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MEMORANDUM

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

FROM: Jim Daughton
Aimee Diaz Lyon

DATE: February 14, 2020

SUBJECT: Legislative Update – Week Five

The 2020 Legislative Session reached its halfway mark this past Wednesday, and the legislature is now hurtling into its last 30 days of session. With just two more weeks for House committees to hold hearings, and the Senate facing a similar deadline, legislators are juggling a tremendous number of policy issues. A few headlines from this week illustrate the breadth of issues the legislature is currently addressing:

- *“Controversial vacation rental proposal on the move”*
- *“House pitches wide-ranging tax package”*
- *“State asks court to continue blocking felons from voting”*
- *“Controversial bill would end permanent alimony in Florida, change child custody”*
- *“Genetic information ban ready for Senate floor”*

The number of bills being considered by the legislature will narrow as many bills fail to move through their final committees due to time and process constraints. Over the next few weeks, the legislature will also turn its attention towards negotiating a budget. This dual track of managing both policy and budget priorities makes for many long days in the coming weeks.

Following is a summary of key information and issues of interest to The Florida Bar.

State Courts System Budget

This week the House and Senate Chambers debated and passed their respective budget proposals setting up the process for the budget conference to begin. During the conference process, legislative leaders and staff will hash out a budget conference report which will decide the final budget items and allocations for the 2020-21 Fiscal Year.

Below is a chart depicting the current status of appropriations issues important to the judicial branch.

Issues	Senate Criminal & Civil Justice Appropriations Subcommittee	House Justice Appropriations Subcommittee	State Courts System LBR Request
Timely Resolution of Cases Initiatives	\$5,050,069 (64 FTEs)	-0-	\$13,512,798 (157 FTEs)
Court Interpreting Resources & Remote Technology	\$5,005,356 (37 FTEs)	\$1,735,889 (17 FTEs)	\$5,470,209 (40.5 FTEs)
2nd District Court of Appeals Courthouse Construction	\$20 million	\$21 million	\$21 million
Problem Solving Court Database	\$308,542 (2 FTEs)	\$581,568 (4 FTEs)	\$581,568 (4 FTEs)
Family Court Operational Support	\$317,446 (2 FTEs)	\$317,446 (2 FTEs)	\$317,446 (2 FTEs)
Certification of Additional Judges	\$2,139,090 (15 FTEs)	\$3,418,513 (21 FTEs)	\$3,496,422 (22 FTEs)
Appellate Judiciary Travel	\$125,000	\$125,000	\$125,000
Appellate Court Security	\$516,139	\$516,139 (6.5 Marshalls)	\$516,139
Judicial Data Management for Florida Courts Statewide Network (CJNet)	\$448,696	\$448,696	\$448,696
Bar Dues Proviso	<i>Each agency, at the discretion of the agency head, may expend funds provided in this act for bar dues and for legal education courses for employees who are required to be a member of the Florida Bar as a condition of employment.</i>	<i>Each agency, at the discretion of the agency head, may expend funds provided in this act for bar dues and for legal education courses for employees who are required to be a member of the Florida Bar as a condition of employment.</i>	

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Link to Senate Appropriations Bill, SB 2500:

<http://www.flsenate.gov/Session/Bill/2020/2500>

Link to House Appropriations Bill, HB 5001:

<http://www.flsenate.gov/Session/Bill/2020/5001>

Circuit & County Court Judges – *Differing House & Senate Budget Conforming Bills Emerge*

HB 5301 aligns with the Supreme Court’s certification opinion for new judges. The House bill creates 10 new circuit and county judge positions – four new circuit judges in the 1st Judicial Circuit, two judges in the Ninth Judicial Circuit, and one judge in the Fourteenth Judicial Circuit. HB 5301 creates 6 new county court judges - four new judges in Hillsborough County, one judge in Lee County, and one judge in Orange County.

SB 7050, the Senate’s conforming bill creates five new circuit judge positions – two new judges in the 9th Judicial Circuit, one judge in the 1st Judicial Circuit, one judge in the 14th Judicial Circuit, and one judge in the 4th Judicial Circuit. SB 7050 creates the aforementioned 5 new circuit judge positions and creates one new county court judge in Orange County. The Senate bill also specifies that all of the new judgeships will be appointed by the Governor, rather than elected.

