

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1197 Courts

SPONSOR(S): Civil Justice & Property Rights Subcommittee, Aloupis

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice & Property Rights Subcommittee	16 Y, 0 N, As CS	Brascomb	Jones
2) Justice Appropriations Subcommittee	15 Y, 0 N	Smith	Keith
3) Judiciary Committee	15 Y, 0 N	Brascomb	Kramer

SUMMARY ANALYSIS

Florida has two types of trial courts: county courts and circuit courts. A county court has jurisdiction over the following types of cases:

- All criminal misdemeanor cases not within the jurisdiction of the circuit courts.
- All violations of municipal and county ordinances.
- Disputes occurring in homeowner associations, which are handled concurrently with the jurisdiction of the circuit courts.

Florida criminal law provides procedures for when the court enters a judgment in certain misdemeanor and all felony offenses. To enter a written or electronic judgment of guilt involving petit theft and all felonies, the judge must, in open court, and in the judge's presence:

- Have the defendant's fingerprints taken either manually or electronically;
- Sign a certificate certifying that the fingerprints on the judgment are the defendant's fingerprints and that they were placed on the certificate in the judge's presence; and
- For a felony judgment, cause the defendant's social security number to be recorded.

Current law does not expressly allow for a proceeding involving a defendant's fingerprinting to be conducted remotely.

CS/HB 1197 makes several changes to statutes governing the state court system. Specifically, the bill:

- Allows clerks of court to store court records electronically at a remote location.
- Requires the clerks of court to develop a plan to obtain or develop a statewide technological solution that identifies mandatory financial assessments in criminal cases.
- Adjusts the jurisdictional amount of county courts beginning in 2030, and every 10 years afterwards, to account for inflation based on changes in the Consumer Price Index.
- Authorizes a person to postpone jury service for up to one year when a public health emergency or a state of emergency is declared.
- Authorizes fingerprinting when a court enters a judgment in a remote proceeding.

The Criminal Justice Impact Conference considered the bill on March 24, 2021, and determined it would have no impact on the prison population.

The bill has an effective date of July 1, 2021.

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

STORAGE NAME: h1197e.JDC

DATE: 4/6/2021

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Clerk of the Florida Supreme Court

The Florida Supreme Court's Office of the Clerk maintains all case files and tracks the progress of all Supreme Court cases.¹ Florida law requires the clerk to physically keep all books, papers, records, files, and the seal of the Court in the clerk's office and in his or her custody.² Additionally, a Court decision or opinion must be filed and remain in the clerk's office and may not be removed unless ordered by the Court. The clerk must furnish certified copies of the decisions and opinions to any person who requests them and pays the required fees.³ Current law does not allow Court books, papers, files, decisions, or opinions to be maintained remotely using digital storage.

Mandatory Monetary Assessments

Section 28.2457(2), F.S., directs the clerks of court, through their association and in consultation with the Office of the State Courts Administrator (OSCA), to develop a uniform form to identify and impose all assessments⁴ mandated by statute. The clerks must submit this form by October 1 of each year to the Supreme Court for approval. The form must contain updates to reflect recent statutory changes. Once a form is approved by the Court, all circuit and county courts must use the form.⁵

The Florida Court Clerks and Comptrollers (FCCC) submitted an initial form matrix⁶ cataloging various fines and fees as statutorily required on October 1, 2012, and has, since then, updated the form annually.⁷ The matrix:

- Provides the necessary statutory authority for each item with a brief description;
- States whether the item is mandatory or discretionary;
- Provides the minimum and maximum amounts authorized; and
- Often contains brief comments on the assessment.⁸

The Supreme Court has never approved the form matrix due to "concerns that it is not a form within the meaning of the statute." However, the chief justice has provided the document each year to the chief judges of the trial courts for their use as a possible resource.⁹

¹ Florida Supreme Court, *Clerk's Office*, <https://www.floridasupremecourt.org/About-the-Court/Departments-of-the-Court/Clerk-s-Office> (last visited Mar. 30, 2021).

² S. 25.221, F.S.

³ S. 25.301, F.S.

⁴ An assessment includes, but is not limited to, a fine or other monetary penalty, fee, service charge, or cost. S. 28.2457, F.S.

⁵ S. 28.2457, F.S.

⁶ The matrix is a catalogue of mandatory and discretionary fines, fees, charges, and costs in many areas, both civil and criminal. Office of the State Courts Administrator, *Judicial Branch 2021 Legislative Agenda* (January 21, 2021).

