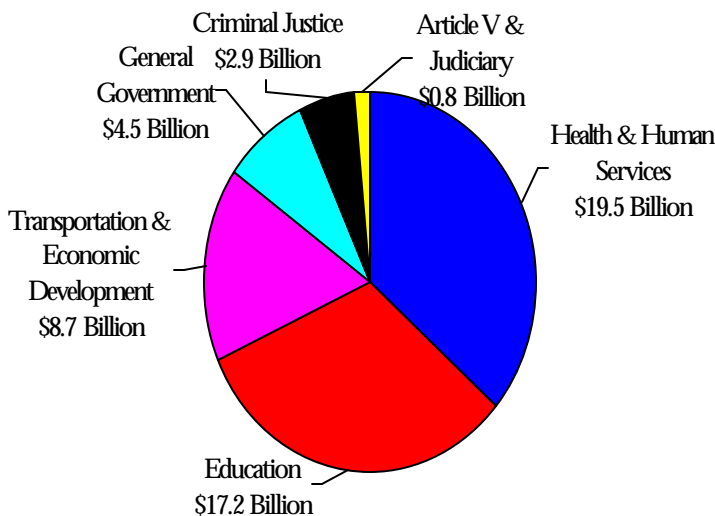


# Special Edition

# FULL COURT PRESS

## Florida's Budget: 2003-2004 \*How the state will spend \$53.5 billion in 2003-2004



**Figures do not add up because of rounding**  
\*Source: Senate Appropriations Committee

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## Message from State Courts Administrator Robin L. Lubitz

This special edition of the Full Court Press is intended to update you on recent legislative developments. Actions taken by the Legislature this session will substantially impact the operation of our courts, not only during the next twelve months, but also for years to come. As most of you know, the Legislature passed an extremely austere budget that includes significant funding reductions for the State Courts System. On the bright side, the Legislature passed historic Article V; Revision 7 implementing legislation. Summaries of these actions and highlights of other bills are included in this newsletter.

The accompanying chart for Florida's budget shows how the state will spend \$53.5 billion in Fiscal Year 2003-2004. The Judiciary and other Article V entities continue to account for only a very small percentage of the total state budget.

The successful passage of the Article V; Revision 7 legislation would not have been possible without the extraordinary efforts of Judge Susan Schaeffer and other members of the Trial Court Budget Commission including Judge Stan Morris, Judge Belvin Perry, Judge Joseph Farina and Judge Charles Francis. These judges, plus many others, spent countless hours in Tallahassee meeting with legislators and staff to help craft the Revision 7 legislation. They also fought relentlessly against further cuts to the courts' budget and deserve the appreciation of all those who care about our Judicial Branch.

## State Courts Face Tough Year

by Charlotte Jerrett, Director of Administrative Services

The last day of Special Session A ended with the passage of a \$53.5 billion budget for the State of Florida, for the upcoming fiscal year. The State Courts System's share is approximately \$269.8 million, or a 3.9 percent reduction in appropriations when compared to the current fiscal year. Highlights of those actions are as follows:



### Supreme Court

The Court's budget was reduced by approximately 2 percent, and resulted in a loss of 2 judicial assistant positions and approximately \$35,000 to the overall operating budget. Funds were received to provide for the conversion of electrical utilities for the Supreme Court Building from the Department of Management Services to the City of Tallahassee.

### Office of the State Courts Administrator

OSCA sustained the largest cut, with an overall 10.6 percent reduction from the current year. Funding reductions were met with the loss of 13 positions affecting the areas of court services, finance and accounting, personnel, budget, strategic planning, legal affairs, court improvement, and information system services. Additional base budget reductions were taken in the amount of approximately \$250,000. The allocation of position cuts was balanced by minimizing the degradation of support services provided by OSCA to the State Courts System, while retaining as many current employees as possible. Vacant positions were identified and employee skills and abilities were matched to meet the functional needs of the organization. OSCA management is currently evaluating the impact of the reductions in terms of lower priority services that may no longer be able to be provided.

### District Courts of Appeal

The 2<sup>nd</sup> DCA received additional funding to complete an HVAC replacement project, and funding for lease payments for a new court location with Stetson University. Overall, the appellate courts took a \$395,495 reduction in salaries, with no loss of positions. These issues resulted in a net reduction to operations of 1.1 percent.

### Trial Courts

Almost all of the individual programs originally funded to meet the varying unique needs of circuits were eliminated effective July 1, 2003. Self help services, truancy alternatives, court system services for children and youth, guardianship monitoring and dependency drug court round out the list for circuit-specific program reductions in the 6<sup>th</sup>, 11<sup>th</sup>, 13<sup>th</sup>, and 17<sup>th</sup> circuits. In addition, the trial courts lost 34 positions associated with the model dependency courts in the 5<sup>th</sup>, 10<sup>th</sup>, 13<sup>th</sup>, 17<sup>th</sup>, and 18<sup>th</sup> circuits. One position was cut in each circuit (20 positions total), with the elimination of the juvenile alternative sanctions coordination function. Thirteen deputy court administrator positions were eliminated, with the final cut distribution pending approval by the Trial Court Budget Commission. The attorney ad litem pilot project in the 9<sup>th</sup> Circuit was eliminated and resulted in a loss of 10.5 positions and approximately \$1.6 million.

Finally, with the passage of HB 439, the guardian ad litem program is being transferred to the newly created Statewide Guardian ad Litem Office, within the budget of the Justice Administrative Commission. This transfer is effective January 1, 2004, and consists of 344 positions and annual funding of approximately \$20.7 million.

