



FCCC ADVISORY

Bills Effective July 1, 2021

No. 21-084

Date: June 29, 2021

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Category: Clerk and Comptroller
Administration, Courts,
Records, Recording, VAB,
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This is a list of bills that are effective July 1, 2021, that may have some effect on the office operations of, or be of other interest to, Clerks of Court and Comptrollers.

These bills passed the 2021 Regular Session of the Florida Legislature and many have been signed into law at this point. Please make sure to read the text of the entire bill in order to assess the full impact to your operations. Additionally, monitor the Bill History page for each bill (linked) to watch its progress as it moves toward the Governor's Office. Once there, the Governor has 15 days to act—sign or veto—else the bill will pass into law without his action.

Additional information related to the 2021 Legislative Session may be found on the internal [FCCC Legislative Information page](#).

Board Side

[CS/CS/SB 1040 Duties of the Attorney General](#) *(Also of interest to Budget/Finance)*

Effective Date: June 30, 2021

Approved: June 21, 2021

Chapter Law: [2021-131](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill repeals several functions of the Department of Legal Affairs (DLA) and the Florida Attorney General (AG) and transfers several functions to other state agencies.

Of interest, the bill amends ss. 163.503 and 163.504, F.S., to revise the definition of “department” to mean the Department of Economic Opportunity (DEO), and to delete certain provisions relating to the creation of a neighborhood improvement district (NID) by the governing body of a municipality

or county. The bill also amends ss. 163.5055, 163.506, 163.508, and 163.511, F.S., to eliminate DLA's duties and responsibilities relating to NIDs; however, NIDs are still required to register with and submit requisite documents to DEO.

The bill also makes a conforming change to s. 775.083(2), F.S., to remove the requirement that the county, in consultation with the sheriff, expend the court costs assessed, collected, and accounted for as local crime prevention funds, for safe neighborhood programs under ss. 163.501–163.523, which are repealed by this bill. The requirement to expend such funds for crime prevention programs in the county remains.

Clerk Point:

As it may relate to local Comptroller duties, this bill is provided for your information.

[CS/CS/CS/HB 53 Public Works](#)

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill revises the procedures to be followed under Chapter 255, F.S., for any competitive solicitations of construction services for public property and publicly owned buildings.

Specifically, the bill removes the existing 50 percent or more, state-appropriated funding threshold that triggers the prohibition on certain local preferences and instead, provides that the prohibition applies if such solicitations will be paid for with any state-appropriated funds.

The bill revises the definition of “public works project” in s. 255.0992, F.S., to remove the existing 50 percent or more, state-appropriated funding threshold for certain activities and replaces it with a cost threshold of an activity exceeding \$1 million in value that is paid for with any state-appropriated funds, and prohibits the state or any political subdivision that contracts for a public works project from preventing a certified, licensed, or registered contractor, subcontractor of material supplier or carrier from participating in the bidding process based on the geographic location of its headquarters or offices or the residences of its employees.

Along with the existing exemption for contracts executed under Chapter 337, F.S., the bill also provides that s. 255.0992, F.S., does not apply to a use authorized by s. 212.055(1), F.S, related to discretionary sales surtaxes, which is approved by a majority vote of the electorate of the county or by a charter amendment approved by a majority vote of the electorate of the county.

Finally, the bill creates s. 403.9301, F.S., Wastewater services projections, and s. 403.9302, F.S., Stormwater management projections, to require each county, municipality, or special district providing wastewater services or stormwater management programs to create a twenty-year needs

analysis for its jurisdiction by June 30, 2022 (and every five years thereafter) for submission to the Office of Economic and Demographic Research (EDR) for evaluation and statewide analysis.

Clerk Point:

As it may relate to local Comptroller duties, this bill is provided for your information.

[CS/SB 378 Payment for Construction Services](#) *(Also of interest to Court Side-Criminal)*

Effective Date: July 1, 2021

Approved: June 21, 2021

Chapter Law: [2021-124](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

As noted in the legislative staff analysis, current law requires prompt payments to parties for construction services and requires interest to accrue on amounts owed if the state, a local government, or a private party fails to timely make payments for such services.

This bill amends ss. 218.735(9) and 255.073(4), F.S., to increase the interest rate from 1 percent to 2 percent per month for all payments due and not made within the specified time periods by the state or local governments.

The bill amends s. 715.12, F.S., to increase the interest rate for untimely payments for private construction services from the interest rate payable on judgments to the interest rate payable on judgments plus 12 percent per annum.

The bill also provides that a party who receives payment from the state, any local government, or public authority for a public works construction project that knowingly and intentionally fails to pay the undisputed contract obligations to another party commits misapplication of construction funds, punishable as provided in s. 713.345, F.S.

The changes made by this bill applies to contracts executed on or after July 1, 2021.

Clerk Point:

As it may relate to local Comptroller duties, this bill is provided for your information.

[CS/CS/HB 401 Florida Building Code](#)

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

Under current law, the Florida Building Code is developed and maintained by the Florida Building Commission (FBC) and supersedes all local building codes. The Building Code must be updated every three years and may be amended in the interim in accordance with criteria set out in s. 553.73, F.S.

Clerk Point:

Of specific interest, this bill amends s. 553.80(7)(a), F.S., to authorize local governments to use excess funds generated by building code enforcement fees for the construction of a building or structure that houses a local government's building department or provides training programs for building officials, inspectors, or plans examiners. Excess funds used to construct such a building or structure must be designated for such purpose by the local government and may not be carried forward for more than four consecutive years.

[CS/CS/SB 694 Waste Management](#)

Effective Date: July 1, 2021

Approved: 6/21/2021

Chapter Law: [2021-125](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill amends provisions in Chapter 403, F.S., to change the requirements for a local government that provides solid waste collection services which displaces a private waste company, requires the Department of Environmental Protection (DEP) to review and update its 2010 Retail Bags Report, and revises requirements related to a private solid waste or debris management service provider.

Of specific interest, the bill amends s. 403.70605(3), F.S., to remove the discretion for a local government to pay a displaced company in lieu of providing a three-year notice period. The bill instead provides the following:

- A local government is required to provide three years' notice to the private company before engaging in solid waste collection services.
- At the end of the three-year notice period, a local government is required to pay a displaced private waste company an amount equal to the company's preceding 18 months' gross receipts for the displaced service in the displacement area.
- The local government and the displaced company may voluntarily negotiate a different notice period or amount of compensation.

The bill does not apply to any displacement, as defined in s. 403.70605(3)(a), F.S., if the local government provided the three years' notice to the displaced private company or companies on or before December 31, 2020.

Clerk Point:

As it may relate to local Comptroller duties, this bill is provided for your information.

