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MEMORANDUM

TO: Lawrence E. Sellers, Chair
The Florida Bar Legislation Committee

FROM: Jim Daughton
Aimee Diaz Lyon

DATE: January 24, 2020

SUBJECT: Legislative Update – Week Two

Week two of the 2020 Legislative Session is complete. Although a short week because of the MLK holiday, legislative schedules were filled with bills moving through “the process.” The halls of the Capitol were also filled this week with people wearing white lab coats. Pharmacists, Nurse Practitioners and other allied health professionals were out in force to support Speaker Oliva’s health care proposals. The reception these proposals receive in the Senate is one of the larger questions to be answered as the session progresses. In addition to the white coats, legislators were also visited by several county officials and school board members. And it was Space Florida Day and Florida Tourism Day at the Capitol this week. Participatory democracy is in full force in Florida’s capital city!

Supreme Court Activity

Governor Receives Slate of Nine Supreme Court Nominees

On January 23rd, the Florida Supreme Court Judicial Nominee Commission released a slate of nine nominees, including six state appellate judges, five women and one African-American candidate. Governor DeSantis will choose two of the nominees to replace former Justices Barbara Lagoa and Robert Luck who were selected by President Trump to serve on the 11th U.S. Circuit Court of Appeals in Atlanta. In total, 32 applicants were considered by the nominating commission for these open seats.

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The recommended nominees include:

- John Couriel, an attorney with the Miami firm Kobre & Kim
- Renatha Francis, a Palm Beach County circuit judge
- Jonathan Gerber, a judge on the 4th District Court of Appeal
- Jamie Grosshans, a judge on the 5th District Court of Appeal
- Norma Lindsey, a judge on the 3rd District Court of Appeal
- Timothy Osterhaus, a judge on the 1st District Court of Appeal
- Eliot Pedrosa, a Miami-Dade County attorney who is U.S. executive director of the Inter-American Development Bank
- Lori Rowe, a judge on the 1st District Court of Appeal
- Meredith Sasso, a judge on the 5th District Court of Appeal

At least one of the new justices selected must reside in the 3rd Appellate District, comprised of Miami-Dade and Monroe counties. Each of the state's five appellate districts must have a representative on the Supreme Court.

Governor DeSantis will have up to 60 days to make his selections to the Supreme Court.

Legislation of Interest to The Florida Bar

Legislation of interest to The Florida Bar is tagged and tracked as bills are filed. Following is a summary of key information and issues in Florida government which impact The Florida Bar.

Judicial Nominating Commissions – *No Action*

SB 86 by Senator Perry Thurston (D-Fort Lauderdale) and **HB 379** by Rep. Al Jacquet (D-Lantana) reinstate the composition of the judicial nominating commissions as it existed in § 20(5), Fla. Const. and § 43.29, Fla. Stat. (2000). Currently, the governor appoints nine members to each of the 26 JNCs. Three of those members are from a list recommended from The Florida Bar. Under the legislation, the governor would only appoint three members to each nine-member nominating commission. Three other members would be appointed by The Florida Bar, and then the six members of each JNC panel would select the remaining three members.

Link to SB 86: <http://www.flsenate.gov/Session/Bill/2020/86>

Link to HB 379: <http://www.flsenate.gov/Session/Bill/2020/379>

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Public Records Exemption for County Attorneys & Assistant County Attorneys – *No Action*

HB 63 by Rep. Randy Maggard (R-Dade City) and **SB 248** by Senator Ed Hooper (R-Clearwater) provide an exemption from the public records requirements for personal identifying and location information of current and former county attorneys and assistant county attorneys and their spouses & children. *The Senate bill has passed both the Judiciary and Governmental Oversight and Accountability Committees. SB 248 has one final hearing remaining in the Rules Committee. There was no movement on the House or Senate legislation this week.*

Link to HB 63: <http://www.flsenate.gov/Session/Bill/2020/63>

Link to SB 248: <http://www.flsenate.gov/Session/Bill/2020/248>

Public Records Exemption for Judicial Assistants – *No Action*

SB 128 by Senator Tom Wright (R-New Smyrna Beach) and **HB 479** by Rep. Elizabeth Fetterhoff (R-DeLand) provide an exemption from the public records requirements for certain identifying and location information of current and former judicial assistants and their spouses and children. The legislation provides for the retroactive application of the exemption. *SB 128 has passed the Judiciary and Governmental Oversight and Accountability Committees. HB 479 has passed the Civil Justice Subcommittee. There was no movement on the House or Senate legislation this week.*