While these cuts are significant and painful, the Supreme Court, the District Court of Appeal Budget Commission, the Trial Court Budget Commission, and the OSCA worked very hard this session to prevent the cuts from being much worse. With the special session behind us, we remain optimistic and are focused on preparing for a successful session next year, with funding for the implementation of Revision 7!

# 2003-04 Judicial Budget Summary

Budget Entity	Issue	FTE	Recurring	Non-Recurring	Trust	Total All Funds
Supreme Court	1 Installment Purchase Obligations		12,006			12,006
	2 Base Budget Reduction		(35,777)			(35,777)
	3 Building & Facilities Maintenance			175,000		175,000
	4 Supreme Court JA Ratio Adjustment	(2.0)	(109,870)			(109,870)
Executive Direction	5 SVAW- Grant Continuation	1.0			18,750	18,750
	6 DCIP - Grant Continuation	1.0			56,250	56,250
	7 Appropriation Transfer - Fl. Cases		3,300			3,300
	8 COPES - HR Outsourcing		(856)			(856)
	9 Alternative Dispute Resolution	1.0			34,952	34,952
	10 Court Education				81,999	81,999
	11 Reduce Excess Trust Fund Authority				(135,600)	(135,600)
	12 Administration Reduction		(75,929)			(75,929)
	13 Reduce Expense and OPS due to Reversions		(175,000)			(175,000)
	14 Human Resources Services-Statewide Contract		275,430		5,694	281,124
	15 Human Resources	(3.0)	(130,779)			(130,779)
	16 OSCA Education and Support Staff	(10.0)	(581,870)			(581,870)
	17 Reversion of Funds for "SAFER" Computer Project (Item 3157A from the 02-03 GAA)			(1,609,432)	(1,341,193)	(2,950,625)
Admin. Funds	18 Trial Court Judicial Assistant Pay Equity Adjustments		1,500,000			1,500,000
	19 Sexual Predator Conflict Cases		100,000			100,000
District Courts of Appeal	20 Add New DCA Budget Entity	434.0	35,715,790			35,715,790
	21 Deduct Old DCA Budget Entity	(434.0)	(35,715,790)			(35,715,790)
	22 COPES - HR Outsourcing		(1,736)			(1,736)
	23 Increase Salary Lapse		(395,945)			(395,945)
	24 2nd DCA/Tampa Branch Lease		24,000			24,000
	25 2nd DCA Maintenance & Repair			200,000		200,000
Trial Courts	26 Appropriation Transfer - Florida Cases		(3,300)			(3,300)
	27 COPES - HR Outsourcing		(9,204)			(9,204)
	28 Reduce Excess Trust Fund Authority				(598,634)	(598,634)
	29 Eliminate Attorney Ad Litem	(10.5)	(1,682,102)			(1,682,102)
	30 Eliminate Self-Help Services		(198,063)			(198,063)
	31 Reduce Expense and OPS due to Reversions		(800,000)			(800,000)
	32 Reduce Compensation to Retired Judges		(500,000)			(500,000)
	33 Eliminate Deputy Court Administrator positions	(13.0)	(764,915)			(764,915)
	34 Increase Salary Lapse		(486,158)			(486,158)
	35 Eliminate Courts' Truancy Alternatives Funding		(200,000)			(200,000)
	36 Video Teleconferencing				502,400	502,400
	37 Child Support Enforcement	7.5			116,384	116,384
	38 Reduce Juror/Witness Payments due to Reversions		(600,000)			(600,000)
	39 Transfer GAL to the JAC		(10,172,899)		(267,166)	(10,440,065)
	40 Model Dependency Court	(34.0)	(2,340,516)			(2,340,516)
	41 Court Systems Services for Children & Youth		(200,000)			(200,000)
	42 Juvenile Alternative Sanctions Coordination	(20.0)	(1,293,938)			(1,293,938)
	43 Guardianship Monitoring	(2.0)	(92,281)			(92,281)
	44 Dependency Drug Court		(150,000)			(150,000)
JQC	45 COPES - HR Outsourcing		(12)			(12)
	46 JQC Caseload		50,000			50,000
<b>Total</b>		<b>(84.0)</b>	<b>(19,036,414)</b>	<b>(1,234,432)</b>	<b>(1,526,164)</b>	<b>(21,796,710)</b>

## Brave New World: An Overview of the Revision 7 Implementation Bill

By Susan F. Schaeffer, Chair, Trial Court Budget Commission

After several false starts, the Florida Legislature has passed a bill implementing Revision 7 to Article V of the Florida Constitution. The bill, HB 113A, establishes a framework for the transfer of primary funding responsibility for the operation of the trial courts from the counties to the state, as mandated by the constitution. This shift must be completed by July 1, 2004. The bill also reallocates other costs and expenses among local governments and court system users and restructures court fee systems.



Overall, the judicial branch should be pleased with this legislation. The Trial Court Budget Commission (TCBC) can now move forward with preparing a FY 2004-05 budget request for state funding consistent with the provisions of this bill, and the chief judges of the individual circuits can prepare and submit requests to their counties for items that will be the responsibility of the counties. Efforts can be directed to the many transitional issues, and we can look to planning the future of the Florida court system post-Revision 7.