[CS/CS/SB 2006 Emergency Management](#)

Effective Date: July 1, 2021

Approved: May 3, 2021

Chapter Law: [2021-008](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill creates and amends various provisions within Chapter 252, F.S., the State Emergency Management Act, to address the threat of pandemics or other public health emergencies. The bill provides that it is the intent of the Legislature to minimize the negative effects of extended emergencies, and that all aspects of emergency preparedness, response, and recovery be transparent to the public to the greatest extent possible. Accordingly, as noted in the legislative staff analysis, the bill clarifies that the Act applies to public health emergencies and requires related planning and preparation for such emergencies; requires greater transparency; and restricts certain local government emergency orders that restrict rights or liberties.

Clerk Point:

Of interest, the bill amends s. 252.36, F.S., and creates s. 252.3611, F.S., to provide additional transparency and legislative oversight of the Executive branch's emergency powers, including limiting emergency orders, proclamations, and rules to 60-day durations that can be renewed as long as the emergency conditions persist.

The bill also amends s. 252.37, F.S., relating to financing, to require a state agency or political subdivision to submit in advance a detailed spending plan for certain emergency funds to the Legislature; however, this requirement does not apply to the receipt of any funds from the federal government as part of an expedited worksheet in anticipation of emergency response expenditures. The bill also requires a state agency or political subdivision to submit to the Legislature:

- a report of all expenditures in aggregate categories incurred in the emergency response no later than 30 days after the expenditure is incurred; and
- a copy of any project worksheet submitted to the Federal Emergency Management Agency (FEMA) within seven days of when the document is submitted to FEMA.

The bill amends ss. 252.38 and 252.46, F.S., to establish certain requirements of local emergency orders. Of specific interest, the bill provides in s. 252.46(2), F.S., that the failure of a political subdivision to file an emergency order or rule adopted pursuant to Chapter 252, F.S., with the office of the Clerk or recorder within 3 days after issuance voids the order or rule.

Finally, the bill creates s. 381.00316, F.S., to prohibit governmental entities, businesses, and educational institutions from requiring documentation of COVID-19 vaccination or post-infection recovery, and exempts health care providers from the prohibition.

Budget/Finance

SB 2500 Appropriations (Also of interest to Information Technology)

Effective Date: July 1, 2021

Approved: June 2, 2021

Chapter Law: [2021-36](#)

Summary:

This bill, the General Appropriations Act (GAA), sets the state appropriation levels for all agencies that are funded by the state budget for an annual period beginning July 1, 2021, and ending June 30, 2022, now totaling approximately \$100 billion. Note that on June 29, 2020, Governor Ron DeSantis vetoed approximately \$1.5 billion from the budget that was passed by the Legislature on April 30, 2021. For a full list of vetoes, [please access this link](#).

Clerk Point:

See Section 4, line 737A, page 145: The bill appropriates \$6.25 million in nonrecurring funds from General Revenue in Specific Appropriation 737A for the Clerks of Court Pandemic Recovery Plan.

See Section 4, line 741, page 146: The bill appropriates \$11.7 million in Specific Appropriation 741 for reimbursement of expenditures related to circuit and county juries required by statute.

See Section 4, pages 207–208: The bill appropriates \$3,090,785 from the Operating Trust Fund and \$1,250,000 from General Revenue to the Florida Department of Law Enforcement (FDLE) to implement criminal justice data collection and reporting that complies with ss. 900.05 and 943.6871, F.S., first established by CS/CS/SB 1392, [Chapter 2018-127, Laws of Florida](#), and amended by CS/HB 7125, [Chapter 2019-167, Laws of Florida](#). The bill specifies that approximately \$3.56 million of these funds shall be placed in reserve.

FDLE is authorized to submit quarterly budget amendments to request release of reserve funds, based on planned quarterly expenditures. Release is contingent upon approval of a detailed operational work plan and monthly spend plan that identifies all project work and costs budget for FY 2021–2022.

The bill continues the requirement that FDLE submit monthly project status reports to the Governor's Office of Policy and Budget, the Department of Management Services (DMS), and the chairs of the Senate and House appropriations committees. Each status report must include progress made to date for each project milestone, deliverable, and task order, planned and actual deliverable completion dates, planned and actual costs incurred, and any project issues and risks.

The bill also continues the requirement that FDLE competitively procure a private sector provider with experience in conducting independent verification and validation services of public sector information technology projects to provide independent verification and validation services for all agency staff and vendor work needed to implement the initiative. The contract shall require that all deliverables be simultaneously provided to FDLE, DMS, the Governor's Office of Policy and Budget, and the chairs of the Senate and House appropriations committees. The contracted provider shall be made readily available to provide all project-related data to the Florida Digital Service in support of their project oversight responsibilities, pursuant to s. 282.0051, F.S.

In addition, this year's budget appropriates \$9,277,832 from General Revenue to FDLE to implement a uniform arrest affidavit (UAA). Of these funds, \$3,932,099 shall be placed in reserve. Similar requirements as those stipulated for the criminal justice data transparency initiative related to release of funds, reporting, and project oversight are also included for FDLE for UAA.

See Section 6, line 2325, page 334: The bill restates the requirement for the Department of Financial Services (DFS) to audit all court-related expenditures of the Clerks of Court, pursuant to ss. 28.241 and 28.35, F.S. DFS must report quarterly the audit findings to the President of the Senate, the Speaker of the House of Representatives, and the Governor's Office of Policy and Budget.

DFS must submit such report on July 28, 2021, for the period beginning April 1, 2021, through June 30, 2021, and quarterly thereafter.

See Section 7, line 3128, pages 415: The bill appropriates \$370,000 for use by the Office of the State Courts Administrator (OSCA), in coordination with the Florida Clerks of Court Operations Corporation (CCOC) and Clerks of Court, for the operation, maintenance, and enhancement of an information technology platform that electronically transmits alert reminders and information to individuals involved in the state courts system. Such platform shall integrate with existing state, county, or other court- or justice-related information systems, as necessary. Any data collected is the property of the State of Florida or designated agency.

The bill also requires OSCA to provide a project status report, including to-date progress for each milestone and deliverable, as well as key metrics such as failures to appear, in order to assess the performance of the project. OSCA must submit this report to the chairs of the Senate and House appropriations committees and the Governor's Office of Policy and Budget on October 1, 2021, for the prior fiscal year.

See Section 78, page 439: In addition to this year's appropriation for juror management costs, this section provides that the unexpended balance from last year's \$11.7 million appropriation shall revert and is appropriated for state FY 2021–2022 for the same purpose. This is equal to an additional \$2.4 million to assist with jury costs.

See Section 84, page 440: This section reverts the sum of \$1,461,829 in nonrecurring General Revenue funds provided to FDLE for Criminal Justice Data Transparency.

See Section 86, page 440: For state FY 2021–2022, the bill reverts and appropriates to FDLE \$450,000 from the unexpended balance of funds from last year’s GAA to continue to provide financial assistance to reporting entities, including Clerks of Court, for compliance with criminal justice data collection and reporting.

