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MEMORANDUM

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

FROM: Jim Daughton
Aimee Diaz Lyon

DATE: February 28, 2020

SUBJECT: Legislative Update – Week Seven

Certainly not panic, more like cautious optimism. These words do not describe the recent coronavirus threat, but instead describe the posture of the budget conference process. Here's some facts: the budget is the only bill the legislature must pass; the legislative session is scheduled to conclude on March 13th. Once negotiated and printed, the budget must sit for 72-hours prior to a final vote in the legislature. Capital observers still expect the conference process to be completed on time and the legislature to adjourn on time, but by the middle of next week their optimism may change. In the meantime, the policy committee process is winding down and House and Senate leaders are busily negotiating the final priorities which must also make it the to the finish line before the legislative session concludes.

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

Legislation of Interest to The Florida Bar

Constitution Revision Commission Proposals – *Senate Bill Retained on Calendar*

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

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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.**

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. After garnering enough petition signatures to warrant the Supreme Court’s review of the initiative’s ballot language, the Supreme Court unanimously approved the ballot measure and ruled that it met the necessary legal requirements, including the single subject test. Florida voters will now get a chance to decide in November whether to pass the constitutional amendment. The proposal will appear on the ballot as Amendment 4 and will need support from at least 60 percent of voters to take effect.

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 – No Movement This Week

As filed, **SB 1510** by Senator Jeff Brandes (R-St. Petersburg) and **HB 7059** by the House Judiciary Committee transfer 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.

SB 1510 and HB 7059 were amended to clarify the appellate cases which go to Public Defender Appellate Entities and the Offices of Criminal Conflict and Civil Regional Counsels

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as a result of the jurisdictional changes in the underlying bill. The legislation provides that it is the duty of the public defender for the judicial circuit designated to handle appeals within an appellate district to handle all circuit court and county court appeals within the state courts and authorized federal courts if requested by any public defender or the office of criminal conflict and civil regional counsel within the appellate district that handled the trial.

SB 1510 is now in the Appropriations Committee and HB 7059 is on the calendar of bills ready for the House floor.

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 Scheduled for Floor*

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 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 scheduled to be heard by the full House on March 3rd. SB 1340 was on the February 19th agenda of the Judiciary Committee, but time ran out and the bill was postponed. As of this date, the Judiciary Committee is not scheduled to meet during week eight.

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 – *Neither Bill Advances This Week*

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.

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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.

SB 1288 has been referred to the Criminal Justice, Judiciary, and Rules Committees. HB 7083 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 in Message to Senate*

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.

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HB 131 passed the full House by a vote of 118 to 0 and is now in the Senate awaiting action. SB 118 is on the calendar of bills waiting to be scheduled for the Senate floor.

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 – *House Bill Ready for Floor Consideration/Senate Bill on Agenda in Rules Committee*

SB 738 by Senator Gayle Harrell (R-Stuart) allows 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. The companion bill, **HB 393** by Rep. Charlie Stone (R-Ocala), was amended to change the excusal requirement from “enrolled” to “attending” these same institutions. The legislation does not affect jury service for those students older than 21 years of age and a student is not prohibited from choosing to report for jury service if they are summoned for jury service while a full-time student. A full-time student’s request to be excused only applies to a specific summons for jury service and does not permanently excuse a student between the ages of 18 to 21 from receiving a jury summons.

On March 2nd, SB 738 is scheduled in the Rules Committee, its final committee reference. Senator Harrell has filed an amendment to SB 738 to align the Senate bill to the House language. HB 393 is now on the calendar of bills ready for House floor consideration.

Link to Delete-All Amendment to SB 738:

<http://www.flsenate.gov/Session/Bill/2020/00738/Amendment/679768>

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

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

Early Childhood Courts – *Both Bills Ready for Floor Calendars*

Chapter 39, F.S., creates the dependency system charged with protecting child welfare. The Department of Children and Families (DCF) administers the state’s child welfare system and works in partnership with local communities and the courts to ensure the safety, timely permanency, and well-being of children involved in the dependency process.

SB 1324 by Senator Wilton Simpson (R-Trilby) and **HB 1105** by Rep. Josie Tomkow (R-Polk City) make a number of changes to the child welfare laws. The legislation which seeks to balance placement stability with child safety and permanency makes the following changes:

- Requires certain training for dependency court judges on the benefits of stable placements and related issues.

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- Requires judges to consider certain factors related to placement stability when determining whether to change a child's placement.
- Requires DCF to notify judges of all central abuse hotline reports that are accepted for an investigation involving a child over whom the court has jurisdiction.
- Allows DCF to file a petition to initiate court oversight when a family is receiving services from a community-based care lead agency (CBC) without court involvement, if the parent has been receiving voluntary services for a period of time.
- Prohibits the court from ending jurisdiction if a CBC has to continue to provide an in-home safety plan for a child to live at home.
- Amends current law to require the court and case managers to monitor relationships between foster parents and biological parents at various stages in the dependency process to encourage a productive working relationship that includes meaningful communication and mutual support.
- Relocates language relating to quality parenting from s. 409.145, F.S., to a new section and expands it to apply to caregivers caring for children in out-of-home care. The new section directs DCF and CBCs to develop and support relationships between foster families and biological parents of children in out-of-home care, when it is safe and in the child's best interest.
- Allows circuit courts to create early childhood court programs and requires the Office of State Courts Administrator to contract with one or more university-based centers that have expertise in infant mental health to ensure the quality, accountability, and fidelity of the evidence-based treatment provided by such programs.
- Requires DCF or its subcontractors to complete criminal history checks, preliminary home studies for adoptive minors and licensing home studies for family foster homes within specific timeframes so children can be placed in stable homes faster.
- Creates a process with set timeframes DCF and its subcontractors must comply with when a person is interested in adopting a child from the child welfare system.
- Allows a CBC to demonstrate a justification of need to provide more than 35 percent of direct care services to children and families in its geographic service area.

SB 1324 and HB 1105 are now on the calendars of bills ready for Senate and House floor consideration, respectively.

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

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

Judicial Travel Reimbursement – *Senate Bill Scheduled in Final Committee Next Week*

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 authorize 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.

HB 7057 is now on the calendar of bills ready for the House floor. SB 1392 is scheduled to be heard in the Appropriations Committee on March 3rd.

Link to SB 1392: <http://www.flsenate.gov/Session/Bill/2020/1392>
Link to HB 7057: <http://www.flsenate.gov/Session/Bill/2020/7057>

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 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 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>

State Courts System Budget

During the budget conference process, legislative leaders and staff will negotiate 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 &	House Justice	State Courts System
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	Civil Justice Appropriations Subcommittee	Appropriations Subcommittee	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)
2 nd 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>	

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 – *House Proposal Scheduled for Senate Rules Committee Hearing*

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

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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.

HB 5301 has passed the House, was sent to the Senate in messages, and is scheduled to be heard in the Senate Rules Committee on March 2nd.

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>

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.