### Elements for State Funding

Although not without debate,<sup>1</sup> the Legislature ultimately agreed with the TCBC as to the identification of the “essential” trial court elements. However, the Legislature declined to use the term “essential.” The Revision 7 implementation legislation “enumerates” the following elements of the court system to be provided from state revenues appropriated by general law:

- (1) Judges.
- (2) Juror compensation and expenses.
- (3) Reasonable court reporting and transcription.
- (4) Facilities for district courts of appeal and Supreme Court.
- (5) Foreign language interpreters and translators and sign language interpreters.
- (6) Expert witnesses expressly authorized by statute.
- (7) Judicial assistants, law clerks and resource materials.
- (8) Masters and hearing officers.
- (9) Court administration.
- (10) Case management, to include:
  - initial review, evaluation and assignment of cases.
  - case monitoring, tracking and coordination.
  - scheduling of judicial events.
  - service referral coordination, monitoring, and tracking for drug court programs under s. 397.334, F.S.

The bill specifically provides that “case management may not include costs associated with therapeutic jurisprudence principles by the courts, or case intake and records management conducted by the clerk.” This appears to mean that case management will be provided for drug court but not for other “therapeutic” courts.

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<sup>1</sup> The most crucial debates centered around the roles of trial court administration, clerks of court, and the OSCA, and the need for case management.

- (11) Court-ordered mediation and arbitration of pending judicial cases (excluding pre-suit or voluntary).
- (12) Basic legal materials available to the public other than a public law library. These materials may be provided in a courthouse facility or any library facility.
- (13) The Judicial Qualifications Commission.
- (14) Appellate clerks, marshals, and libraries.

The Legislature similarly identified Revision 7 elements for state attorneys, public defenders, and court-appointed private attorneys in conflict cases and other civil proceedings requiring court-appointed counsel. Of note, the bill provides that the state attorneys and public defenders, rather than court administration, shall be responsible for witness coordination and finally clarifies that the Justice Administrative Commission (JAC) is not part of the judicial branch.

The clerks' court-related functions are redefined to include:

- ministerial assistance to pro se litigants;
- determination of indigence for each person applying for the appointment of public defender, private attorney, or for any court-related services based on indigence, which determination may be reviewed by the court at the next scheduled hearing;
- making estimates and requisitions for certain due process costs for state attorneys, public defenders and court-appointed counsel and forwarding them to the JAC; and
- a significant role in the collection of court costs, fines and fees from court users and those receiving representation or other court services based on indigence.

## Local Requirements

Legal aid programs in counties with a population greater than 75,000, and alternative sanctions coordinators, were declared local requirements pursuant to Chapter 29, F.S. The Legislature also redefined or clarified several terms related to county funding responsibilities, including: facilities, including parking, utilities, and custodial services; telephone system infrastructure, including computer lines, local service and access to long distance service; computer hardware and software, network connections, maintenance and support staff; an integrated computer system to be operational by January 1, 2006; real-time transcription services and equipment for individuals who are hearing-impaired; and assistive listening devices and other equipment necessary to implement ADA accommodations for qualified individuals.

For other county-funded financial support for the court system, state attorneys, or public defenders, a chief judge must annually submit a certification of additional local requirements to the board of county commissioners, using criteria provided in the bill. In providing for these additional local requirements, counties may enter into interlocal agreements for the collective funding of salaries, costs and expenses.

Counties and municipalities will also be required to pay a \$200 filing fee for each ordinance violation case filed as well as the prosecution costs and any indigent defense costs. Hearing officers presiding over violations of county or municipal parking ordinances will be paid by the county or municipality.

## Post-Revision 7 Funding Structure

Courts, state attorneys and public defenders will generally be funded by appropriations from state General Revenue (GR). The state Indigent Criminal Defense Fund, consisting of revenues from a \$40 indigence application fee, will also support public defenders. On October 1 of each year, the chief judges, state attorneys and public defenders are required to submit an itemized report detailing expenditures on the items enumerated for state funding in Chapter 29, F.S.



Clerks of the court will support their court-related operations with filing fees, service charges, and fines collected. “May require” and “not to exceed” are inserted in front of many increased fees, charges, and costs in civil, probate and county court actions – to be determined by each clerk of court. For example, the initial filing fee for a civil action is increased from \$40 to “up to” \$250 and “up to” \$50 for a reopened civil action, suit or proceeding. Clerks will also have authority to retain 1 to 2 percent of collections payable to other entities to offset costs.

Generally, filing fees, service charges, fines, and costs collected by the clerks, less the amount retained for court-related operations, will be remitted to the Department of Revenue (DOR) for General Revenue (GR) or the Clerks of Court Trust Fund, which will be available for appropriations to clerks experiencing a deficit in court-related operations.<sup>2</sup> Beginning July 1, 2004, \$5 of the filing fee for all civil actions will go to the Clerk of Court Operations Conference and 1/3 of the amount remaining after \$57.50 to GR is deducted will go to the Clerks of Court Trust Fund.

As noted earlier, the clerks will have an expanded role in the collection of court system revenues and recovery of court-related costs. Most court costs and fines will be automatically assessed by statute. The statute sets the maximum income threshold of presumptive indigence at 200 percent of federal poverty guidelines. Judges will no longer be permitted to waive filing fees and other court costs, except where a defendant is found not guilty. For defendants or other court users unable to pay sums due, the clerk is directed to establish payment programs and to pursue recovery of all unpaid costs, fees, and charges.