[SB 2502 Implementing the 2021-2022 General Appropriations Act](#) *(Also of interest to Board Side and Court Side)*

Effective Date: July 1, 2021, except as otherwise expressly provided

Approved: June 2, 2021

Chapter Law: [2021-37](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill provides the statutory authority necessary to implement and execute the General Appropriations Act (GAA) for state FY 2021–2022. The statutory changes are effective for only one year and either expire on July 1, 2022, or revert to the language as it existed before the changes made by the bill.

Clerk Point:

See Section 26, page 30: This section, which expires July 1, 2021, reenacts and amends s. 215.18, F.S., to provide the Chief Justice of the Florida Supreme Court the authority to request a trust fund loan to ensure the state court system has sufficient funds to meet its appropriations contained in the GAA.

See Section 27, pages 30–32: This section, which expires July 1, 2021, requires the Florida Department of Juvenile Justice (DJJ) to ensure that counties fulfill the financial responsibilities required in s. 985.6865, F.S., related to juvenile detention, and requires DJJ to report any deficiencies to the Florida Department of Revenue (DOR). If DJJ determines that a county has not met its obligations, DOR is directed to deduct the amount owed to DJJ from the shared revenue funds provided to a county under s. 218.23, F.S., which shall be deposited in DJJ’s Shared County/State Juvenile Detention Trust Fund.

This section also includes procedures to provide assurance to holders of bonds issued by counties before July 1, 2021, for which shared revenue fund distributions are pledged.

See Sections 28–31, pages 32–42: Section 28 reenacts changes to s. 27.40, F.S., made by prior years’ implementing bills (most recently, [Chapter 2020-114, Laws of Florida](#)), to continue the requirement that the appointment of the office of criminal conflict and civil regional counsel be made only after the public defender has certified to the court in writing that s/he is unable to provide representation due to a conflict of interest. These sections also require the public defender to report the specific basis of all conflicts of interest certified to the court on a quarterly basis to the Justice Administrative Commission (JAC).

Similarly, private counsel may only be appointed after the office of criminal conflict and civil regional counsel has certified to the court in writing that a conflict of interest exists. This information must also be reported quarterly to the JAC.

In addition, this section makes certain requirements of JAC related to billing and compensation for court-appointed counsel.

Section 27.5304, F.S., sets the statutory compensation limits for fees paid to court-appointed attorneys in noncapital, nonlife felony, and life felony cases. Section 30 reinstates the current statutory compensation for state FY 2021–2022.

Section 30 also reenacts the changes to s. 27.5304, F.S., made by prior years' implementing bills, to continue to provide that objections by or on behalf of JAC to records, documents, or claims for payment by an attorney seeking compensation shall be presumed correct by the court unless the court makes a written determination that competent and substantial evidence exists to justify overcoming the presumption. In addition, motions to exceed the flat fee are required to be served on JAC at least 20 business days before the hearing date—rather than 5 business days—and JAC may appear at such hearing either in person or telephonically.

Sections 29 and 31 provide that the changes to ss. 27.40 and 27.5304, F.S., as carried forward from prior years' implementing bills, expire July 1, 2022, when the text of this paragraph shall revert back to that in existence on June 30, 2019.

See Section 63, page 70: This section, which expires July 1, 2022, provides that costs for lodging associated with a meeting, conference, or convention organized by a state agency or the judicial branch may not exceed \$175 per day, and allows an employee to expend their own funds for any such expenses in excess of this cap. Travel activities for conducting an audit, examination, inspection, or investigation, or that relating to a litigation or emergency response, are exempted.

See Sections 69–70, pages 73–74: These sections, which expire July 1, 2022, require the Department of Management Services to execute a 15-year contract with the current operator of the Statewide Law Enforcement Radio System and specify contract requirements. This system is funded, in part, by surcharges collected and distributed by the Clerk under s. 318.18, F.S.

[SB 7018 State-Administered Retirement Systems](#) *(Also of interest to Office Operations/Employment)*

Effective Date: July 1, 2021

Approved: June 2, 2021

Chapter Law: [2021-42](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

Florida Retirement System (FRS) employers are responsible for contributing a set percentage of a member’s monthly compensation to the Division of Retirement. The annual valuation for the coming year includes a set of employer contributions for Regular Cost and a supplemental set of employer contributions for the Unfunded Actuarial Liability (UAL). This bill establishes the employer contribution rates for FRS for state FY 2021–2022 in ss. 121.71(4) and (5), F.S.

Note that the [Florida Department of Management Services Division of Retirement](#) provides information directly to all FRS Agency Heads and Retirement Coordinators following each legislative session. The amendments made by this bill should be read in conjunction with any materials that are provided to your office by the Division of Retirement related to FRS changes.

Clerk Point:

The highlighted portion in the chart below lists the newly established rates for state FY 2021–2022 for those membership classes that may be of specific interest to Clerks’ offices.

Membership Class	Normal Cost Contribution Rates		Unfunded Actuarial Liability (UAL) Contribution Rates	
	Current	Effective July 1, 2021	Current	Effective July 1, 2021
Regular Class	4.84%	4.91%	3.44%	4.19%
Elected County Officers	10.07%	10.28%	37.39%	39.42%
Senior Management	6.39%	6.49%	19.18%	20.80%
DROP	7.03%	7.23%	8.29%	9.45%

[HB 5301 Judges](#) *(Also of interest to Court Side)*

Effective Date: July 1, 2021

Approved: June 2, 2021

Chapter Law: [2021-45](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill amends ss. 26.031 and 34.022, F.S., to create five new judgeships in Florida.

Clerk Point:

The bill establishes one new circuit court judge in the Fourteenth Judicial Circuit (Bay, Calhoun, Gulf, Holmes, Jackson, and Washington) and four new county court judges—one each in Citrus and St. Johns counties and two in Hillsborough County.

Court Side – Civil**[CS/CS/CS/SB 76 Insurance](#)**

Effective Date: July 1, 2021

Approved: June 11, 2021

Chapter Law: [2021-77](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

This comprehensive bill makes various changes related to property insurance as it pertains to certain property insurance practices, residential property insurance claims for roof damage, authority to examine managing general agents, collection of property insurance claims litigation data, notice of property insurance claims, and presuit notice and litigation.

Of interest, the bill creates new statutory requirements in s. 627.70152, F.S., for all residential and commercial property insurance lawsuits not brought by an assignee, including a ten-day presuit notice and demand, before bringing suit against an insurer. The bill modifies attorney fee statutes for such suit so that the exclusive method of determining attorney fee recovery depends on the difference between the amount of damages obtained by the claimant and the presuit settlement offer. The bill applies the presuit requirements and attorney fee modifications to licensed and surplus lines property insurers.

