

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Subcommittee on Criminal and Civil Justice

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**BILL:** CS/SB 762

**INTRODUCER:** Judiciary Committee and Senator Gruters

**SUBJECT:** Duties and Obligations of Sheriffs

**DATE:** April 15, 2019      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Tulloch</u>	<u>Cibula</u>	<u>JU</u>	<b>Fav/CS</b>
2.	<u>Price</u>	<u>Miller</u>	<u>IS</u>	<b>Favorable</b>
3.	<u>Dale</u>	<u>Jameson</u>	<u>ACJ</u>	<b>Pre-meeting</b>
4.	_____	_____	<u>AP</u>	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 762 addresses the decision-making authority and responsibilities of two constitutional officers, the chief judge of a circuit court and the county sheriff, in providing courthouse security. The bill clarifies the decision-making authority for courthouse security, providing that:

- The sheriff, county commissioners, and chief judge of the circuit must develop a comprehensive plan for courthouse security.
- The sheriff retains operational control in accord with the comprehensive security plan.
- The chief judge retains decision-making authority to carry out his or her administrative functions concerning the protection of due process rights and the scheduling and conduct of trials and other judicial proceedings in accord with the comprehensive plan.

Because the sheriffs and their deputies, employees, and contractors are officers of the court when providing security for trial court facilities, the chief judge has authority to direct these officers to ensure the proper conduct of trials and judicial proceedings. However, the sheriff retains operational control as to how security is provided. For example, the chief judge may request two bailiffs in a courtroom for high profile cases, but the sheriff will designate the two deputies who will serve as bailiffs.

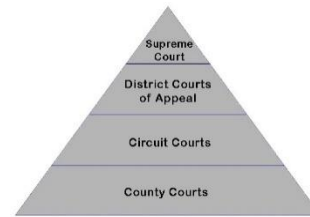
The bill is effective July 1, 2019.

## II. Present Situation:

### Florida's Court System

The Florida Constitution vests all judicial power in:

- The supreme court;
- The district courts of appeal;
- The circuit courts; and
- The county courts.<sup>1</sup>



The Constitution provides that “[n]o other courts may be established by the state, any political subdivision or any municipality.”<sup>2</sup>

### Court System Administration

The Constitution vests the Florida Supreme Court with broad authority to administer the state courts system and establish court rules of procedure.<sup>3</sup> The chief justice of the Florida Supreme Court is constitutionally designated as the “chief administrative officer of the judicial system.”<sup>4</sup> The Constitution also directs that a chief judge be chosen for each district court of appeal and each circuit court.<sup>5</sup>

### Chief Judge of the Circuit Court

The chief judge of the circuit court has administrative supervision responsibility for, not only the circuit court, but also the county courts within his or her circuit.<sup>6</sup> Currently, there are 20 judicial circuits and 67 county courts, one in each of Florida’s 67 counties<sup>7</sup> as constitutionally required.<sup>8</sup>

The following maps illustrate the territorial jurisdictions of the circuit and county courts. Note, some circuits contain multiple counties, particularly in North Florida; whereas, some circuits contain only one county, particularly in the larger metropolitan areas in Central and South Florida.<sup>9</sup>

<sup>1</sup> FLA. CONST. art. V., s. 1.

<sup>2</sup> *Id.* (The Constitution does permit the Legislature to establish quasi-judicial, administrative courts and a civil traffic infraction hearing officer system).

<sup>3</sup> FLA. CONST. art. V, s. 2(a).

<sup>4</sup> FLA. CONST. art. V, s. 2(b).

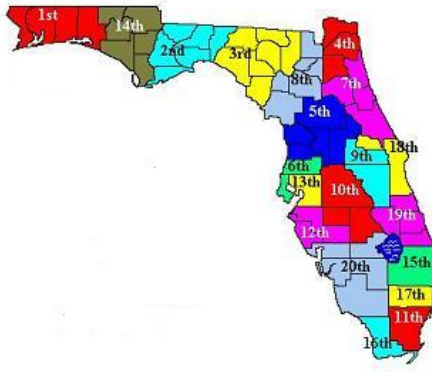
<sup>5</sup> FLA. CONST. art. V, s. 2(c), (d).

<sup>6</sup> FLA. CONST. art. V, s. 2(d). Additionally, the chief judge is constitutionally chosen “as provided by supreme court rule.” *Id.*

<sup>7</sup> Florida Courts, *Court System Organization & Structure*, <http://www.flcourts.org/florida-courts/> (last visited April 10, 2019).

<sup>8</sup> FLA. CONST. art. V, s. 6(a) (“There shall be a county court in each county.”).