Except for additional court costs of \$50 for a felony and \$20 for other offenses to fund crime prevention programs and safe neighborhood programs, counties have generally been relieved of existing court-related revenue streams, including their authority to set additional fees or service charges for various activities, including court-connected mediation, law libraries, teen court programs, public guardian programs and legal aid programs. County fine and forfeiture funds become clerk fine and forfeiture funds to be used by the clerk in performing court-related functions.

## Due Process Costs

Local conflict committees are reconstituted as Article V indigent services committees. These committees will select qualified attorneys eligible to receive court appointments, who will be placed on conflict lists

The Clerk of Court Operations Conference is created to include 8 clerks and the chief justice or chief justice’s designee. The Conference will receive revenues from the clerks as provided by statute and will:

- a) recommend to the legislature changes in court-related fines, fees, services charges, and cost schedule;
- b) establish a process for review and approval of clerks’ court-related budgets;
- c) certify clerks’ deficits;
- d) develop performance and accountability measures and performance standards; and
- e) publish a schedule of maximum fines, fees, service charges, and costs.

After October 1, 2005, the schedule may be adjusted no more than annually by the percentage change in the Consumer Price Index, if such adjustment is approved by a majority of clerks.

The bill provides for a public depository for the maintenance of Conference funds, hiring of staff and payment of necessary Conference expenses and annual audited financial statements.

<sup>2</sup> From July 1, 2003 to June 30, 2004, a filing fee up to \$50 for reopening any civil action, suit or proceeding will go to the DOR Clerks of Court Trust Fund. (Any fee for mediation in dissolution, pursuant to s. 44.108, may be deducted.)

via a registry process or by a competitive bidding process. The committees will be comprised of the chief judge as chair, the public defender, an experienced criminal attorney, and an experienced civil trial attorney. The JAC has standing to object to public defender motions to withdraw and any portion of an appointed counsel's motion for payment of fees. Compensation for private attorneys is to conform with standards adopted by the Legislature, subject to statutory limits, based on the recommendations of the Article V Indigent Services Advisory Board.

A statewide Article V Indigent Services Advisory Board is created to advise the Legislature on qualification and compensation standards for the entire range of due process services, and will advise the Legislature on cost containment. This Board will be staffed by the JAC, and will consist of three members each appointed by the Chief Justice, Governor, Senate President, and House Speaker. It is effective July 1, 2003. Board responsibilities include:

- qualifications for providers of state-funded due process services, including court reporters, interpreters, and private court-appointed counsel;
- adjustments to existing compensation standards, due by January 1, 2004;
- identification of due process services that should be included on the state contract and bid competitively on a circuit, regional or statewide basis;
- recommend statewide contracting standards and contract forms;
- advice on strategies and policies to contain costs; and
- recommend uniform standards for determining when the public defender has a conflict.

Under the bill public defenders will no longer be able to refuse to take cases based on "workload conflict," and the court may not grant a motion to withdraw if the grounds for withdrawal are based solely on inadequate funding or excess workload.

The Board's initial recommendations are due by November 1, 2003. The Chief Justice and the JAC are encouraged to consider the advice and recommendations of the Board in development of budgets for due process services and contractual arrangements for state funded services beginning in FY 2004-05.

Due process costs are highly unpredictable. To allow a flexible response to changing needs, due process contingency funds are created within the judicial branch for the courts, and within the JAC for the state attorneys and public defenders. The new law sets out criteria for how chief judges, state attorneys, and public defenders can access their respective contingency funds.

These are just a few highlights of a very lengthy (200+ pages) and complex bill. Further analysis will surely follow. While the specific provisions of this bill will be discussed over the summer at the judicial conferences, some elements of the legislation become effective this July. Therefore, I encourage everyone to read and study this bill in its entirety. The enrolled bill can be found at: [www.myfloridahouse.com/BillInfo.aspx?bid=11669](http://www.myfloridahouse.com/BillInfo.aspx?bid=11669).

In closing let me emphasize that this legislation will change the way our trial courts operate from day to day in very basic ways. Things are not going to be as they have been. The administration of justice in Florida will be altered. For example, the division of responsibilities between the clerks of court and the courts themselves will change in many locations; some activities that courts now do the clerk will do, and some things the clerks now do the courts will do. The appointment and payment of conflict counsel will change.

Further, the autonomy of the individual circuits will be diminished. There is no way around this. Operating policies and levels of resources will increasingly be determined at the state level. The Legislature, by virtue of its control of the purse strings as well as substantive law, will have a much stronger role, and the role of the counties will be reduced. The passage of HB 113A is a milestone in the history of the Florida court system, and it is also now a starting point.

# Highlights of the 2003 Legislative Session

Below are only a few highlights of the 2003 Regular Legislative Session by topical area. The Governor's final actions on all enrolled legislation are not available at this time. OSCA will continue to provide a legislative report to chief judges and trial court administrators every Friday. This report will detail any action by the Governor and/or the Secretary of State. In addition, any message from the Governor with regard to vetoed legislation and/or budgetary issues of importance to the Judicial Branch will be provided when available. Please call OSCA's Community & Intergovernmental Relations Office at (850) 922-5692 or refer to Online Sunshine at <http://www.leg.state.fl.us> for additional information.