Link to SB 128: <http://www.flsenate.gov/Session/Bill/2020/128>

Link to HB 479: <http://www.flsenate.gov/Session/Bill/2020/479>

Constitution Revision Commission Proposals – *House Passes CRC Bills*

SJR 142 by Senator Jeff Brandes (R-St. Petersburg) and **HJR 301** by Rep. Brad Drake (R-Euclidean) would abolish the CRC entirely and remove any statutory references to the Commission. The proposals would require a change to the Florida Constitution approved by the voters. *After unanimously passing both the Judiciary and the Governmental Oversight and Accountability Committees, SJR 142 has one final hearing remaining in the Rules Committee. On January 22nd, HJR 301 was taken up by the full House and passed by a vote of 93 to 25.*

HB 303 filed separately by Rep. Drake would repeal all statutory references to the Constitution Revision Commission once any constitutional amendment abolishing the CRC is passed by voters. *On January 22nd, HB 303 was considered and passed by the full House by a vote of 96 to 23.*

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SJR 176 by Senator Jose Javier Rodriguez (D-Miami) limits any amendment to the Constitution proposed by the Constitution Revision Commission to “one subject and matter connected therewith.” Under current law, each proposal of the Commission may embrace multiple subjects, and the Commission may even propose a singular revision of the entire Constitution. The Senate joint resolution would be voted on by the voters in 2020 and, if approved, would apply to the next CRC which is slated to meet in 2037, in advance of placing measures on the 2038 ballot. **On November 5th, SJR 176 passed the Judiciary Committee by a vote of 6 to 0.**

Additionally, a parallel constitutional initiative effort is underway to collect enough voter petition signatures in order to appear on the November 2020 ballot. The Keep Our Constitution Clean political committee is seeking to make it harder to amend Florida’s Constitution by having voters approve constitutional amendments twice in two elections, instead of one election, in order for them to officially take effect. The committee needs to submit 766,200 valid signatures by a February 1st deadline in order to be placed on the 2020 ballot for approval. As of January 22nd, the state Division of Elections has tallied 684,437 valid signatures for the proposal. The political committee will also need Florida Supreme Court approval of the proposed ballot wording.

Link to SJR 176: <http://www.flsenate.gov/Session/Bill/2020/176>

Link to SB 142: <http://www.flsenate.gov/Session/Bill/2020/142>

Link to HB 301: <http://www.flsenate.gov/Session/Bill/2020/301>

Link to HB 303: <http://www.flsenate.gov/Session/Bill/2020/303>

Link to Amendment 19-08: <https://dos.elections.myflorida.com/initiatives/>

Court Jurisdiction – *Amended Senate Bill Passes*

SB 1510 by Senator Jeff Brandes (R-St. Petersburg) revises the jurisdiction of circuit courts and the authority of county court judges temporarily designated to preside over circuit court cases. As originally filed, the bill also transferred jurisdiction for appeals of final administrative orders of local government code enforcement boards from the circuit court to the district court of appeal. **On January 21st, SB 1510 passed the Judiciary Committee by a vote of 4 to 0. The committee amended the bill to limit the scope of the original bill. Originally, the bill provided district courts of appeal jurisdiction to hear appeals of decisions of county courts in criminal and civil cases and to hear appeals relating to a variety of administrative decisions and noncriminal infractions. The amended bill does not transfer to the district courts of appeal the appellate jurisdiction of circuit courts to hear administrative decisions and appeals relating to noncriminal infractions. A House companion bill has not been filed to-date.**

Another bill, **SB 1740** by Senator Kelli Stargel (R-Lakeland), requires the Clerk of the Florida Supreme Court to use a blind, random selection process to determine the venue for constitutional challenges of a statute or a legislative action within the circuit courts and district courts of appeal. The bill also specifies the venue for any appeal of an order or a

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judgment for these actions will be the First District Court of Appeal, regardless of which judicial circuit was the venue for the action. The bill stipulates the intent of the legislation is to ensure that a single trial court does not effectively have a monopoly over cases raising issues of statewide, constitutional importance. **There has been no action on SB 1740 and a House companion bill has not been filed to-date.**