<sup>9</sup> Ron DeSantis, 46<sup>th</sup> Governor of Florida, Judicial and Judicial Nominating Commission Information, *The Florida Court System*, <https://www.flgov.com/judicial-and-judicial-nominating-commission-information/> (last visited April 10, 2019).



Twenty Judicial Circuits



Sixty-Seven Counties

The chief judge exercises “administrative supervision over all the trial courts within the judicial circuit and over the judges and other officers of such courts.”<sup>10</sup> In exercising his or her responsibility, the chief judge has the power to:

- Assign judges to court divisions and determine the length of the assignment.
- Regulate the use of courtrooms.
- Supervise dockets and calendars.
- Require attendance of all other officers of the court.
- Do everything necessary to promote the prompt and efficient administration of justice in the courts.
- Delegate to the trial court administrator, by administrative order, the authority to bind the circuit in contract.
- Manage, operate, and oversee the jury system.
- Report data to the Chief Justice of the Supreme Court concerning the circuit’s caseload, status of dockets, disposition of cases, and other relevant information.
- Consult with the clerk of court to determine the priority of services provided by the clerk to the trial courts.<sup>11</sup>

**County Responsibilities for Funding Court-Related Functions**

Under Article V, s. 14 of the Florida Constitution, the state is responsible for most of the costs of the state courts system. However, the Constitution requires counties to:

[F]und the cost of communications services, existing radio systems, existing multi-agency criminal justice information systems, and the cost of construction or lease, maintenance, utilities, and *security of facilities for the trial courts, public defenders’ offices, state attorneys’ offices, and the offices of the clerks of the circuit and county courts performing court-related functions.*<sup>12</sup>

<sup>10</sup> Section 43.26, F.S.

<sup>11</sup> *Id.*

<sup>12</sup> Emphasis added.

The constitutional responsibility for counties to fund court-related functions is implemented in s. 29.008, F.S., which also defines many of the key terms from the constitutional provision above. Among these terms, s. 29.008(1)(a), F.S. defines “facility” as follows:

“Facility” means reasonable and necessary buildings and office space and appurtenant equipment and furnishings, structures, real estate, easements, and related interests in real estate, including, but not limited to, those for the purpose of housing legal materials for use by the general public and personnel, equipment, or functions of the circuit or county courts, public defenders’ offices, state attorneys’ offices, and court-related functions of the office of the clerks of the circuit and county courts and all storage. The term “facility” includes all wiring necessary for court reporting services. The term also includes access to parking for such facilities in connection with such court-related functions that may be available free or from a private provider or a local government for a fee. . . .

1. As of July 1, 2005, equipment and furnishings shall be limited to that appropriate and customary for courtrooms, hearing rooms, jury facilities, and other public areas in courthouses and any other facility occupied by the courts, state attorneys, public defenders, guardians ad litem, and criminal conflict and civil regional counsel. Court reporting equipment in these areas or facilities is not a responsibility of the county.

2. Equipment and furnishings under this paragraph in existence and owned by counties on July 1, 2005, except for that in the possession of the clerks, for areas other than courtrooms, hearing rooms, jury facilities, and other public areas in courthouses and any other facility occupied by the courts, state attorneys, and public defenders, shall be transferred to the state at no charge. This provision does not apply to any communications services as defined in paragraph (f).

Additionally, s. 29.008(1)(e), F.S. defines “security” as follows:

“Security” includes but is not limited to, all reasonable and necessary costs of services of *law enforcement officers or licensed security guards* and all electronic, cellular, or digital monitoring and screening devices necessary to ensure the safety and security of all persons visiting or working in a facility; to provide for security of the facility, including protection of property owned by the county or the state; and for security of prisoners brought to any facility. This includes bailiffs while providing courtroom and other security for each judge and other quasi-judicial officers.<sup>13</sup>

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<sup>13</sup> Emphasis added.

## **Sheriffs**

Sheriffs are constitutional county officers.<sup>14</sup> As a constitutional officer, a sheriff exercises independent authority and discretion in carrying out his or her various duties and in appointing and disciplining deputies.<sup>15</sup> The sheriff's duties include, among other things, conserving the county peace by suppressing riots and making arrests as necessary; and executing process on behalf of the Florida Supreme Court, circuit courts, county courts, and board of county commissioners in the sheriff's county.<sup>16</sup>

### ***Sheriffs' Courtroom Duties***

The sheriff is “the executive officer of the circuit court of the county.”<sup>17</sup> As such, the sheriff or his or her deputies execute all service of court process in both civil and criminal matters and attend all sessions of court.<sup>18</sup> In attending all sessions of court, the sheriff or his or her deputies serve as bailiffs and take charge of the jury, carry out service of process, keep order, and so forth. It is the sheriff, not the chief judge, who appoints any deputy to serve as a bailiff in a courtroom.<sup>19</sup>

### ***Beyond the Courtroom: Security in other Court Facilities***

Although sheriffs and their deputies are required to serve as bailiffs in the courtrooms around the state, unless contracted to do so with the county government, the sheriffs are not constitutionally or statutorily required to take responsibility for the security of all court facilities. Rather, county governments are responsible to provide for and fund security for court facilities and, as set out in s. 29.008(1)(e), F.S., *supra*, security may be provided by “law enforcement officers” such as municipal police officers,<sup>20</sup> or “licensed security guards.”