## Administrative/Personnel

### **CS/CS/SB 1006**

### **State Employee Health Insurance by Appropriations and Governmental Oversight & Productivity; Ordered Enrolled, Pending Governor's Signature.**

This bill provides a vehicle to restructure health insurance plans for state employees. Currently state employees may enroll in two types of coverage (through an HMO or Blue Cross-Blue Shield): individual or family coverage. This bill provides the Department of Management Services the authority to negotiate for tiered coverage, effective July 1, 2004. One example presented by legislative staff is a four-tier plan. These are: individual, individual plus spouse, single parent and eligible children and dependents, and family coverage (individual, spouse, and eligible children and dependents). State contributions will be market-based, and a significant increase in employee premiums is predicted. The largest increase would be for family coverage.

### **Compensation - Across-the-board increases**

Effective December 1, 2003 all State Courts System non judicial employees will receive a 2 percent across-the-board increase to their November 30, 2003 base salary (salary without any additives such as competitive area differential, lead-worker, or shift differential). The Legislature also approved a guaranteed minimum increase of \$500 annually (prorated by Full Time Equivalent), and a maximum increase of \$1,400, (prorated by Full Time Equivalent.) Therefore, any employee whose salary is under \$25,000 annually will receive a \$500 increase. Any SCS employee whose salary is \$70,000 or above will receive a \$1,400 increase.

### **Judicial Compensation**

All Justices and judges will receive a \$1,400 increase, effective December 1, 2003.

### **Judicial Assistant Compensation**

The 2003 Legislature partially funded the State Courts System's *Pay Plan Request* for an increase in compensation for judicial assistants. Contingent upon the Governor's approval, all circuit court and county court judicial assistants are slated to receive a \$1,330 annual increase (\$110.83 monthly) to their base rate of pay, effective July 1, 2003. The Legislature also provided funding to increase existing Competitive Area Differentials (CAD), and to establish a CAD for judicial assistants in the Fourth and Nineteenth judicial circuits.



## Benefits

There will be a significant increase in the monthly premiums for health insurance effective December 1, 2003, as follows:

	From	To
Individual	\$41.96	\$48.67
Family	\$150.98	\$175.14

Effective January 1, 2004, there will also be an increase in co-payments for prescription drugs. For example, the co-payment for generic drugs will increase from \$7.00 to \$10.00 and the co-payment for preferred brand name drugs will increase from \$20.00 to \$25.00. The co-payment for non-preferred brand name drugs will increase from \$35.00 to \$40.00. In addition, co-payments for HMO primary care physician office visits will increase from \$10.00 to \$15.00, and for specialty care physician office visits from \$10.00 to \$25.00. Co-payments for emergency room visits will increase from \$25.00 to \$50.00.

Please contact the Office of Personnel Services if you have any questions concerning these changes at (850) 487-0778, or SunCom 277-0778.

## **CS/CS/SB 958      FRS Contribution Rates by Appropriations and Governmental Oversight & Productivity; Ordered Enrolled.**

Provides for the FRS contribution rates for FY 2003-04. Though not affecting employees, a slight increase in the contribution rate affects court budgets. The final rate is yet to be determined, as excess actuarial assets in the Retirement Trust Fund are used to offset statutorily set rates.

## Of Interest

Last August the Executive Branch signed a contract with Convergys to outsource personnel administrative activities including recruitment, payroll, attendance and leave, and benefits administration. Over the summer the state will replace its current personnel information system (COPES) with Convergys' system. The State Courts System, though not required to outsource at this time, will use Convergys' system to process payroll and benefits. As we learn more about the outsourcing initiative (People First) we will make sure that quality service is provided to all State Courts System officers and employees.

## Civil Legislation

### **HB 143A      Relating to Florida Civil Rights Act of 1992 by Rep. Kottkamp and others; Ordered Enrolled.**

Provides the Attorney General authority to initiate civil actions for damages, injunctive relief, and civil penalties of up to \$10,000 per violation. Permits the Attorney General to sue businesses such as restaurants or hotels in circuit court on behalf of the state for patterns or practices of discrimination, or for discrimination that raises an issue of great public interest. The law will require the Attorney General to make a threshold prima facie showing of a pattern or practice of discrimination or the existence of an issue of great public interest prior to the filing of a responsive pleading. In past cases involving discrimination in public accommodations, the Attorney General has had to sue under the state's unfair and deceptive trade practices act because chapter 760 did not authorize the Attorney General to bring suit on behalf of the state.

## Criminal

Below you will find a few bills regarding criminal legislation filed during the 2003 Regular Legislative Session. The Supreme Court Subcommittee for Review and Notification of Criminal and Juvenile Legislation met on Friday, May 30th to discuss a number of other bills. The primary purpose of this subcommittee is to identify new legislation that will require revisions to judicial forms, rules, or jury instructions, and to monitor the timely implementation of the new legislation. The subcommittee will also attempt to identify new legislation that may warrant special continuing judicial education programs to assure adequate implementation of the new laws. In addition, the 2003 Abstracts of New Legislation shall provide summaries of all major criminal legislation.

**CS/CS/SB 2172      Relating to Dangerous Sexual Felony Offender Act by Appropriations, Criminal Justice & Sen. Cowin; Ordered Enrolled; Pending Governor's Signature.**

Creates a mandatory 25 year sentence for "dangerous sexual felony offenders" and provides a definition of the term. This bill also provides that those sentenced under these mandatory provisions are ineligible for statutory gain time or any other type of discretionary early release.

**CS/SB 2046      Relating to Sentencing by Appropriation, Sen. Smith & Argenziano; Ordered Enrolled; Pending Governor's Signature.**

Prohibits a sentencing judge from directing that the sentence he or she is imposing be served coterminously with another sentence imposed on the offender in Florida or another state.

