory authority to employ or appoint persons as officers. The term also includes any private entity which has contracted with the state or county for the operation and maintenance of a nonjuvenile detention facility.

⁵ Section 943.1395(1), F.S.

⁶ Section 943.133, F.S., sets forth the general responsibilities and requirements of employing agencies and specifies that an employing agency is responsible for the collection, verification, and maintenance of documentation establishing that an applicant complies with the requirements of s. 943.13, F.S.

⁷ FDLE Legal Memorandum re: Florida Supreme Court Marshal and Assistants, June 30, 2005 (on file with the Criminal Justice Subcommittee).

According to the Office of the State Courts Administrator (OSCA), the current practice of the Court is to fill vacancies in the Marshal's Office with certified officers (i.e., persons who meet all of the requirements of s. 943.13, F.S.).⁸ Currently, the Marshal's Office employs 11 certified officers, 5 individuals who are certified armed security officers,⁹ and 2 OPS certified officers.¹⁰

Effect of the Bill

The bill amends s. 25.251, F.S., to replace the term "assistant" with the word "deputy," and requires the Marshal and his or her deputies to comply with the *all* of the above-described requirements of s. 943.13, F.S. As a result, such persons will be required to be certified by the CJSTC as law enforcement officers. These changes appear to codify the current hiring practices of the Marshal's Office.

Florida Supreme Court Marshal – Jurisdiction

In addition to being the custodian of the Court's building and grounds, s. 25.271, F.S., specifies that the Marshal is the conservator of the peace and authorizes the Marshal and his or her assistants to apprehend, without a warrant, any person disturbing the peace and deliver such person to an appropriate law enforcement officer. However, the Marshal's authority as conservator of the peace is limited to the Court building or any building where the Court is sitting.¹¹

According to OSCA, the Marshal and his or her assistants are often called upon to escort and provide security for justices at locations outside of the Court building and outside of places where the Court may be sitting. However, the Marshal's Office does not have jurisdiction at these locations because the statute limits the jurisdiction of the Marshal's Office to only the Court building or in buildings where the Court is sitting.

Effect of the Bill

The bill removes language in s. 25.271, F.S., specifying that the Marshal and his or her assistants are conservators of the peace in the Court building, or in any building where the Court is sitting.

The bill creates a new subsection (3) in s. 25.251, F.S., which specifies that the Marshal and his or her deputies are law enforcement officers as defined in s. 943.10, F.S., under the direction and control of the Court with full powers to bear arms and make arrests in accordance with the laws of the state. In connection with their official duties for the Court, the Marshal and his or her deputies may apprehend a person disturbing the peace without a warrant, and deliver such person to an appropriate law enforcement officer for further proceedings. The bill specifies that the Marshal and his or her deputies' duties may only be exercised in connection with the performance of their official duties for the Court.

B. SECTION DIRECTORY:

Section 1. Amends s. 25.251, F.S., relating to Marshal of Supreme Court; appointment; training.

Section 2. Amends s. 25.271, F.S., relating to Custody of Supreme Court Building and grounds.

Section 3. The bill is effective upon becoming a law.

⁸ *Revised Proposed Legislative Issue*, Supreme Court Marshal Requirements and Authority, January 16, 2013 (on file with the Criminal Justice Subcommittee).

⁹ Chapter 493, F.S., provides requirements for the licensure of security officers.

¹⁰ *Revised Proposed Legislative Issue*, Supreme Court Marshal Requirements and Authority, January 16, 2013 (on file with the Criminal Justice Subcommittee).

¹¹ Section 25.271(2), F.S.

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:

According to OSCA, the bill does not have a fiscal impact because it simply codifies the current hiring practice of the Court, which is to fill vacancies in the Marshal's Office with certified officers (i.e., persons who meet all of the requirements of s. 943.13, F.S.). Citing the same rationale, FDLE reports that the bill does not have a fiscal impact on the department.

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:

None.

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

On March 5, 2013, the Criminal Justice Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment clarifies that the Marshal's law enforcement authority is limited to instances in which the Marshal is performing official duties for the Florida Supreme Court.

This analysis is drafted to the committee substitute as passed by the Criminal Justice Subcommittee.