

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 639 Security in Trial Court Facilities
SPONSOR(S): Criminal Justice Subcommittee, Perez
TIED BILLS: **IDEN./SIM. BILLS:** SB 762

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	14 Y, 0 N, As CS	Jones	Hall
2) Justice Appropriations Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

The Florida Constitution creates the offices of county sheriff and chief judge of each judicial circuit. The Constitution requires each sheriff, within his or her county, to:

- Execute all process of the courts and board of county commissioners;
- Execute all orders of the board of county commissioners;
- Execute other writs, processes, warrants, and papers;
- Act as conservators of the peace and apprehend any person disturbing the peace;
- Suppress riots and unlawful assemblies;
- Attend all board meetings at the request of the board of county commissioners; and
- Attend sessions of the circuit court and county court.

The Constitution gives the chief judge of each judicial circuit authority to:

- Assign judges;
- Regulate the use of courtrooms;
- Supervise dockets and calendars;
- Require attendance of state attorneys, public defenders, clerks, bailiffs, and other officers of the court;
- Delegate to the trial court administrator the authority to bind the circuit in contract;
- Promote the prompt and efficient administration of justice; and
- Manage, operate, and oversee the jury system.

In 2017, a chief judge ordered the local sheriff to provide security for court facilities where no court sessions were held. The sheriff challenged the order, arguing that s. 30.15, F.S.—which sets out the powers, duties, and obligations of the sheriff—requires the sheriff to provide court security only within the four corners of a courtroom. The Second District Court of Appeal disagreed and ruled in favor of the chief judge.

CS/HB 639 amends s. 30.15, F.S., to require each county sheriff to coordinate with the board of county commissioners and the chief judge of the judicial circuit to develop a comprehensive security plan for trial court facilities. The sheriff retains authority over the implementation of security under the plan, and the chief judge retains decisionmaking authority to protect due process rights.

The bill clarifies that sheriffs and their deputies, employees, and contractors are officers of the court when providing security for court facilities.

The bill appears to have an indeterminate positive fiscal impact on the state and an indeterminate negative fiscal impact on local governments.

The bill provides an effective date of July 1, 2019.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0639a.CRJ

DATE: 3/13/2019

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

County Sheriffs

The Florida Constitution establishes five specific county officers, including the county sheriff.¹ Each sheriff is elected by county voters for a four-year term.² Abolishing the office of sheriff or revising the manner in which the sheriff is chosen may be provided by county charter or special law approved by a vote of the electors of the county under certain circumstances.³

Section 30.15, F.S., provides for the powers and duties of sheriffs. Within their respective counties, sheriffs must, in person or by deputy, among other duties:

- Execute all process of the courts and board of county commissioners;
- Execute all orders of the board of county commissioners;
- Execute other writs, processes, warrants, and papers;
- Act as conservators of the peace and apprehend any person disturbing the peace;
- Suppress riots and unlawful assemblies;
- Attend all board meetings at the request of the board of county commissioners; and
- Attend sessions of the circuit court and county court.⁴

The sheriff is the executive officer of the county court and circuit court of the county.⁵ If a sheriff fails to attend a session of the court, either in person or by deputy, the judge may appoint an interim sheriff to assume the sheriff's responsibilities and duties.⁶

Judicial Administration

The Florida Constitution provides that the chief judge of each judicial circuit is responsible for the administrative supervision of the circuit courts and county courts in the circuit.⁷ The chief judge has authority to:

- Assign judges;
- Regulate the use of courtrooms;
- Supervise dockets and calendars;
- Require attendance of state attorneys, public defenders, clerks, bailiffs, and other officers of the court;
- Delegate to the trial court administrator the authority to bind the circuit in contract;
- Promote the prompt and efficient administration of justice; and
- Manage, operate, and oversee the jury system.⁸

Failure of any judge, clerk, prosecutor, public defender, or other officer of the court to comply with an order or directive of the chief judge under s. 43.26, F.S., constitutes neglect of duty.⁹ Additionally, the Florida Rules of Judicial Administration provide that the chief judge regulates the use of court facilities

¹ Art. VIII, s. 1, Fla. Const.

² Art. VIII, s. 1(d), Fla. Const.

³ *Id.*

⁴ S. 30.15, F.S.

⁵ Ss. 26.49 and 34.07, F.S.

⁶ S. 30.12, F.S.

⁷ Art. V, s. 2(d), Fla. Const.

⁸ S. 43.26, F.S.; *see also* s. 40.001, F.S.

⁹ S. 43.26(4), F.S.

and directs the formation and implementation of policies and priorities for the operation of all courts and officers within the circuit.¹⁰

Article V, s. 14 of the Constitution provides for funding of the judicial branch, allocating the costs of the branch between the state and the counties.

Court Challenge

In 2017, the chief judge of the Twelfth Judicial Circuit issued an administrative order requiring the local sheriff to provide security for court facilities where no court sessions were held. The sheriff challenged the order as exceeding the chief judge's authority and encroaching on the sheriff's constitutional authority. The sheriff argued that s. 30.15, F.S., which compels the sheriff to attend all sessions of court, only requires the sheriff to provide security within the four corners of a courtroom.

The Second District Court of Appeal (DCA) disagreed with the sheriff and ruled in favor of the chief judge, holding that the chief judge's responsibility to promote the administration of justice included the power to issue the order.¹¹ The DCA reasoned that the chief judge's authority under s. 43.26, F.S., and Rule of Judicial Administration 2.215 extends beyond the literal four corners of a courtroom where sessions are held. The DCA also cited article V of the Florida Constitution and s. 29.008, F.S., which require counties to fund trial court security.¹² According to the DCA, the chief judge's responsibility to promote the administration of justice includes the power to issue an administrative order directing the sheriff to secure court facilities.

Effect of Proposed Changes

CS/HB 639 amends s. 30.15, F.S., to require each county sheriff to coordinate with the board of county commissioners and the chief judge of the judicial circuit to develop a comprehensive security plan for trial court facilities. The sheriff retains authority over the implementation and provision of law enforcement services under the plan. The chief judge retains decisionmaking authority to protect due process rights, such as in the scheduling and conduct of judicial proceedings.

The bill clarifies that sheriffs and their deputies, employees, and contractors are officers of the court when providing security for court facilities.

The bill provides an effective date of July 1, 2019.

B. SECTION DIRECTORY:

Section 1: Amends s. 30.15, F.S., relating to powers, duties, and obligations.

Section 2: Provides an effective date of July 1, 2019.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

¹⁰ Fla. R. Jud. Admin. 2.215(b).

¹¹ *Knight v. Chief Judge of Florida's Twelfth Judicial Circuit*, 235 So. 3d 996 (Fla. 2d DCA 2017).

¹² Art. V, s. 14(c), Fla. Const.; s. 29.008(1), F.S.

2. Expenditures:

The bill requires each county sheriff to participate in developing a comprehensive plan for security of trial courts, which may have an indeterminate positive impact on the state.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill requires each county sheriff to participate in developing a comprehensive plan for security of trial courts, which may have an indeterminate negative impact on the counties.

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 county mandates provision of article VII, section 18 of the Florida Constitution may apply because the bill requires county sheriffs to participate in developing a comprehensive plan for security of trial courts; however, an exemption may apply because the bill may have only an insignificant fiscal impact.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 12, 2019, the Criminal Justice Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment required the sheriff of each county to coordinate with the board of county commissioners and the chief judge to develop a comprehensive security plan for trial court facilities.

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