**CS/CS/SB 144      Relating to Sexual Battery Victims/Services by Appropriations, Criminal Justice, Sen. Cowin and others; Ordered Enrolled; Pending Governor's Signature.**

Requires a sentencing judge to impose an additional \$151 cost against those convicted of certain enumerated offenses. The money will be placed in a trust fund to pay for sexual battery recovery services for victims and their families.

## Elections

**HB 847      Relating to Citizens' Right to Honest Government by Rep. Goodlette and others; Ordered Enrolled.**

This bill rewrites and modifies criminal provisions governing offenses by public servants. It incorporates several recommendations embodied in the Public Corruption Study Commission's Report to the Governor (December 15, 1999). The bill amends definitions and increases a number of existing criminal penalties from a third-degree to a second-degree felony, and creates a number of new crimes for the following offenses: bribery; unlawful compensation; official misconduct; disclosure or use of confidential criminal justice information; and bid tampering in connection with public contracts. If approved by the Governor, this bill will take effect October 1, 2003.

**HB 1051      Related to Lieutenant Governor/Vacancy by Rep. Goodlette and others; Ordered Enrolled.**

Clarifies an ambiguity created by conflicting provision in the state Constitution which currently provide that, upon a vacancy in the office of Lieutenant Governor, the Governor shall appoint a successor unless there are more than 28 months remaining in the term, in which case the appointee serves until the first Tuesday following the next general election (s. 1(f), Art. IV, State Constitution) and the provision which requires the Governor and Lieutenant Governor to run jointly (s.5, Art. IV, State Constitution). The bill also provides

that upon a vacancy in the office of Lieutenant Governor, the Governor shall appoint a successor for the remainder of the term. If, following such appointment, a vacancy in the office of the Governor should occur and there are more than 28 months left in that term of office, electors shall select a Governor and Lieutenant Governor at the next general election. This bill takes effect upon becoming law.

## Family

### **House Bill 439**

**Relating to Statewide Guardian ad Litem Office by Rep. Rich and others; Ordered Enrolled; Approved by Governor; Chapter Law Number 2003-53.**

Provides for the following:

- A Statewide Guardian ad Litem Office is created within the Justice Administrative Commission, which will provide administrative support to the Statewide Guardian ad Litem Office.
- Effective January 1, 2004, the Guardian ad Litem Program is transferred to the Statewide Guardian ad Litem Office.
- The Statewide Guardian ad Litem Office will be led by an Executive Director, who will be appointed by the Governor from a minimum of three applicants selected by the Guardian ad Litem Qualifications Committee.
- The Guardian ad Litem Qualifications Committee consists of 5 members: two appointed by the Governor, two appointed by the Chief Justice of the Supreme Court, and one appointed by the Statewide Guardian ad Litem Association.
- The Attorney ad Litem Pilot Project in the Ninth Judicial Circuit will be transferred to the Statewide Guardian ad Litem Office and will be continued until October 1, 2004.

### **HB 475/SB 1454**

**Relating to Human Services by Rep. Murman and others; Ordered Enrolled; Pending Governor's Signature.**

Amends section 39.202 to expand the list of persons who may have access to confidential records to include specified persons at certified domestic violence centers, attorneys representing children in civil or criminal proceedings and school principals. A new procedure is established for situations when children are determined to be missing. The bill also directs the Office of Program Policy Analysis and Governmental Accountability to conduct an evaluation of child welfare legal services and consider different models of provision of legal services in dependency proceedings on behalf of the state.

### **HB 561/SB 294**

**Relating to the Victim's Freedom Act by Rep. Kyle and others; Ordered Enrolled.**

Amends section 784.046, Florida Statutes, to create a cause of action for an injunction for protection against sexual violence; eliminates a filing fee for injunctions for protection against repeat, sexual and dating violence.

### **HB 715/SB 2050**

**Relating to Child Custody Evaluations by Rep. Rivea and others; Ordered Enrolled; Pending Governor's Signature**

Provides a presumption of good faith for actions of a court-appointed psychologist who conducts a child custody evaluation.

**HB 835/SB 2456      Relating to Adoption by Rep. Mahon and others; Ordered Enrolled; Approved by Governor; Chapter Law Number 2003-58.**

Substantially amends laws relating to adoption; creates Putative Father Registry.

**HB 983/SB 2526      Relating to Putative Father Registry by Rep. Mahon; Ordered Enrolled; Approved by Governor; Chapter Law Number 2003-56.**

Creates public records exemption for the Putative Father Registry.

**HB 935/SB 90      Relating to Parent-Child Privilege by Rep. Stargel and others; Ordered Enrolled.**

Creates section 90.5045, Florida Statutes, establishing a parent - child privilege. The privilege does not apply in actions governed by the Family or Juvenile Rules of Procedure or in proceedings when the child brings action against the parent and vice versa.

**HB 1099/SB 1216      Relating to Domestic Violence by Rep. Littlefield and others; Ordered Enrolled; Approved by Governor; Chapter Law Number 2003-11.**

Allows the Department of Children and Families to contract with a statewide association to represent and provide technical assistance to certified domestic violence centers; requires the association to implement, administer, and evaluate services provided by the centers, and review and approve applications for funding by certified volunteers.

**HB 1515/SB480      Relating to Commission on Marriage & Family by Rep. Reagan and others; Ordered Enrolled; Pending Governor's Signature.**

Creates the Commission on Marriage and Family Support Initiatives to build on the accomplishments of the Commission on Responsible Fatherhood.

