

**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 Committee on Criminal and Civil Justice

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BILL: SB 538

INTRODUCER: Senator Bradley

SUBJECT: State Courts System

DATE: March 17, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bond</u>	<u>Cibula</u>	<u>JU</u>	<b>Favorable</b>
2.	<u>Kolich</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Pre-meeting</b>
3.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 538 allows a circuit court duty judge, which is a judge who is responsible for handling urgent matters outside of regular court hours, to hold and conduct hearings in places other than his or her chambers, repeals the \$1,500 per day limit on fees paid to a court-appointed arbitrator, and allows a judge to authenticate documents containing written statements under oath made by others without using a personal or court seal.

The bill is not expected to have a fiscal impact on state or local governments. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2025.

**II. Present Situation:**

**Circuit Judges**

In 1935, the Legislature enacted a requirement that judicial circuits having more than one circuit judge, if possible, have at least one circuit judge available at all times to hold and conduct hearings in chambers.<sup>1</sup> This judge is commonly referred to as a “duty judge.” The statutory requirement to designate a duty judge in judicial circuits supports the prompt and efficient administration of justice by having a judge available during work hours, after hours, weekends, and holidays to handle emergency judicial matters. These emergency matters may include applications for search or arrest warrants, pen registers, petitions for *ex parte* injunctive relief to prevent domestic and repeat violence, communications intercepts, and medical consents. Over

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<sup>1</sup> Ch. 17085, §4, at 699, Laws of Fla. (1935), codified in s. 26.20, F.S.

time, the number of circuit judges has grown, and presently all judicial circuits have more than one circuit judge.<sup>2</sup> Accordingly, each circuit maintains a duty judge schedule.

Along with growth in the number of circuit judges since 1935, technological innovations have transformed the way judges carry out judicial activities and conduct court proceedings. Judges routinely access case files, issue orders, and conduct hearings from locations other than a physical courthouse or their chambers using case management and communication technologies. The adoption of these technologies has led to greater efficiency for judges and court users and better access to the courts. The language of s. 26.20, F.S., implies that a duty judge must work at the courthouse or in a judge's chambers is outdated.

### **Arbitration Fees**

Section 44.103(2), F.S., authorizes a trial court to refer a contested civil action to nonbinding arbitration. Arbitrators in these proceedings are compensated by the parties or, if a party is indigent, by the court. The fee for arbitration services is set by the chief judge in each circuit but is subject to a statutory cap of \$1,500 per diem unless the parties agree otherwise.<sup>3</sup> The statutory cap has not been adjusted since 2005.<sup>4</sup>

### **Oaths, Affidavits and Acknowledgements before a Judge**

Except as otherwise provided under law, oaths, affidavits, and acknowledgments may be taken or administered by or before any judge, clerk, or deputy clerk of any court in this state, including the federal courts, or by or before any United States commissioner or any notary public.<sup>5</sup> The jurat, or certificate of proof or acknowledgement, for the oath, affidavit, or acknowledgement must be authenticated by the signature and official seal of the person authenticating the document. A judge, clerk, or deputy clerk may also satisfy the seal requirement by using the seal of his or her court of record.

It is not uncommon for a judge to administer oaths at locations other than a courthouse where a personal or court seal is unavailable. Typically, in such circumstances, the judge provides his or her signature and prints his or her name, title, and court on the jurat or certificate of proof or acknowledgment. However, an oath recently authenticated by a District Court of Appeal judge in such a manner was rejected by the Department of State because it did not include the seal of the District Court of Appeal as required by s. 92.50, F.S.

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

The bill amends s. 26.20, F.S., to repeal outdated language and to allow a duty judge to hold and conduct hearings in places other than his or her chambers.

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<sup>2</sup> The current number of circuit judges in each judicial circuit ranges from 4 in the 16th Judicial Circuit (Monroe County) to 80 in the 11th Judicial Circuit (Miami-Dade County). Section 26.031, F.S.

<sup>3</sup> Florida Rule of Civil Procedure 1.810(b) provides: "The chief judge of each judicial circuit shall establish the compensation of arbitrators subject to the limitations in section 44.103(3), Florida Statutes."

<sup>4</sup> Section 32, ch. 2005-236, Laws of Fla.

<sup>5</sup> Section 92.50(1), F.S.

The bill amends s. 44.103, F.S., to repeal the statutory cap on the fees that a court-ordered arbitrator may charge. The current cap limits the fees that court-appointed arbitrators may charge to \$1,500 per day unless agreed otherwise by the parties. The repeal of the fee cap, however, does not affect the ability of the chief judge of a judicial circuit to limit such fees.

The bill amends s. 92.50, F.S., to authorize a state or federal judge in this state to authenticate oaths, affidavits, and acknowledgements by simply providing a signature and printing the judge's name, title, and court on the jurat or certificate of proof or acknowledgment. The use of a personal or court seal is no longer required when a judge authenticates those documents.

The bill takes effect July 1, 2025.

#### **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.

E. Other Constitutional Issues:

None.

#### **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 substantially amends the following sections of the Florida Statutes: 26.20, 44.103, and 92.50.

This bill reenacts the following sections of the Florida Statutes: 28.2221, 92.525, 110.12301, and 112.181.

**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.