

**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 Committee on Judiciary

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BILL: SB 1346

INTRODUCER: Senator Brandes

SUBJECT: Felony Settlement Conferences

DATE: March 16, 2021

REVISED: \_\_\_\_\_

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION           |
|----|---------|----------------|-----------|------------------|
| 1. | Bond    | Cibula         | JU        | <b>Favorable</b> |
| 2. |         |                | CJ        |                  |
| 3. |         |                | RC        |                  |

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**I. Summary:**

SB 1346 allows a circuit court to establish procedures for felony settlement conferences.

The bill is effective July 1, 2021.

**II. Present Situation:**

Disputes arise in society. Where the parties cannot resolve the dispute between themselves, the court system was created to resolve those disputes. Courts are inherently slow to act, expensive to navigate, and sometimes unpredictable in their rulings. Alternative dispute resolution, or “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. While ADR is common in the civil courts, it is rarely used in the criminal courts.

While formal ADR is uncommon in Florida’s criminal court, informal negotiation leading to a plea agreement or dismissal of the charges is prevalent. In the most recent year of reporting, 97.7 percent of Florida felony cases were resolved before trial by negotiated plea agreement or dismissal.<sup>1</sup> In the federal system, 97.6 percent of criminal cases nationwide are resolved by negotiated plea agreement.<sup>2</sup> On the other hand, every criminal case set for jury trial because plea negotiations have failed requires significant judicial resources and inconveniences the many citizens called for jury duty.

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<sup>1</sup> FY 2019-20 Statistical Reference Guide, Florida State Courts, page 3-20.

<sup>2</sup> 2019 Annual Report and Sourcebook of Federal Sentencing Statistics, United States Sentencing Commission, page 56.

The Miami-Dade County circuit court recently tried a pilot program for felony settlement conferences. The pilot was a joint effort of the state attorney and public defender. A retired circuit court judge volunteered to act as a facilitator. The pilot was considered a success.<sup>3</sup>

### **III. Effect of Proposed Changes:**

The bill creates s. 26.58, F.S., regarding felony settlement conferences. A circuit court may 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. Such conferences must be presided over by a settlement conference judge, who must assist the parties in reaching a negotiated disposition over the pending matter. A 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.

The bill is effective 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, section 18 of the Florida Constitution.

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

None.

#### **C. Trust Funds Restrictions:**

None.

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

None.

#### **E. Other Constitutional Issues:**

None identified.

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<sup>3</sup> *Miami-Dade Circuit Has Groundbreaking Pilot Project to Mediate Criminal Cases*, Daily Business Review, November 19, 2020.

**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, 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.