**HB 1321,1825/SB 1442 Relating to Child & Vulnerable Adults Abuse by Rep. Gannon; Ordered Enrolled; Pending Governor's Signature.**

Clarifies the definition of a "person responsible for a child's welfare"; allows personnel from Abuse Hotline to determine if a report meets the criteria for abuse, abandonment, or neglect; creates separate processes and requirements for onsite investigations and enhanced onsite investigations; revises the time frame for responding to institutional abuse; establishes a Protective Investigator Retention Workgroup.

**HB 1915/SB 2366      Relating to Abuse of Children by Criminal Justice and others; Ordered Enrolled; Pending Governor's Signature.**

Amends section 827.03 to define the term "maliciously" for purposes of aggravated child abuse.

## **Drug Courts - Failed to Become Law**

**SB 2210/HB 669      Relating to Substance Abuse Treatment by Sen. Lynn; Died.**

Provided for the drug court principles in the juvenile dependency statute, Chapter 39, to more effectively address the major substance abuse problem of parents with allegations of child abuse, neglect, or abandonment. These

bills would have also expanded the eligibility for adult and juvenile pre-trial drug court, and proposed minor technical revisions to sections 397.334 and 985.304.

**SB 1186/HB 1137**

**Relating to Drug Court Programs/Funding by Sen. Lynn and others; Died.**

Would begin to institutionalize drug courts in Florida by providing a steady funding stream to the programs, which is currently lacking. This would have provided for a mandatory \$6 court cost on all persons convicted of a criminal violation, a violation of a municipal or county ordinance, or a traffic violation (excluding parking violations) resulting in the payment of a fine or penalty. The dollars generated from the \$6 assessment would go to fund drug courts in each county.

**SB 62/HB 529**

**Relating to Forfeited Property Sale/Proceeds by Sen. Wise and others; Died.**

Would have amended section 932.7055, Florida Statutes, to allow proceeds from the disposition of liens and forfeited property to be used to fund drug court programs.

**SB 1622/HB 961**

**Relating to Juvenile Drug Courts by Sen. Aronberg; Died.**

Would have amended the teen court statute, section 938.19, Florida Statutes, to allow for juvenile drug courts to obtain funds currently generated by the teen court program through the assessment of a court cost.

## Jury Selection

**HB 1441**

**Relating to Florida Jury Patriotism Act by Rep. Smith; Died.**

This bill died in the Committee on Appropriations on May 2, 2003. The bill would have created the "Florida Jury Patriotism Act." The bill provided for full participation on petit juries including mandatory participation for all eligible citizens when summoned, unless excused. It clarified procedures under which a citizen may have been excused from a petit jury. The bill provided for the elimination of numerous automatic exemptions from jury service extended to law enforcement, the Governor, and other officials as well as attorneys, physicians, and expectant mothers. The bill made avoiding jury service more difficult by tightening the standards for obtaining excuses. The bill increased penalties for those unlawfully avoiding jury duty.

The bill established a lengthy trial fund in order to sustain a jury during long, complex cases. Revenues from the fund would come from court fees. Lastly, the bill provided for protection of employee benefits by prohibiting employers from requiring an employee to use accumulated vacation and sick leave in order to serve on a jury.



## Mediation & Arbitration

Several of the proposed civil bills (e.g., workers' compensation, medical malpractice, mobile homes) contained mediation and arbitration provisions. Many of these provisions contained troublesome language which would have required mediators to report final offers or "good faith" participation. As of this writing, none of the offensive language has been adopted.



## Probate & Guardianship

**SB 2700****Relating to Probate & Trusts/Limitations by Sen. Campbell; Ordered Enrolled; Pending Governor's Signature.**

Continues the comprehensive revision of the probate law, dealing with such subjects as the presumption of death, conflict of interest standards, the homestead property exception, antilapse laws, military testamentary instruments, constructive fraud actions, and notarial wills.

**SB 2568****Relating to Disabled, Vulnerable, or Elderly by Sen. Lynn and others; Approved by Governor; Chapter Law Number 2003-57.**

This bill placed the Office of the Statewide Public Guardian (OSPG) under the direct control of the Secretary of the Department of Elderly Affairs (DEA), and requires the secretary to appoint as the executive director a member of The Florida Bar who is knowledgeable about guardianship law and social services. States that the public guardian shall primarily serve incapacitated persons of limited financial means, as defined by DEA contract or rule, but may also serve incapacitated persons of greater financial means to the extent DEA determines appropriate. The bill provides that a public guardian shall be considered a professional guardian for purposes of regulation, education, and registration.

The bill also authorizes DEA to contract with the Florida Guardianship Foundation or other not-for-profit entity regarding the registration of professional guardians. The executive director of the OSPG shall develop a guardianship training program curriculum, in consultation with the Florida Guardianship Foundation. Requires DEA or its contractor to provide the chief judges and clerks of court with information about registered professional guardians. Professional guardians and their employees, at the guardian's expense, must allow an investigation of their credit history, level 2 background screening, and after July 1, 2005, demonstrate competency by taking an exam approved by DEA. DEA may waive the examination for a professional guardian with 5 or more years of active experience and who provides a letter from a circuit judge stating the guardian has demonstrated competency.

Authorizes courts to require professional guardians and their employees to submit to screenings and investigations at any time. Exempts certain trust companies, banking corporations, other named fiscal entities, and state colleges and universities from selected provisions regarding registration and regulation. Adjusts the maximum registration fee and authorizes a fee to cover the actual cost of developing and administering the examination.