The bill also creates s. 627.70153, F.S., to require each party that is aware of ongoing multiple actions involving coverage provided under the same insurance policy, for the same property with the same owners, to provide written notice to the court of the multiple actions. Once the court receives notice, it may order that the actions be consolidated and transferred to the court having jurisdiction based on the total amount in controversy of all consolidated claims. If multiple cases are pending in circuit courts, the cases may be consolidated based on the date the first case was filed.

The bill also amends s. 626.854, F.S., related to contractors and public adjusters, to provide that an unlicensed person, not otherwise exempt from licensure, who engages in a prohibited act is guilty of the unlicensed practice of public adjusting and may be subject to all applicable criminal penalties, pursuant to Part VI of Chapter 626, F.S., and a fine of up to \$10,000 per violation.

Clerk Point:

This bill is provided primarily for your information as it relates to certain insurance-related court actions.

[CS/CS/CS SB 88 Farming Operations](#)

Effective Date: July 1, 2021

Approved: April 29, 2021

Chapter Law: [2021-007](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill amends several provisions of s. 823.14, F.S., the Florida Right to Farm Act, to protect reasonable agricultural activities conducted on farmland from nuisance lawsuits by providing enhanced civil liability protections to farms that comply with best management practices and environment regulations.

The bill revises definitions in the Act and provides that a farm may not be held liable in a civil nuisance action unless the plaintiff proves by clear and convincing evidence that the claim arises out of conduct that did not comply with state or federal environmental laws, regulations, or best management practices, and prohibits a nuisance action from being filed against a farm operation unless the real property affected by the conditions alleged to be a nuisance is located within one-half mile of the source of the activity or structure alleged to be a nuisance.

Finally, the bill clarifies and limits how compensatory and punitive damages may be awarded in a nuisance action against a farm or relating to a farm operation, and provides that plaintiffs are liable for litigation costs and expenses under certain circumstances.

Clerk Point:

This bill is provided primarily for your information as it relates to protections against certain nuisance lawsuits.

[CS/CS/HB 233 Postsecondary Education](#)

Effective Date: July 1, 2021

Approved: June 22, 2021

Chapter Law: [2021-159](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

As noted in the legislative staff analysis, this bill requires the State Board of Education and the Board of Governors of the State University System to select or create a survey to be administered by all Florida College System institutions and state universities annually to assess the status of intellectual freedom and viewpoint diversity.

This bill amends s. 1004.097, F.S., to allow students to record video or audio of class lectures at Florida's public institutions of higher education for their own personal educational use; in connection with a complaint to the public institution where the recording was made; or as evidence in, or in

preparation for, a criminal or civil proceeding. Students, however, are prohibited from publishing such recording without the lecturer's consent.

Clerk Point:

The bill creates a cause of action in s. 1004.097(4) F.S., for any person injured by unauthorized publishing of a recorded class lecture and authorizes such person to seek civil remedy, including injunctive relief and damages, which may only be paid from nonstate funds and may not exceed \$200,000.

CS/SB 602 Business Organizations

Effective Date: Upon becoming a law

Approved: May 7, 2021

Chapter Law: [2021-13](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

During the 2019 session, the Florida Legislature passed [CS/CS/HB 1009 Business Organizations \(Chapter 2019-90, Laws of Florida\)](#), which was a comprehensive bill that revised the Florida Business Corporation Act (FBCA), governed by Chapter 607, F.S., based on recommendations from a task force of The Florida Bar's Business Law section. Then during the 2020 session, [CS/SB 838 Business Organizations \(Chapter 2020-32, Laws of Florida\)](#) passed, which remedied grammatical, typographical, and cross-reference errors that were subsequently identified by the task force.

This bill provides additional clarification to the FBCA, namely on those issues related to the process by which certain shareholders may dissent to corporate or majority shareholder action by asserting their appraisal rights, which requires a corporation to buy the shareholders' stock at its "fair value."

Of interest, the bill makes conforming changes to ss. 607.1322, 607.1326, and 607.1330, F.S., to reflect that the rate of interest is variable and that a court may choose not to award accrued interest pursuant to the amended definition of the term in s. 607.1301, F.S.

Clerk Point:

This bill is provided primarily for your information as an update to revisions made over the last two years to the Florida Business Corporation Act.

[HB 871 Sovereign Immunity for Child Protection Teams](#)

Effective Date: July 1, 2021

Approved: June 21, 2021

Chapter Law: [2021-147](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

Under Chapter 39, F.S., suspected child abuse, neglect, or abandonment by a parent, caregiver, custodian, or guardian of a child is reported to the Department of Children and Families (DCF). A Child Protection Team (CPT) is responsible for receiving referrals from DCF to provide specialized support and services in processing child abuse, neglect, and abandonment cases.

This bill amends s. 768.28(9)(b), F.S., to expand the immunity from civil liability to include any member of a CPT, established by the Department of Health (DOH). Specifically, the definition is expanded to include any member of a CPT, as defined in s. 39.01, F.S., when carrying out his or her duties as a team member under the control, direction, and supervision of the state or any of its agencies or subdivisions.

Clerk Point:

This bill is provided primarily for your information.

[SB 1884 Preemption of Firearms and Ammunition Regulation](#)

Effective Date: July 1, 2021

Approved: May 7, 2021

Chapter Law: [2021-15](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

Current law expressly preempts all regulation of firearms and ammunition and provides a person or certain organizations with the right to seek declaratory or injunctive relief and actual damages due to a local ordinance, regulation, measure directive, rule enactment, order, or written policy regulating firearms or ammunition.

This bill revises the Legislature's preemption of the field of the regulation of firearms and ammunition in s. 790.33, F.S., to clarify that unwritten policies are subject to existing statutory provisions allowing for recovery of damages if such policies violate firearm preemption provisions. The bill further provides that a plaintiff challenging a local government regulation concerning firearms is considered a prevailing plaintiff, if after filing the complaint, the defendant voluntarily changes the regulation, regardless of whether there is court action.

Clerk Point:

This bill is provided primarily for your information.

[SB 7072 Social Media Platforms](#) *(Also of interest to Ethics and Elections)*

Effective Date: July 1, 2021

Approved: May 24, 2021

Chapter Law: [2021-32](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

Section 230 of the Federal Communications Decency Act provides immunity from liability for information service providers and social media platforms that, in good faith, remove or restrict certain information deemed objectionable from their services. As noted in the legislative staff analysis, recently, there have been criticisms of the federal immunity provision due to actions taken or not taken regarding the censorship of users by internet platforms.