### ***Tensions Between Sheriffs and Chief Circuit Court Judges***

Tensions between sheriffs and chief circuit court judges often arise when determining the scope of each constitutional officers' authority in how courtroom and other court facility security is provided.<sup>21</sup> A recent appellate court opinion relied on the definitions of “facility” and “security” in s. 29.008, F.S., *supra*, as the basis for permitting an administrative order of the chief judge to stand which ordered the sheriff to secure a building used by the court.<sup>22</sup> The particular building

<sup>14</sup> FLA. CONST. art. VIII, s. (d).

<sup>15</sup> See generally *Demings v. Orange County Citizens Review Bd.*, 15 So. 3d 604, 610–11 (Fla. 5th DCA 2009).

<sup>16</sup> See generally s. 30.15, F.S.

<sup>17</sup> Section 26.49, F.S. See also s. 34.07, F.S. (sheriff is executive officer of county courts).

<sup>18</sup> Section. 30.15(1)(a)-(c), F.S.

<sup>19</sup> *State ex rel. Wainwright v. Booth*, 291 So. 2d 74, 76–77 (Fla. 2d DCA 1974), writ discharged sub nom. *Booth v. Wainwright*, 300 So. 2d 257 (Fla. 1974).

<sup>20</sup> Section 943.10(1), F.S. (“Law enforcement officer means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state”).

<sup>21</sup> See, e.g., *State ex rel. Wainwright v. Booth*, 291 So. 2d 74, 76–77 (Fla. 2d DCA 1974), writ discharged sub nom. *Booth v. Wainwright*, 300 So. 2d 257 (Fla. 1974) (challenging the validity of a chief judge's order requiring Department of Corrections to provide supplemental security to sheriff during a murder trial).

<sup>22</sup> *Knight v. Chief Judge of Florida's Twelfth Judicial Circuit*, 235 So. 3d 996, 999 (Fla. 2d DCA 2017) (denying the sheriff's writ for petition of certiorari for failure to meet the burden of showing the chief judge had exceeded his authority by issuing

at issue did not include courtrooms. The sheriff objected to the amount of control the chief judge exerted over the sheriff because the order required the sheriff to *exclusively* provide security to the facility in question. Additionally, the sheriff objected to the potential funding issues caused by the security requirements in the chief judge's order.<sup>23</sup>

### III. Effect of Proposed Changes:

CS/SB 762 addresses the decision-making authority and responsibilities of the chief judge and the county sheriff in providing courthouse security. The bill clarifies the decision-making authority for courthouse security, providing that:

- The sheriff, county commissioners, and chief judge of the circuit must develop a comprehensive plan for courthouse security.
- The sheriff retains operational control in accord with the comprehensive security plan.
- The chief judge retains decision-making authority to carry out his or her administrative functions concerning the protection of due process rights and the scheduling and conduct of trials and other judicial proceedings in accord with the comprehensive plan.

Because the sheriffs and their deputies, employees, and contractors are officers of the court when providing security for trial court facilities, the chief judge has authority to direct these officers to ensure the proper conduct of trials and judicial proceedings. However, the sheriff retains operational control as to how security is provided. For example, the chief judge may request two bailiffs in a courtroom for high profile cases, but the sheriff will designate the two deputies who will serve as bailiffs.

The bill is effective July 1, 2019.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

#### D. State Tax or Fee Increases:

None.

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an administrative order directing the sheriff to provide security in portions of the court facilities where no court proceedings are held).

<sup>23</sup> *Id.* at 997-1000.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill's "Government Sector" fiscal impact is indeterminate. As the primary funding source for the sheriffs, the county commissioners are required to assist in the development of the comprehensive security plan.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 30.15 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Judiciary on March 25, 2019:**

The Committee Substitute:

- Replaces the requirement that sheriffs and chief judges coordinate on trial court security with the requirement that sheriffs coordinate with both the county commissioners and the chief judges to develop a comprehensive plan for trial court security.
- Clarifies that sheriffs retain operational authority under the comprehensive plan.
- Clarifies that chief judges retain decision-making authority under the comprehensive plan.
- Removes statutory construction provision.
- Amends the title, changing it to duties and obligations of sheriffs.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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