Reduces the minimum training for a parent who is the guardian of the property of a minor child to 4 hours (instead of 8 hours), and specifies what topics such training must cover. Allows guardians, without court approval, to pay reasonable fees to persons, including attorneys, from the assets of the guardianship estate, subject to court approval of the annual accounting. Authorizes guardians to provide confidential information about a ward to a local or state ombudsman council member conducting an investigation under chapter 400.

Creates a Guardianship Task Force within DEA for the purpose of recommending improvements in processes and procedures related to guardianship and incapacity. Membership includes a circuit judge experienced in guardianship proceedings who shall be appointed by the Florida Conference of Circuit Judges. A preliminary report is due January 1, 2004, the final report is due January 1, 2005, and the Task Force shall cease to exist on May 6, 2005.

**SB 162****Relating to American Sign Language by Sen. Wise and others; Ordered Enrolled; Pending Governor's Signature.**

Provides legislative findings regarding American Sign Language, which is the fourth most commonly used language in the U.S. and Canada, and authorizes public and independent schools to offer and accept foreign language credits for ASL courses. This legislation could potentially result, over time, in an increased number of qualified sign language interpreters who could be utilized in the court setting.

**SB 340/ HB 1045****Relating to Involuntary Commitment/Baker Act by Sen. Lynn and others; Ordered Enrolled; Pending Governor's Signature.**

If a Baker Act receiving facility is a hospital, a patient's release may also be approved by an attending emergency department physician (in addition to a psychiatrist or clinical psychologist) with experience in the diagnosis and treatment of mental and nervous disorders and after completion of an involuntary examination.

## **Probate & Guardianship legislation that failed to become law:**

**HB 1197/SB 2748****Relating to Baker Act by Rep. Simmons and others; Died**

Proposed court-ordered involuntary outpatient placement for individuals with mental illness based on a history of involuntary examinations and/or arrests. The proposal would have resulted in a substantial impact on judicial workload, due to an increased number of individuals subject to the Baker Act, lengthier hearings, preparation of detailed orders, and court review of modifications to treatment plans. An amendment approved in the House would have made any court costs associated with implementing the legislation a local requirement under Revision 7. Additionally, significant due process and procedural concerns remained unresolved when the bill, which passed the House, died in the Senate Judiciary Committee.

**Commission on Deafness.** Among other provisions, the bills would have authorized the Commission to recommend standards for sign language interpreters. The proposed Commission's authority appeared to have been limited to the Executive Branch.

**Basic Rights.** **SB 240 and HB 1093** proposed amending the state Constitution to prohibit depriving an individual of any right because of a physical disability, or a mental disability as defined by general law. The Constitution currently limits the prohibition to physical disability.

**Division of Mental Health.** **SB 1792** would have transferred the Division of Mental Health from DCF to the Department of Health.

**Mental Health Pilot Project.** **HB 411** would have authorized DCF to expand the client-directed and recovery-based mental health pilot project to include children.

## **Traffic**

**SB 52****Relating to Driver's License/Vision Tests by Sen. Wise and others; Ordered Enrolled.**

Requires any licensee over 79 to take a vision test at the time of license renewal.

**SB 88****Relating to High Occupancy Vehicle Lanes by Sen. Gellar; Ordered Enrolled; Approved by Governor.**

Provides that inherently low-emission vehicles and hybrid vehicles with appropriate decals may be used on designated high occupancy vehicle lanes with only the driver in the vehicle.

(continued from front cover)

During the 2003 Regular Legislative Session a total of 2,553 bills were filed. Of those, 417 passed both the Florida Senate and the House of Representatives and are pending final action by Governor Jeb Bush. Special Session “A” consisted of 111 total bills filed of which 22 bills passed both the Florida Senate and the House of Representatives. OSCA tracked over 558 bills this session. In addition to this Special Legislative Edition of the Full Court Press, we are working on the 2003 Legislative Abstracts which should be available by mid-June. We are also working with the judicial conferences to ensure judges are informed regarding legislation that will change current laws or create a new law.

Next year we face even greater challenges as we prepare for the July 1, 2004 implementation of Revision 7. Success will require the continued dedication and hard work of everybody in our great court system.

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## SPECIAL LEGISLATIVE SESSION “A”

In addition to the Article V, Revision 7 legislation and the 2003-04 General Appropriations Act, the following two bills passed during Special Session A:

### **SB 50-A - Workers' Compensation Reform by Sen. Clary and others; Ordered Enrolled.**

This bill makes numerous changes to chapter 440, including increasing impairment and death benefits, facilitating greater availability of coverage for employers, and creating new standards for permanent total disability, injury and workplace safety. The bill also creates new criminal penalties for fraud, makes voluntary binding arbitration available, and limits attorney's fee payments to a statutory fee schedule. The bill makes no change to the existing appeals process.

### **SB 32-A - Auto Insurance Reform Bill by Sen. Alexander and others; Ordered Enrolled.**

This reform bill primarily addresses increased costs and auto insurance fraud by increasing penalties for solicitation of accident victims and fraudulent insurance applications, creating new minimum mandatory penalties for intentional motor vehicle crashes, and making the creating, marketing or presenting a fraudulent insurance card a third-degree felony. The bill leaves to the Financial Services Commission the determination as to whether to increase the minimum \$10,000 PIP benefit coverage requirement.

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