The bill provides that a social media platform must:

- publish standards used for determining how to censor, deplatform, and shadow ban users, and apply such standards in a consistent manner;
- inform each user about changes to its user rules, terms, and agreements before implementing the changes and not make changes more than once every 30 days;
- notify a user in a specified manner within seven days of censoring or deplatforming the user;
- allow a user to request the number of other individuals who were shown the user's content or posts, and provide such information upon such request by the user;
- provide users with an option to opt out of post-prioritization and shadow banning algorithms to allow sequential or chronological posts and content;
- ensure that posts by or about candidates for office in Florida are not shadow banned; and
- ensure that journalistic enterprises are not censored, deplatformed, or shadow banned.

A social media platform that fails to comply with these requirements may be found in violation of the Florida Deceptive and Unfair Trade Practices Act by the Florida Department of Legal Affairs. Additionally, a user may bring a private cause of action against a social media platform for failing to consistently apply certain standards and for censoring or deplatforming without proper notice.

The bill also prohibits social media platforms from deplatforming candidates for political office and authorizes the Florida Elections Commission to issue fines. If a social media platform knowingly provides free advertisements for a candidate, such ads are treated as an in-kind contribution and the candidate must be notified.

Clerk Point:

This bill is provided primarily for your information as it relates to certain antitrust-related court actions.

Court Side – Criminal

[CS/CS/SB 44 Use of Drones by Government Agencies](#) *(Also of interest to Traffic/Motor Vehicles)*

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

Current state law generally prohibits law enforcement agencies from using drones to conduct surveillance, subject to limited exceptions.

This bill amends s. 934.50, F.S., and expands the authorized uses of drones by law enforcement and other specified entities to:

- Provide a law enforcement agency with an aerial perspective of a crowd of 50 people or more, if certain established policies, procedures, and authorization are in place.
- Assist a law enforcement agency with traffic management, except that a drone may not be used to issue a traffic infraction citation based on images or video captured by the drone.
- Facilitate a law enforcement agency's collection of evidence at a crime scene or traffic crash scene.
- Allow a state agency or political subdivision to assess damage due to a flood, wildfire, or any other natural disaster during a declared state of emergency; or allow for vegetation or wildlife management on publicly owned land or water.
- Allow certified fire department personnel to perform tasks within the scope and practice authorized under their certifications.

The bill also creates new subsection (7) to establish security standards for governmental agency drone use to protect the confidentiality, integrity, and availability of data collected, transmitted, or stored by governmental agency drones. The bill defines "governmental agency" as any state, county, local, or municipal governmental entity or any unit of government created or established by law that uses a drone for any purpose.

Clerk Point:

This bill is provided primarily for your information.

[HB 67 Public Defender Duties](#)

Effective Date: July 1, 2021

Approved: May 7, 2021

Chapter Law: [2021-018](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill clarifies the circumstances under which a public defender may not be appointed to represent a defendant. As noted in the legislative staff analysis, the Florida Second District Court of Appeal, in [Hillsborough County v. Keetley](#), recently dismissed a petition for writ of certiorari, challenging the trial court's order appointing the public defender's office as co-counsel to represent a defendant who was already represented by a private attorney.

The bill amends s. 27.51(2), F.S., Duties of public defender, to clarify that if a defendant has retained private counsel, the court may not appoint the public defender to represent that defendant simultaneously on the same case. The bill does not prohibit a defendant who initially hires a private attorney from discharging the private attorney, filing an application for indigent status, or requesting the court to appoint a public defender.

Clerk Point:

This bill is provided primarily for your information.

[CS/SB 70 Domestic Violence Centers](#)

Effective Date: July 1, 2021

Approved: June 16, 2021

Chapter Law: [2021-92](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

Section 39.908(1), F.S., currently provides that the location of a domestic violence center, as well as information about clients received by the Department of Children and Families (DCF) or by authorized persons employed by or volunteering services to a domestic violence center, is confidential and exempt from disclosure under the public records laws in Chapter 119, F.S. However, as noted in the legislative staff analysis, current law does not specifically prohibit a person unaffiliated with DCF or a domestic violence center from disclosing the location of a center.

This bill creates a new criminal offense relating to the unauthorized disclosure of the location of a certified domestic violence center.

Clerk Point:

The bill creates s. 39.9057, F.S., Unlawful disclosure of certified domestic violence center location, and two criminal penalties in subsections (1) and (2), to prohibit any person from maliciously publishing, disseminating, or disclosing any descriptive information or image that may identify the

location of a domestic violence center certified under s. 39.905, F.S., or who otherwise maliciously discloses the location of a center. Any person who violates the prohibition commits a:

- (1) first degree misdemeanor for a first violation; or a
- (2) third degree felony for a second or subsequent violation.

[CS/CS/HB 131 Educator Conduct](#)

Effective Date: July 1, 2021

Approved: June 21, 2021

Chapter Law: [2021-138](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

As noted in the legislative staff analysis, this bill is intended to protect students from school district employees who have committed sexual misconduct with a student and prescribes specific duties and responsibilities to the local school districts and the Florida Department of Education (DOE) to provide this protection.

Clerk Point:

Of specific interest, the bill requires DOE to include employees who have committed sexual misconduct with a student on a disqualification list, which consists of individuals who are prohibited from future employment by public schools, charter schools, and private schools participating in state scholarship programs. The bill creates a third degree felony penalty in s. 1012.796(10), F.S., for any person on the disqualification list who knowingly violates the prohibition against serving or applying to serve as an employee or contracted personnel at these schools.

[CS/HB 221 Recovery of Spaceflight Assets](#)

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill protects space vehicles, their parts, and other spaceflight assets that have fallen to earth by ensuring that the asset owner can recover and reuse it in future missions. As noted in the legislative staff analysis, law enforcement and a finder of lost or abandoned property on public property must follow the procedures outlined in Chapter 705, F.S.; however, current law does not address lost or abandoned property found on private property.

The bill creates s. 331.502, F.S., Recovery of spaceflight assets, to define relevant terms and to require that any person who locates an item reasonably identifiable as a spaceflight asset report its description and location to law enforcement. The bill provides that a law enforcement officer may authorize the owner of the asset to enter private property for recovery when certain circumstances exist to justify entry.

The bill also creates a new criminal penalty and specifies that this section does not limit liability protection for private property under state or federal law.

Clerk Point:

This bill creates a new first degree misdemeanor penalty in s. 331.502(5), F.S., and the crime of misappropriation of a spaceflight asset, for any person who knowingly appropriates an item reasonably identifiable as a spaceflight asset, or to the use of any other person not entitled to the asset, or for refusal to surrender the asset to law enforcement or the owner upon demand. Upon conviction, a court shall order the person to pay restitution to the spaceflight asset's owner if the asset is damaged or cannot be recovered.

[HB 241 Parents' Bill of Rights](#)

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill establishes Chapter 1014, F.S., entitled "Parents' Bill of Rights," comprised of new ss. 1014.01–1014.06, F.S., to enumerate a list of rights that a parent possesses with respect to their minor child for education, health care and criminal justice procedures.