The Senate Appropriations Act, **SB 2500**, also contains proviso language which recommends the five additional circuit court judgeships are contingent upon the passage of SB 7050.

On February 13th, HB 5301 passed the House by a vote of 117 to 0 and was immediately sent to the Senate where it was referred to the Rules Committee. Also, on February 13th, HB 5001 passed the House chamber by a vote of 118 to 0 and was immediately sent to the Senate. These actions procedurally position the General Appropriations Act for the budget conference.

Link to HB 5301: <http://www.flsenate.gov/Session/Bill/2020/5301>

Link to SB 7050: <http://www.flsenate.gov/Session/Bill/2020/7050>

Link to SB 2500: <http://www.flsenate.gov/Session/Bill/2020/2500>

Legislation of Interest to The Florida Bar

Public Records Exemption for Judicial Assistants – *No Movement This Week*

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

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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 cleared all of its committees of reference and is on the calendar of bills ready to be scheduled for floor consideration. HB 479 has two committee hearings remaining.

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 – *Senate Bill Scheduled for Floor Debate*

SJR 142 by Senator Jeff Brandes (R-St. Petersburg) and **HJR 301** by Rep. Brad Drake (R-Eucheeanna) 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 passing the full House, HJR 301 resides in the Senate awaiting action. SJR 142 was on the Senate Special Order Calendar for consideration by the full Senate on February 12th but was postponed until February 19th.**

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. **After passing the full House, HB 303 resides in the Senate awaiting action.**

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. **SJR 176 has one committee hearing remaining in the Rules Committee.**

A parallel constitutional ballot initiative 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. On January 30th, the state Division of Elections announced that the Keep Our Constitution Clean political committee had met the legal requirement for submitting the necessary amount of petition signatures. The political committee submitted **769,769** valid petition signatures, over and above the 766,200 signature requirement. The committee submitted the requisite number of signatures prior to the deadline of Saturday, February 1st. The political committee will now also need Florida Supreme Court approval of the proposed ballot wording. If the Florida

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Supreme Court approves the proposal's wording, the initiative will go on the November 2020 ballot.

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 – *Senate Bill Postponed & Rescheduled for Next Week*

SB 1510 by Senator Jeff Brandes (R-St. Petersburg) transfers the jurisdiction of circuit courts to hear appeals of county court civil and criminal cases to the district courts of appeal. The bill is based on the recommendations of a recent report by the Supreme Court's Judicial Management Council's Workgroup on Appellate Review of County Court Decisions.

As filed, the Senate bill gave the 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. SB 1510, as amended, 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.

On February 13th, SB 1510 was postponed by the Appropriations Subcommittee on Criminal and Civil Justice, but was rescheduled for February 18th. The Senate bill is also referred to the Appropriations Committee.

HB 7059 introduced by the House Judiciary Committee is identical to the Senate's proposal relating to appellate court jurisdiction.

HB 7059 has been introduced and referred to the Appropriations Committee.

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

Link to HB 7059: <http://www.flsenate.gov/Session/Bill/2020/7059>

Legal Notices – *House Bill Ready for Floor/Senate Bill Postponed in First Hearing*

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. The House adopted technical amendments to the 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

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to be published in the Florida Administrative Register and in the local county in which the project would be located. The House also amended the language dealing with notices for property tax increases.

HB 7 is now on the calendar of bills ready for consideration by the full House. On February 11th, SB 1340 was postponed in the Judiciary Committee, as committee time ran out.

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

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

Legal Advertising – *House Bill Referred to Committees*

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 specific 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.

HB 7083 by the Civil Justice Subcommittee prohibits legal advertisements from containing information on the use, sale, or transfer of protected health information for purposes of soliciting legal services. Specifically, the committee bill:

- Prohibits a person who submits a legal advertisement for publication, broadcast, or dissemination, or who pays for or otherwise sponsors a legal advertisement from:
 - Failing to clearly and conspicuously disclose the sponsor of the advertisement;
 - Displaying federal or state government agency logos in a manner implying affiliation with a that agency;
 - Including terminology implying that the product has been recalled when it has not been;
- Requires a legal advertisement to clearly disclose the warning, "Do not stop taking a prescribed medication without first consulting your doctor," if the advertisement solicits clients who may allege injury from a prescription drug; and
- Prohibits a person from using, obtaining, selling, transferring, or disclosing to another person without written authorization protected health information to solicit legal services.

