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## MEMORANDUM

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

FROM: Jim Daughton  
Aimee Diaz Lyon

DATE: February 7, 2020

SUBJECT: Legislative Update – Week Four

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Despite national politics serving as the focus this week, the Legislature quietly and swiftly completed week four of the nine-week legislative session. The House subcommittee process wound down, the respective Appropriations Committees passed budgets, scores of interest groups held their “Days at the Capitol” and the legislature completed its work for the week just ahead of bad weather moving through Tallahassee.

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 Appropriations Committees passed their respective budget proposals in anticipation of final action by each Chamber next week. Following this action, legislative leaders and staff must decide on how to reconcile the overall budget allocation disparities before the budget conference can begin.

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

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<b>Issues</b>	<b>Senate Criminal &amp; Civil Justice Appropriations Subcommittee</b>	<b>House Justice Appropriations Subcommittee</b>	<b>State Courts System LBR Request</b>
<b>Timely Resolution of Cases Initiatives</b>	\$5,050,069 (64 FTEs)	-0-	\$13,512,798 (157 FTEs)
<b>Court Interpreting Resources &amp; Remote Technology</b>	\$5,005,356 (37 FTEs)	\$1,735,889 (17 FTEs)	\$5,470,209 (40.5 FTEs)
<b>2<sup>nd</sup> District Court of Appeals Courthouse Construction</b>	\$20 million	\$21 million	\$21 million
<b>Problem Solving Court Database</b>	\$308,542 (2 FTEs)	\$581,568 (4 FTEs)	\$581,568 (4 FTEs)
<b>Family Court Operational Support</b>	\$317,446 (2 FTEs)	\$317,446 (2 FTEs)	\$317,446 (2 FTEs)
<b>Certification of Additional Judges</b>	\$2,139,090 (15 FTEs)	\$3,418,513 (21 FTEs)	\$3,496,422 (22 FTEs)
<b>Appellate Judiciary Travel</b>	\$125,000	\$125,000	\$125,000
<b>Appellate Court Security</b>	\$516,139	\$516,139 (6.5 Marshalls)	\$516,139
<b>Judicial Data Management for Florida Courts Statewide Network (CJNet)</b>	\$448,696	\$448,696	\$448,696
<b>Bar Dues Proviso</b>	<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>

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

On February 5<sup>th</sup>, the House Appropriations Committee passed **HB 5301** which aligns with the Supreme Court's certification opinion for new judges. The House bill creates 10 new circuit and county judge positions – 4 new circuit judges in the First (1), Ninth (2), and Fourteenth (1) Circuits and 6 new county court judges for Hillsborough County (4), Lee County (1), and Orange County (1).

Also on February 5<sup>th</sup>, the Senate Appropriations Committee heard a proposed bill, **SPB 7050**. As filed, the Senate's conforming bill creates five new circuit judge positions – two new judges in the 9<sup>th</sup> Judicial Circuit, one judge in the 1<sup>st</sup> Judicial Circuit, one judge in the 14<sup>th</sup> Judicial Circuit, and one judge in the 4<sup>th</sup> Judicial Circuit.

The Senate Appropriations Act, **SB 2500**, also contains proviso language which recommends the five additional circuit court judgeships are contingent upon the passage of SPB 7050. Senator David Simmons (R-Altamonte Springs) offered an amendment SPB 7050 which creates the aforementioned 5 new circuit judge positions and creates one new county court judge in Orange County. The amendment also specifies that all of the new judgeships will be appointed, rather than elected.

**Both bills are now ready for consideration by the full Senate and House. HB 5301 and SB 2500 are scheduled for Chamber floor discussion in the House and Senate, respectively, on February 12<sup>th</sup>. SB 7050 has yet to be scheduled for the Senate floor.**

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

Link to SPB 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**

#### **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>

### **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** 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 is on the Senate Special Order Calendar for consideration by the full Senate on February 12<sup>th</sup>.**

**HB 303** filed separately by Rep. Drake would repeal all statutory references to the Constitution Revision Commission once any constitutional amendment abolishing the CRC

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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 30<sup>th</sup>, 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 1<sup>st</sup>. The political committee will now also need Florida Supreme Court approval of the proposed ballot wording. If the Florida 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 – *House Committee Bill Officially Receives Bill Number***

**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.

**SB 1510 has two committee hearings remaining – Appropriations Subcommittee on Criminal and Civil Justice and Appropriations Committee.**

SB 1510 was amended 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

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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.

The House Judiciary Committee proposal relating to appellate court jurisdiction has been officially introduced as **HB 7059** and is identical to the Senate proposal.

**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>

### **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 14<sup>th</sup> 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>

### **Legal Notices – *House Bill Passes Last Committee/Senate Bill Gets First Hearing Next Week***

**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

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project would be located. The House also amended the language dealing with notices for property tax increases.

On February 6<sup>th</sup>, HB 7 passed the State Affairs Committee by a vote of 14 to 9 and the bill is now on the calendar of bills ready for Chamber consideration. SB 1340 is scheduled to be heard in the Judiciary Committee on February 11<sup>th</sup>.

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 Committee Bill Introduced*

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.

There was no movement on the Senate legislation. On February 4<sup>th</sup>, the House Civil Justice Subcommittee heard PCB CJS 20-02 on legal advertising and voted to introduce the bill officially as HB 7083.

**HB 7083** prohibits legal advertisements from containing information on the use, sale, or transfer of protected health information for purposes of soliciting legal services.

Specifically, the proposed 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 proposed 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

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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.

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 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 February 6<sup>th</sup>, HB 131 passed the Judiciary Committee by a vote of 15 to 0. The committee adopted an amendment which clarified that the chief judge retains broad decision-making authority to ensure the protection of due process rights. 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 – *House Bill Passes Another 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 6<sup>th</sup>, HB 393 passed the Education Committee by a vote of 15 to 0 and has one final hearing in the Judiciary Committee.

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 – *HB 1105 Advances This Week***



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**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. On February 5<sup>th</sup>, HB 1105 passed the Appropriations Committee by a vote of 26 to 0 and has one 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>

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

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### **Judicial Travel Reimbursement – *House Bill Introduced***

**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. Most importantly, the bill authorizes 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 Senate 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 Senate bill specifies that its provisions control over any conflicting provision in the travel-reimbursement statute that applies to all state employees and officers.

**SB 1392 has two remaining committees of reference – the Appropriations Subcommittee on Criminal and Civil Justice and Appropriations Committee.**

The House Judiciary Committee bill relating to appellate court headquarters and travel has been officially introduced as **HB 7057**. The House bill is identical to the Senate proposal and has been referred to 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>

### **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.