Clerk Point:

Of specific interest, this bill creates s. 1014.06, F.S., to require a health care practitioner, or his or her employees, to obtain parental consent before performing health care services on a minor child. The bill subjects a health care provider or other person who violates this section to disciplinary action, as applicable, and creates a new first degree misdemeanor penalty in subsection (5) for such violation.

[CS/CS/SB 354 Restitution \(Also of interest to Juvenile\)](#)

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

As noted in the legislative staff analysis, a court must generally rely on the fair market value (FMV) of a property at the time of an offense to determine restitution. While case law currently provides exceptions to using FMV as the sole standard for determining restitution, hearsay rules restrict a court's ability to consider hearsay evidence in determining restitution, which may create an inequitable result for a crime victim.

This bill is a result of recent recommendations by the Fourth District Court of Appeal to authorize courts to exercise discretion as required to further the purposes of restitution, including consideration of hearsay evidence.

The bill amends ss. 775.089(7) and 985.437(2), F.S., to provide that the primary purpose of restitution is to compensate the victim and that it also serves the rehabilitative and deterrent goals of the criminal and juvenile justice systems. The bill further provides that in both criminal and juvenile delinquency cases:

- a court is required to use FMV to determine restitution, unless the state, victim, or defendant shows that using another basis, including, but not limited to, replacement cost, purchase price less depreciation, or actual cost of repair, is equitable and furthers the stated purpose of restitution; and that
- a court may consider hearsay evidence for the purpose of determining restitution, provided that the hearsay evidence has a minimal indicia of reliability.

Clerk Point:

This bill is provided primarily for your information.

[CS/HB 583 Interception of Wire, Oral, or Electronic Communications Made in Violation of Protective Orders](#)

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

Section 934.03, F.S., currently provides criminal penalties for intentionally intercepting an oral communication—commonly known as wiretapping—subject to limited exceptions. This bill creates an exception to the general prohibition against wiretapping if used to prove a violation of protective orders.

Specifically, the bill makes it lawful for a person who is protected under an active temporary or final injunction for repeat violence, sexual violence, dating violence, stalking, domestic violence, or any other court-imposed prohibition of conduct, to intercept and record a wire, oral, or electronic communication received in violation of such injunction or court order.

Such recordings may be provided to a law enforcement agency, an attorney, or a court for the purpose of evidencing a violation of an injunction or court order, if the subject of the injunction or court order prohibiting contact has been served the injunction or is on notice that the conduct is prohibited. A recording authorized by this bill may not be otherwise disseminated or shared.

Clerk Point:

This bill is provided primarily for your information.

[CS/CS/SB 804 Substance Abuse Services](#)

Effective Date: July 1, 2021

Approved: June 21, 2021

Chapter Law: [2021-128](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

As noted in the legislative staff analysis, the Department of Children and Families (DCF) administers a statewide system of safety-net services for substance abuse and mental health prevention, treatment, and recovery. This bill makes several changes to provisions governing the licensure and regulation of substance abuse treatment programs, including creating new criminal penalties and revising existing administrative penalties.

Clerk Point:

Of specific interest, this bill creates new subsection (5) of s. 397.403, F.S., to create a third degree felony penalty for substance abuse service provider applicants who willfully and knowingly make a false representation of material fact in a license application or who willfully and knowingly omit any material fact from a license application, punishable by the existing third degree felony penalty.

[CS/HB 823 Alarm System Contractors](#)

Effective Date: July 1, 2021

Approved: June 16, 2021

Chapter Law: [2021-110](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill amends ss. 489.521 and 553.7921, F.S., to make changes to Florida law related to electrical or alarm system contractors and the Uniform Fire Alarm Permit Application that is required to be filed with local enforcement agencies.

Clerk Point:

Of specific interest, this bill renumbers the existing second degree misdemeanor penalty in s. 489.521(7), F.S., to new paragraph (7)(c) for persons who claim in any advertisement to be a certified or registered contractor without holding valid certification or registration.

[CS/HB 1197 Courts](#)

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill makes a number of changes related to Florida's state courts system. A summary of each section is provided below for your information.

Clerk Point:

The bill amends ss. 25.221 and 25.301, F.S., to remove the requirement that the Clerk of the Supreme Court physically keep books, records, decisions, orders, and other materials in the clerk's office, instead requiring that the clerk maintain and be in control of these materials in a manner prescribed by the Supreme Court.

The bill amends s. 28.2457(2), F.S., and removes the requirement that Clerks of Court, through their association and in consultation with the Office of the State Courts Administrator (OSCA), annually submit a uniform form for identification and imposition of mandated assessments to the Florida Supreme Court (the Mandatory/Discretionary Form Matrix).

Instead, the bill requires Clerks to collaborate with the state courts, through the Florida Courts Technology Commission (FCTC), to develop a plan to procure or develop a statewide electronic solution for identifying all monetary assessments mandated by statute. The bill requires the plan to, at a minimum, address operational, technological, and fiscal considerations related to the implementation of the electronic solution. Clerks must submit the plan to the President of the Senate and the Speaker of the House of Representatives by January 1, 2022.

Following along on changes made during recent legislative sessions related to county court jurisdictional limits, this bill amends s. 34.01, F.S., to provide for the periodic inflationary adjustment of the \$50,000 jurisdictional limit, established by [Chapter 2019-58, Laws of Florida](#), that is set to take effect January 1, 2023, and is applicable to all actions at law in county courts filed on or after the effective date.

The bill provides that effective July 1, 2030, and every 10 years thereafter, the \$50,000 jurisdictional limit must be adjusted and increased by the percentage change in the Consumer Price Index (CPI), rounded to the nearest \$5,000; however, the jurisdictional limit may not be lower than \$50,000. The Office of Economic and Demographic Research (EDR) must calculate and certify the adjusted jurisdictional limit to the Chief Justice of the Florida Supreme Court beginning January 31, 2030, and every 10 years thereafter. Any adjustments to the jurisdictional limit must be published on the OSCA and EDR websites.

The bill also removes obsolete language related to certain reporting requirements.

The bill amends ss. 35.15, 35.23, and 35.24, F.S., to require the clerks of a district court of appeal (DCA) to have an office at the headquarters of the court. Additionally, and similar to the changes made by the bill for the Clerk of the Supreme Court, the bill removes the requirement that a DCA clerk keep records at the headquarters of the court, as well as the requirement that a DCA clerk physically keep books, records, and other materials at their office.

The bill amends s. 40.23(2), F.S., to authorize individuals to make a written or oral request for postponement of jury service for up to 12 months in the event of a declared public health emergency or a state of emergency declared by the Governor.