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

The Judicial Management Council's Workgroup on Court Costs and Fines¹⁰ was established to review monetary assessments and identify methods that reduce the disproportionate impact assessments have on low income people.¹¹ In June 2020, the Workgroup finalized its report, recommending:

- Removing from statute the requirement for a uniform form for identifying and imposing assessments that the clerks produce; and
- Working with the clerks of court to develop reforms, using an electronic system, to standardize the ability to identify and impose assessments and payments.¹²

Jurisdictional Amount of County Courts

Florida has two types of trial courts: county courts and circuit courts.¹³ A county court has jurisdiction over the following types of cases:

- All criminal misdemeanor cases not within the jurisdiction of the circuit courts.
- All violations of municipal and county ordinances.
- Disputes occurring in homeowner associations, which are handled concurrently with the jurisdiction of the circuit courts.¹⁴

Circuit courts exercise jurisdiction in matters not within the jurisdiction of county courts.¹⁵ County courts have jurisdiction in cases including actions at law where the amount in controversy does not exceed:

- \$15,000 if filed on or before December 31, 2019.
- \$30,000 if filed on or after January 1, 2020.
- \$50,000 if filed on or after January 1, 2023.¹⁶

Maintenance of Appellate Court Records in the District Courts of Appeal

All decisions and opinions delivered by the district courts of appeal or one its judges must be filed and remain in the office of the clerk.¹⁷ Moreover, decisions and opinions may not be taken from the clerk's office except by court order.¹⁸ Under current law, the clerk must furnish to anyone who desires certified copies of the opinions and decision upon payment of the appropriate fees.

Section 35.24, F.S., requires each clerk of a district court of appeal to physically keep his or her records at the headquarters of the court. Moreover, current law also requires that all books, papers, records, files, and the court seal be kept in the clerk's office.¹⁹ These provisions preclude electronic storage of court records and files at a remote location.

¹⁰ The Judicial Management Councils are "high-level management consultants" to the Florida Supreme Court composed of 15 voting members including the Chief Justice and one other justice, members of each level of the court system, and members from the public. The council is tasked with identifying potential crisis situations for the judiciary and developing strategies to meet those concerns; evaluating information that will improve the effectiveness and performance of the judicial branch; developing and monitoring the judiciary's long-range planning work; reviewing the charges of the courts and Florida Bar commissions and committees, making revisions and proposing ways to coordinate the work of these groups; and addressing issues that the Supreme Court brings before the council. Office of the State Courts Administrator, *Judicial Management Council*, <https://www.flcourts.org/Administration-Funding/Judicial-Management-Council> (last visited Apr. 1, 2021).

¹¹ Fla. Admin. Order No. AOSC18-77.

¹² Office of the State Courts Administrator, *Judicial Branch 2021 Legislative Agenda* (January 21, 2021).

¹³ Ss. 26.012(5) and 34.01(5), F.S.

¹⁴ S. 34.01(1), F.S.

¹⁵ S. 26.012(2)(a), F.S.

¹⁶ The county court's jurisdictional amount in controversy threshold is exclusive of interest, costs, and attorney's fees; and does not include cases within the exclusive jurisdiction of circuit courts. S. 34.01, F.S.

¹⁷ S. 35.15, F.S.

¹⁸ *Id.*

¹⁹ S. 35.24, F.S.

Jury Duty Postponement

A clerk of the court is responsible for summoning a prospective juror at least 14 days before he or she is to appear for jury selection.²⁰ If a prospective juror is summoned and fails to attend without providing a sufficient excuse, he or she may be:

- Required to pay a fine not exceeding \$100; and
- Held in contempt of court.²¹

Current law allows a person to postpone jury service upon written or oral request for up to six months. The request may specify a period of time to which service is to be postponed, and the clerk must consider the requested postponement dates when the assignment jury service is made.²²

Jury service in Florida has been postponed since March 2020 due to the COVID-19 pandemic.²³ Once jury service resumes, potential jurors who are summoned may not be able to attend due to complications created by the pandemic, such as a potential juror:

- Recently returning to work after being unemployed during the pandemic; or
- Caring for someone who is at greater risk of health complications if he or she is exposed to COVID-19.²⁴

Fingerprinting a Defendant upon Conviction

Florida criminal law provides procedures for when the court enters a judgment for certain misdemeanor and all felony offenses. A judgment of guilty or not guilty for a misdemeanor petit theft offense²⁵ or a felony offense²⁶ must contain:

- A written record, signed by the judge, and recorded by the clerk of the circuit court; or
- An electronic record that contains the judge's electronic signature and is recorded by the clerk of the circuit court.

To enter a written or electronic judgment of guilt involving petit theft, prostitution, and all felonies, the judge must, in open court, and in the judge's presence:

- Have the defendant's fingerprints taken either manually or electronically;
- Sign a certificate certifying that the fingerprints on the judgment are the defendant's fingerprints and that they were placed on the certificate in the judge's presence; and
- For a felony judgment, cause the defendant's social security number to be recorded.

Current law does not expressly allow for a proceeding involving a defendant's fingerprinting to be conducted remotely.²⁷

Effect of Proposed Changes

CS/HB 1197 makes several changes to the statutes governing the Florida court system. Specifically, the bill amends ss. 25.221, 25.301, 35.15, and 35.24, F.S., to remove the requirement that the Clerk of the Supreme Court and clerks of the district courts of appeal must physically keep decisions and opinions in their offices, instead allowing a clerk to electronically store records at a remote location. The bill also amends s. 28.2457, F.S., to remove a requirement that the clerks annually submit a form to identify all assessments mandated by statute; instead, the bill requires clerks to collaborate with the

²⁰ S. 40.23, F.S.

²¹ *Id.*

²² *Id.*

²³ *Supra*, note 12.