The House committee bill also creates a cause of action for a person who suffers a physical injury as a result of a legal advertisement’s violation of these provisions and authorizes compensatory damages, attorney fees, and court costs. Additionally, the Department of Legal Affairs or a state attorney may bring an action to enjoin any person who has violated these provisions, or may bring an action on behalf of one or more consumers or governmental entities for actual damages caused by a violation of these provisions.

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There was no movement on the Senate legislation. HB 7083 by the House Civil Justice Subcommittee has been referred to the Health and Human Services and Judiciary Committees.

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

Link to HB 7083: <http://www.flsenate.gov/Session/Bill/2020/7083>

Trial Court Security – *House Bill Scheduled for Floor*

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. The House bill also clarifies that the chief judge retains broad decision-making authority to ensure the protection of due process rights.

HB 131 is on the House chamber calendar of bills to be considered on February 19th. The Senate bill is now in its final committee, the Appropriations Committee.

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 – *Amended House Bill Passes Last Committee*

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 now in the Rules Committee, its final committee reference. On February 12th, HB 393 passed the Judiciary Committee by a vote of 16 to 0. The committee adopted a “strike-all” amendment which:

- Changed the excusal requirement from “enrolled” to “attending.”
- Clarified that a requested excusal by a full-time student will only apply to a specific summons for jury service.

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 – *No Movement This Week*

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 has two remaining committee references – the Appropriations Subcommittee on Criminal and Civil Justice and the Appropriations Committee. HB 449 has not been heard in committees.

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 encourages placement stability of children by requiring training to be offered to dependency court judges that informs them of the benefits of stable placements and related issues. The House bill also requires judges to consider certain factors related to placement stability when determining whether to change a child's placement. Further, the bill required judges to be notified of all central abuse hotline reports that are accepted for an investigation and when the report involves a child over whom the court has jurisdiction.

SB 1324 is now in the full Appropriations Committee. HB 1105 has one final hearing remaining in the Health and Human Services Committee.

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>

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

Judicial Travel Reimbursement – *House & Senate Bills Pass*

SB 1392 by Senator David Simmons (R-Altamonte Springs) and **HB 7057** by the House Judiciary Committee revise 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. Most importantly, the bills authorize district court of appeal judges who reside within 50 miles of his or her DCA headquarters and meet certain other criteria to have an appropriate facility in their county of residence designated as their official headquarters. The legislation authorizes the Chief Justice to set policies and parameters for the use of alternative headquarters and travel reimbursement by eligible justices. Additionally, the legislation specifies that its provisions control over any conflicting provision in the travel-reimbursement statute that applies to all state employees and officers. The legislation would have a recurring impact of \$125,000 on the State Courts System. Funding for the legislation is included in both SB 2500 and HB 5001, the proposed General Appropriations Act.

Both bills were amended to committee substitute authorizes the Chief Justice to set policies and parameters for the use of alternative headquarters and travel reimbursement by eligible justices. Additionally, the bills specify that its provisions control over any conflicting provision in the travel-reimbursement statute that applies to all state employees and officers.

On February 11th, HB 7057 passed the Appropriations Committee by a vote of 28 to 0 and is now on the calendar of bills ready for the House floor. On February 13th, SB 1392 passed the Appropriations Subcommittee on Criminal and Civil Justice by a vote of 7 to 0. The Senate bill has one committee hearing remaining in the Appropriations Committee.

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

Link to HB 7057: <http://www.flsenate.gov/Session/Bill/2020/7057>

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.

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

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

Public Records Exemption for County Attorneys & Assistant County Attorneys – *No Movement This Week*

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.

SB 248 has cleared all of its committees of reference and is on the calendar of bills ready to be scheduled for floor consideration. **HB 63** has not been heard by any committees.

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

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

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 this session 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>

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/>

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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.