

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.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 1346

INTRODUCER: Senator Brandes

SUBJECT: Felony Settlement Conferences

DATE: March 29, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bond</u>	<u>Cibula</u>	<u>JU</u>	Favorable
2.	<u>Erickson</u>	<u>Jones</u>	<u>CJ</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1346 allows a circuit court to establish procedures for felony settlement conferences to facilitate further negotiation of settlements between parties to a pending felony criminal case if such parties have previously failed to reach a negotiated disposition. The bill also sets forth requirements for the presiding judge of the settlement conference.

The bill takes effect July 1, 2021.

II. Present Situation:

Alternative dispute resolution (ADR) is an alternative to judicial resolution of disputes. ADR generally describes the use of methods such as guided negotiation, mediation, or arbitration to help the parties resolve a dispute before trial.¹ According to the American Bar Association, “[d]ispute resolution processes have several advantages. For instance, many dispute resolution processes are cheaper and faster than the traditional legal process. Certain processes can provide the parties involved with greater participation in reaching a solution, as well as more control over the outcome of the dispute. In addition, dispute resolution processes are less formal and have more flexible rules than the trial court.”²

While formal ADR appears to be uncommon in Florida’s criminal courts, informal negotiation leading to a plea agreement or dismissal of the charges is prevalent. In the most recent year of

¹ *Alternative Dispute Resolution*, Legal Information Institute, Cornell Law School, available at https://www.law.cornell.edu/wex/alternative_dispute_resolution (last visited March 23, 2021).

² *Dispute Resolution Processes*, American Bar Association, available at https://www.americanbar.org/groups/dispute_resolution/resources/DisputeResolutionProcesses/ (last visited March 23, 2021).

reporting, 97.7 percent of Florida felony cases were resolved before trial by negotiated plea agreement or dismissal.³

According to information reported in a 2020 article, the Miami-Dade County circuit court sponsored a pilot criminal mediation project between the state attorney's office and the public defender's office. Four cases were resolved through this project.⁴

III. Effect of Proposed Changes:

The bill creates s. 26.58, F.S., regarding felony settlement conferences, which authorizes a circuit court to establish procedures for felony settlement conferences to facilitate further negotiation of settlements between parties to a pending felony criminal case if such parties have previously failed to reach a negotiated disposition.

The bill requires that a settlement conference judge preside over the settlement conference to assist the parties in reaching a negotiated disposition over the pending matter. The settlement conference judge must be a retired judge or an attorney who had no involvement with the pending matter outside of the felony settlement conference process. The trial judge presiding over the pending matter may not preside over the felony settlement conference. A circuit court using felony settlement conferences may adopt any other necessary procedures to administer the new statute.

The bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in Article VII, s. 18 of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

³ *FY 2019-20 Statistical Reference Guide* (Circuit Criminal Dispositions), p. 3-20, Office of the State Courts Administrator, available at <https://www.flcourts.org/content/download/720937/file/srg-ch-3-circuit-criminal-2019-20.pdf> (last visited March 23, 2021).

⁴ *Miami-Dade Circuit Has Groundbreaking Pilot Project to Mediate Criminal Cases* (Nov. 19, 2020), Daily Business Review, available at [https://www.law.com/dailybusinessreview/2020/11/19/miami-dade-circuit-has-groundbreaking-pilot-project-to-mediate-criminal-cases/?slreturn=20210222132747#:~:text=Holt%2FCourtesy%20Photo\)-,Facing%20a%20daunting%20caseload%2C%20the%20criminal%20division%20of%20the%20Miami,that%20successfully%20resolved%20four%20cases](https://www.law.com/dailybusinessreview/2020/11/19/miami-dade-circuit-has-groundbreaking-pilot-project-to-mediate-criminal-cases/?slreturn=20210222132747#:~:text=Holt%2FCourtesy%20Photo)-,Facing%20a%20daunting%20caseload%2C%20the%20criminal%20division%20of%20the%20Miami,that%20successfully%20resolved%20four%20cases) (last visited March 23, 2021).

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 26.58 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.