²⁴ S. 812.014(3)(d), F.S.

²⁵ *Supra*, note 12.

²⁶ S. 812.014(3)(d), F.S.

²⁷ S. 921.241, F.S.

²⁷ *Id.*

Florida Courts Technology Commission²⁸ and develop a plan to procure or develop a statewide technological solution to identify all mandatory monetary assessments. Such plan must be developed by January 1, 2022.

Under s. 34.01, F.S., effective July 1, 2030, and every 10 years after, the bill requires the \$50,000 limit on county court jurisdiction to be adjusted and increased by the percentage change of the Consumer Price Index.²⁹ The adjusted jurisdictional limit must be rounded to the nearest \$5,000, but may not be lower than \$50,000. To effectuate this jurisdictional threshold adjustment, the Florida Office of Economic and Demographic Research (EDR) must periodically calculate and certify the new jurisdictional amount to the Chief Justice of the Supreme Court beginning January 31, 2030, and every 10 years thereafter. The bill requires EDR and OSCA to publish the adjusted jurisdictional limit on their websites.

The bill also:

- Amends s. 40.23, F.S. to create an additional postponement period of up to 12 months upon request for a person summoned for jury service if the:
 - State Health Officer declares a public health emergency pursuant to s. 381.00315, F.S.; or
 - Governor declares a state of emergency pursuant to s. 252.36(2), F.S.
- Amends the requirements for misdemeanor petit theft under s. 812.014, F.S., misdemeanor prostitution under s. 921.242, F.S., and felony cases under s. 921.241, F.S., to:
 - Remove the requirement that a defendant's fingerprints be manually or electronically taken in open court and in the judge's presence;
 - Allow fingerprints to be taken manually or electronically in written and electronic guilty judgments;
 - Require a fingerprint certification to be signed by the court officer, the court employee, or the criminal justice agency employee who captured the fingerprints instead of a judge; and
 - Allow the court officer, the court employee, or the criminal justice agency employee who electronically captured the fingerprints to place his or her written or electronic signature on the certification.

The bill has an effective date of July 1, 2021.

B. SECTION DIRECTORY:

Section 1: Amends s. 25.221, F.S., relating to maintenance of books, records, and other materials.

Section 2: Amends s. 25.301, F.S., relating to decisions to be filed; copies to be furnished.

Section 3: Amends s. 28.2457, F.S., relating to mandatory monetary assessments.

Section 4: Amends s. 34.01, F.S., relating to jurisdiction of county court.

Section 5: Amends s. 35.15, F.S., relating to decisions to be filed; copies to be furnished.

Section 6: Amends s. 35.23, F.S., relating to location of clerk's office.

Section 7: Amends s. 35.24, F.S., relating to maintenance of books, records, and other materials.

Section 8: Amends s. 40.23, F.S., relating to summoning jurors.

Section 9: Amends s. 812.014, F.S., relating to theft.

Section 10: Amends s. 921.241, F.S., relating to felony judgments; fingerprints and social security number required in record.

²⁸ The Florida Courts Technology Commission was created by the Florida Supreme Court in 2010. The Commission is composed of 25 members who are tasked with the responsibility of "overseeing, managing, and directing the development and use of technology within the judicial branch under the direction of the Court." The Commission must submit an annual report by April 1 each year. <https://www.flcourts.org/content/download/579375/file/FCTC%20Operational%20Procedures%20-%20Feb%202020.pdf> (last visited Apr. 1, 2021).

²⁹ The Consumer Price Index is a measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services. U.S. Bureau of Labor Statistics, *Consumer Price Index*, <https://www.bls.gov/cpi/> (last visited Apr. 1, 2021).

Section 11: Amends s. 921.242, F.S., relating to subsequent offenses under chapter 796; method of proof applicable.

Section 12: Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill provides for an ongoing periodical adjustment of the jurisdictional threshold amount for county and circuit courts, which may have an indeterminate fiscal impact on state expenditures. The Criminal Justice Impact Conference considered the bill on March 24, 2021, and determined it would have no impact on the prison population.³⁰

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

To the extent the jurisdictional threshold amount for county and circuit courts is adjusted as a result of provisions in this bill, it may have an indeterminate fiscal impact on state and local revenues after July 1, 2030.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

³⁰ Criminal Justice Impact Conference, *HB 1197 – Courts*, March 24, 2021.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 23, 2021, the Civil Justice & Property Rights Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- Required the adjusted jurisdictional limit to be rounded to the nearest \$5,000.
- Required the Florida Office of Economic and Demographic Research (EDR) to periodically calculate and certify the jurisdictional threshold amount to the Chief Justice of the Supreme Court beginning January 31, 2030, and every 10 years thereafter, with the adjusted threshold amount taking effect July 1, 2030, and every 10 years thereafter.
- Required EDR and the Office of State Courts Administrators (OSCA) to publish the adjusted jurisdictional limit on their websites.
- Allowed a defendant to be manually fingerprinted when the court enters an electronic judgment.
- Made technical, non-substantive changes to improve clarity.

This analysis is drafted to the committee substitute as passed by the Judiciary Committee.