Link to SB 1510: <http://www.flsenate.gov/Session/Bill/2020/1510>

Link to SB 1740: <http://www.flsenate.gov/Session/Bill/2020/1740>

Statewide Council on Prosecutorial Misconduct – *No Action*

SB 262 by Senator Randolph Bracy (D-Orlando) creates the Statewide Council on Prosecutorial Misconduct within the Department of Legal Affairs. The council will provide recommendations and findings relating to prosecutorial misconduct to the Department of Lawyer Regulation within The Florida Bar and to the Supreme Court's Chief Justice. The council's membership includes four prosecutors, four public defenders or assistant public defenders, a district court of appeal judge, and two county or circuit court judges. By January 14th of each year, the council is required to submit an annual report to the Governor, Legislature, and Chief Justice summarizing the council's recommendations and findings during the previous calendar year. **There has been no action on SB 262 and a House companion bill has not been filed to-date.**

Link to SB 262: <http://www.flsenate.gov/Session/Bill/2020/262>

Legal Notices – *No Action*

HB 7 by Rep. Randy Fine (R-Palm Bay) and **SB 1340** by Senator Joe Gruters (R-Sarasota) provide for the website publication of legal notices, provide criteria for such publication, authorize fiscally constrained counties to use publicly accessible websites to publish the legally required advertisements and public notices, and require governmental agencies to provide specified notice to residents concerning the alternative methods of receiving legal notices. **There was no movement on the House or Senate legislation this week. On January 15th, HB 7 passed the Local, Federal and Veterans Affairs Subcommittee by a party line vote of 7 to 5. Technical amendments were adopted to the House bill which clarify that the publication requirement only applies to a governmental entity who uses a website to publish notices and that the notice of proposals for any public-private partnership still has to be published in the Florida Administrative Register and in the local county in which the project would be located.**

Link to HB 7: <http://www.flsenate.gov/Session/Bill/2020/7>

Link to SB 1340: <http://www.flsenate.gov/Session/Bill/2020/1340>

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Legal Advertising – *No Action*

The legislature is also considering certain restrictions of legal advertising. While generally in the purview of the Florida Supreme Court, some state legislatures across the country have passed certain restrictions on legal advertising, typically under unfair and deceptive practices statutes. Senator Tom Wright (R-New Smyrna Beach) filed **SB 1288** pertaining to the solicitation of legal services. Specifically, the bill focuses on advertisements featuring “medical alerts” or “consumer alerts” using the names or logos of a regulatory agency.

Also on January 16th, the House Subcommittee on Civil Justice held a workshop on legal advertising. The Florida Bar’s Ethics Counsel, Elizabeth Tarbert, participated in the workshop and discussed the role of the Bar in lawyer advertising and served as an excellent resource to the committee members and staff. **There was no movement on the Senate legislation and a House companion bill has not been filed to-date.**

Link to SB 1288: <http://www.flsenate.gov/Session/Bill/2020/1288>

Trial Court Security – *Senate Bill Passes Committee*

HB 131 by Rep. Stan McClain (R-Ocala) and **SB 118** by Senator Joe Gruters (R-Sarasota) require each county sheriff to coordinate with the board of county commissioners and the chief judge of the judicial circuit to develop a comprehensive court security plan for trial court facilities. The sheriff retains authority over the implementation of security, and the chief judge retains decision-making authority to protect due process rights. The legislation also clarifies that sheriffs and their deputies, employees, and contractors are officers of the court when providing security for court facilities. **On January 15th, HB 131 passed the Criminal Justice Subcommittee by a vote of 13 to 0. On January 22nd, SB 118 passed the Appropriations Subcommittee on Criminal and Civil Justice by a vote of 6 to 0.**

Link to SB 118: <http://www.flsenate.gov/Session/Bill/2020/118>

Link to HB 131: <http://www.flsenate.gov/Session/Bill/2020/131>

Jury Service – *Senate Bill Scheduled for Committee Hearing*

SB 738 by Senator Gayle Harrell (R-Stuart) and **HB 393** by Rep. Charlie Stone (R-Ocala) require students between 18 and 21 years of age who are actively enrolled as a full-time student in high school or at any state university, private postsecondary educational institution, Florida College System institution, or career center to be excused from jury service upon request. **SB 738 is scheduled to be heard in the Education Committee on January 27th.**