Finally, the bill amends ss. 812.014, 921.241, and 921.242, F.S., to remove the requirement that fingerprints be taken in open court and in the judge's presence upon a judgement of guilt for petit theft, a felony, or an offense under Chapter 796, F.S. The bill authorizes the electronic capture of fingerprints and requires the court officer, employee of the court, or the employee of a criminal justice agency to sign a statutorily specified certification.

Specifically relating to felonies, the bill also removes the requirement that a judge obtain a defendant's social security number at the time of fingerprinting.

[CS/CS/CS/HB 1209 Department of Financial Services](#)

Effective Date: July 1, 2021

Approved: June 16, 2021

Chapter Law: [2021-113](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill addresses various issues pertaining to the duties of the Florida Department of Financial Services (DFS). Those items of specific interest to Clerks and Comptrollers are summarized below.

Clerk Point:

This bill amends ss. 20.121 and 943.045(11), F.S., to establish the DFS Division of Public Assistance Fraud as a criminal justice agency, tasked with conducting investigations related to public assistance fraud within or outside of the state as it deems necessary.

This bill creates s. 284.45, F.S., to prohibit employees covered by the State Risk Management Trust Fund from engaging in retaliatory conduct against a sexual harassment victim and creates a new first degree misdemeanor penalty in subsection (2) for knowingly disseminating the personal identifying information of a sexual harassment victim to any party other than a governmental entity in furtherance of its official duties or pursuant to a court order.

Current law requires a license for specific death care industry practices and provides a second degree misdemeanor penalty in s. 497.159(6), F.S., for individuals who engage in activity requiring licensure

without possessing a license. This bill transfers the existing criminal penalty to s. 497.157(8), F.S., and increases it to a third degree felony.

This bill amends s. 648.30, F.S., and creates a third degree felony penalty in new subsection (5) for any licensed bail bond agent who knowingly aids or abets an unlicensed person in acting as a bail bond agent.

The bill also amends s. 843.08, F.S., and the existing criminal penalties related to false personation of certain officers, to remove from the specified list of officers a DFS fire or arson investigator and, instead, makes the felony penalties applicable to falsely assuming or pretending to be any personnel or representative of the DFS Division of Investigative and Forensic Services.

[CS/SB 1120 Telephone Solicitation](#) *(Also of interest to Court Side-Civil)*

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

As noted in the legislative staff analysis, Part IV of Chapter 501, F.S., the Florida Telemarketing Act, requires non-exempt businesses and their salespeople engaged in telemarketing to be licensed by the Florida Department of Agriculture and Consumer Services before operating in the state and prohibits telephone sales calls that use an automated system for the selection or dialing of phone numbers or the playing of a recorded message when a connection is completed. Automated telephone dialing systems with live messages are permitted under specific circumstances outlined in statute.

This bill makes changes to Chapter 501, F.S., and, of interest, creates a new private cause of action and a new criminal penalty related to prohibited telephone solicitation.

Clerk Point:

This bill amends s. 501.059, F.S., to require businesses engaged in telephonic sales calls, text messages, and direct-to-voicemail transmissions to have the receiving consumer's express written consent prior to a call if the call will be made using an automated machine or will play a recorded message upon connection. The bill also creates a cause of action for an aggrieved party to enjoin a violation and recover actual damages or \$500, whichever is greater. In addition, if a court finds that the defendant willfully or knowingly committed a violation, the court has the discretion to increase the amount of the award to an amount equal to not more than three times the amount available.

The bill also amends s. 501.616, F.S., and creates a second degree misdemeanor penalty in new paragraph (7)(b) for a commercial telephone seller or salesperson who makes a call using technology that deliberately displays a different caller identification number than the number the call is originating from to conceal the true identify of the caller.

[CS/SB 1770 Genetic Counseling](#)

Effective Date: July 1, 2021

Approved: June 21, 2021

Chapter Law: [2021-133](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill creates Part III of Chapter 483, F.S., the “Genetic Counseling Workforce Act,” and prescribes certain duties and responsibilities to the Florida Department of Health (DOH) related to the regulation and licensure for genetic counselors.

Clerk Point:

Of specific interest, this bill creates s. 483.916, F.S., and a second degree misdemeanor penalty in subsection (2) for any person who makes a false or fraudulent statement in any application, affidavit, or statement presented to DOH; practices or provides genetic counseling services without obtaining a license from DOH; or uses the title “genetic counselor,” or any other title that indicates a person is authorized to practice such counseling, unless such person holds a valid license or is exempt from licensure.

[CS/CS/SB 1826 Human Trafficking](#)

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill creates a human trafficking victim advocate-victim privilege that mirrors the current privilege provided for sexual assault and domestic violence victim advocates. The bill expands the definition of “human trafficking,” authorizes a human trafficking victim to seek expungement in multiple jurisdictions, and prohibits charging a filing fee for a human trafficking victim’s petition for expunction.

The bill also reenacts ss. 39.01305, 464.013, 775.21, 943.0435, 943.0583, and 944.606, F.S., for the purposes of incorporating the amendments made in the bill.

Clerk Point:

The bill creates s. 90.5037, F.S., and a new privilege for communication between human trafficking victims and human trafficking advocates or trained volunteers. Such communication is “confidential,” under new subsection (2), if it is not intended to be disclosed to third persons other than those persons present during the communication for the purpose of furthering the interest of the human trafficking victim; those persons necessary for the transmission of the communication; and those persons to whom disclosure of the communication is reasonably necessary to accomplish the purpose of the human trafficking victim’s communication.

The bill amends s. 787.06, F.S., to expand the definition of “human trafficking” to include “purchasing, patronizing, [or] procuring” another person for the purpose of exploitation of that person. The definition of the term “obtain” is also amended to include “in relation to labor, commercial sexual activity, or services, to receive, take possession of, or take custody of another person or secure performance thereof.”

The bill also expands the applicability of the first degree felony and life felony offenses in subsection (2) for human trafficking committed against a child under the age of 18 to also include an adult believed by the offender to be a child under the age of 18.

The bill provides legislative encouragement for each state attorney to adopt a pro-prosecution policy for human trafficking offenses, and requires the state attorney to determine the filing, nonfiling, or diversion of criminal charges even when there is no cooperation from a victim or over the objection of the victim, if necessary.

The bill goes on to amend s. 943.0583, F.S., Human trafficking victim expunction, to make the following changes:

- Prohibits the Clerk from charging a filing fee, service charge, or copy fee or any other charge for a petition to expunge a criminal offense of a human trafficking victim.
- Clarifies that a human trafficking victim may petition to expunge a criminal history record that results from the arrest or filing of charges for one or more offenses under certain circumstances.
- Requires the Clerk to treat a human trafficking victim’s petition to expunge more than one eligible offense as a single petition.
- Removes language that is required to be included in the sworn statement that must accompany such petition which states that the petitioner “does not have any other petition to expunge or any petition to seal pending before any court.”