Link to SB 738: <http://www.flsenate.gov/Session/Bill/2020/738>

Link to HB 393: <http://www.flsenate.gov/Session/Bill/2020/393>

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Early Childhood Courts – *Comprehensive Senate Bill Clears Committee*

SB 236 by Senator Lauren Book and **HB 449** by Rep. Amber Mariano (R-Port Richey) create a new problem-solving court to support an Early Childhood Court (ECC) program for cases involving children under the age of three and uses specialized dockets, multidisciplinary teams, evidence-based treatment and a non-adversarial approach. Currently, there are 22 ECC sites throughout Florida serving 350 children aged 0-3. The legislation expands ECC access while standardizing procedures for the court throughout the state. **SB 236 previously passed the Children, Families, and Elder Affairs Committee by a vote of 6 to 0, but there was no movement on the legislation this week.**

SB 1324 by Senator Wilton Simpson (R-Trilby) makes a number of changes to the child welfare laws. Among the provisions, the bill:

- Requires circuit and county court dependency judges to receive education relating to the value of secure attachments, stable placements and the impact of trauma on children in out-of-home care.
- Codifies the creation and establishment of Early Childhood Court (ECC) programs in the circuit courts that serve cases involving children typically under the age of three by using specialized dockets, multidisciplinary teams, evidence-based treatment and a non-adversarial approach.
- Requires DCF to notify the court of any report to the central abuse hotline that involves a child under court jurisdiction.
- Provides circumstances under which a court may remove a child and place he or she in out-of-home care if a child was placed in the child's own home with an in-home safety plan or was reunited with a parent with an in home safety plan.

A comparable bill, **HB 1105** by Rep. Josie Tomkow (R-Polk City), also requires certain training to be offered to dependency court judges that informs them of the benefits of stable placements and related issues. It also requires judges to consider certain factors related to placement stability when determining whether to change a child's placement and requires judges to be notified of all central abuse hotline reports that are accepted for an investigation and the report involves a child over whom the court has jurisdiction.

On January 15th, SB 1324 passed the Senate Children, Families, and Elder Affairs Committee by a vote of 7 to 0. On January 22nd, HB 1105 passed the House Children, Families and Seniors Subcommittee by a vote of 15 to 0.

Link to SB 236: <http://www.flsenate.gov/Session/Bill/2020/236>

Link to HB 449: <http://www.flsenate.gov/Session/Bill/2020/449>

Link to SB 1324: <http://www.flsenate.gov/Session/Bill/2020/1324>

Link to HB 1105: <http://www.flsenate.gov/Session/Bill/2020/1105>

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Judicial Travel Reimbursement – *Amended Senate Bill Passes*

SB 1392 by Senator David Simmons (R-Altamonte Springs) revises the provisions governing the payment of subsistence and travel reimbursement for Supreme Court justices who designate an official headquarters other than the headquarters of the Supreme Court, authorizes district court of appeal judges who meet certain criteria to have an appropriate facility in their county of residence designated as their official headquarters, specifies the eligibility for subsistence and travel reimbursement, subject to the availability of funds, and provides that a county is not required to provide space for a judge in a county courthouse. **On January 21st, SB 1392 passed the Judiciary Committee by a vote of 5 to 0. The bill was amended to authorize the Chief Justice to set policies and parameters for the use of alternative headquarters and travel reimbursement by eligible justices. Additionally, the amended bill specifies that its provisions control over any conflicting provision in the travel-reimbursement statute that applies to all state employees and officers. A House companion measure has not been filed to-date.**

Link to SB 1392: <http://www.flsenate.gov/Session/Bill/2020/1392>

Legislative Session Communication

The preceding bills and any other newly-filed bills are tracked each week and are available to monitor on The Florida Bar Legislation Committee's website:

<https://www.floridabar.org/member/legact/legact001/>

Moreover, each week during the legislative session each member of the Board of Governors will receive a brief legislative update which will also be posted to the Legislation Committee's website.

Florida Bar Legislative Reception

The Florida Bar's Annual Legislative Reception is on **Wednesday, January 29th from 5:00-7:30pm** in the Historic Capitol's Senate Chamber and Upper Rotunda. We look forward to seeing you in Tallahassee on that date!

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We hope this summary is helpful. We look forward to a productive 2020 Legislative Session. Please contact us if you have any questions.