The bill also amends s. 948.30, F.S., to expand the list of offenses in which a court must impose special conditions on probationers or community controllees who are placed under supervision or on community control or sex offender probation for committing a specified human trafficking offense on or after July 1, 2021.

[CS/HB 7023 Veterans Treatment Court Program](#)

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

In 2012, the Florida Legislature created veterans treatment courts (VTCs), which are problem-solving courts addressing the underlying causes of a veteran’s involvement with the judicial system. This bill

authorizes courts to develop and operate a VTC with an emphasis on employing a nonadversarial approach to resolving an underlying cause of behavior.

The bill amends s. 394.47891, F.S., to establish a statewide, uniform standard and procedure for operating VTCs. The bill authorizes a court with criminal jurisdiction to create and administer a VTC, which may adjudicate both felony and misdemeanor offenses. A defendant who meets the eligibility requirements, determined upon the state attorney's review, may be admitted to a VTC at any stage of a criminal proceeding. The chief judge and state attorney of the circuit have exclusive authority to determine whether to admit veterans who have been dishonorably discharged. Additionally, the bill authorizes the chief judge to issue administrative orders concerning the VTC program.

The bill further provides that a VTC must create a record of its policies and procedures; seek input from the state attorney and other interested persons; and consult nationally recognized best practices for VTCs. The bill requires a VTC to adopt policies and procedures that implement the following key components:

- the integration and provision of substance abuse and mental health treatment;
- a nonadversarial approach;
- early identification of eligible defendants;
- monitoring for abstinence of alcohol and drug use;
- ongoing judicial interaction;
- monitoring and evaluation of each defendant's achievement of program goals; and
- partnerships among VTCs, federal and state veterans agencies, and community-based organizations.

The bill also amends ss. 948.08 and 948.16, F.S., to revise eligibility for pretrial programs relating to felonies and misdemeanor, and amends s. 948.21, F.S., to clarify that a court may impose participation in a VTC for a probationer or community controllee who commits a crime on or after July 1, 2021, and who is otherwise qualified to participate in a VTC.

Finally, the bill clarifies that a Military Veterans and Servicemembers Court Program in operation on or before June 30, 2021, may continue to operate but must comply with the terms provided under the bill. The bill does not affect the rights or responsibilities of a person participating in such a court at the time the bill becomes effective.

Clerk Point:

As it relates to changes to problem-solving courts in Florida, this bill is provided primarily for your information.

[SB 7056 Trust Funds \(Also of interest to Traffic/Motor Vehicles\)](#)

Effective Date: July 1, 2021

Approved: April 19, 2021

Chapter Law: [2021-5](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

In 2018, the state General Appropriations Act (GAA) implementing bill changed the distribution of certain monies from the Public Defenders Revenue Trust Fund to the Indigent Criminal Defense Trust Fund. Because statutory changes made in an implementing bill are effective for only one year, these changes have been subsequently carried forward and reenacted by both the 2019 and 2020 GAA implementing bills, and are currently set to expire on July 1, 2021, when the language will revert back to that in existence on June 30, 2018.

Clerk Point:

This bill codifies in statute and makes permanent those changes first made by the 2018 GAA implementing bill.

The bill repeals the Public Defenders Revenue Trust Fund within the Justice Administrative Commission from Florida Statutes, and instead permanently directs the \$1.67 of the \$10 assessment paid for all noncriminal moving and nonmoving violations under Chapters 316, 320, and 322, F.S., pursuant to s. 318.18(19)(c), F.S., and the \$250 of the \$1,001 surcharge paid pursuant to s. 817.568(12)(b), F.S., for criminal use of personal identification information, to the Indigent Criminal Defense Trust Fund.

Note that these specific distributions to the Indigent Criminal Defense Trust Fund have been reflected in the annual Distribution Schedule of Fees, Charges, Costs and Fines manual since the initial July 1, 2018 change.

Ethics and Elections**[CS/CS/SB 1890 Campaign Financing](#)**

Effective Date: July 1, 2021

Approved: May 7, 2021

Chapter Law: [2021-016](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill amends s. 106.08, F.S., to place a \$3,000 contribution limit from a person or political committee that is the sponsor of a constitutional amendment proposed by initiative. The contribution limit will no longer apply to such a political committee once the Secretary of State has issued a certificate of ballot position and a designating number for the proposed constitutional amendment.

The bill further amends this section to expressly preempt local governmental entities from enacting or adopting:

- contribution limits that differ from existing limits;
- any limitation or restriction involving contributions to a political committee or an electioneering communications organization; or
- any limitation or restriction on expenditures for an electioneering communication or an independent expenditure.

The bill further provides that any existing or future limitation or restriction enacted or adopted by a local government that conflicts with the new preemption is void.

Clerk Point:

Of specific interest, the bill amends s. 106.141(4)(a), F.S., to revise the authorized methods for disposing of surplus funds by candidates. Specifically, the bill:

- only prohibits a candidate from donating surplus funds to a charitable organization by which he or she is employed; and
- eliminates the restrictions on which candidates may donate to which government funds.

The bill now authorizes all candidates for state and local office to deposit surplus funds in either the Election Campaign Financing Trust Fund or the state General Revenue Fund, as designated by the candidate, or the general revenue fund of a political subdivision.

Family

[CS/CS/SB 96 Child Welfare](#) *(Also of interest to Court Side-Criminal)*

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

This comprehensive bill makes changes to the child welfare and mental health systems administered by the Florida Department of Children and Families (DCF) to better protect children from abuse and neglect and to improve the state's system of community-based child welfare, mental health, and substance abuse services. Those items that may be of interest to Clerks' offices are summarized below.

Clerk Point:

The bill reorganizes and relocates portions of s. 39.201, F.S., by creating s. 39.101., F.S., related to reporting of child abuse, abandonment, and neglect; substantially rewords current s. 39.201, F.S.; and creates s. 39.208, F.S., to require cross-reporting of child abuse and animal cruelty by child protective investigators and animal control officers. The bill creates a new second degree

misdemeanor penalty in s. 39.208(4)(a), F.S., for child protective investigators who knowingly fail to report known or suspected animal cruelty.

The bill amends s. 39.202, F.S., to authorize the Agency for Health Care Administration to receive child abuse and neglect reports and requires DCF to grant access to confidential and exempt records to a legislative committee within seven days, upon request.

The bill creates s. 39.4092, F.S., to allow the Office of Criminal and Conflict and Civil Regional Counsels to establish a multidisciplinary legal representation model program to serve families in the dependency system.

The bill also creates s. 394.9086, F.S., and establishes a Commission on Mental Health and Substance Abuse to examine the current provision of mental health and substance abuse services, as recommended by the grand jury convened after the Marjory Stoneman Douglas tragedy. The commission must submit an interim report by September 2, 2022, and a final report by September 1, 2023.

[CS/HB 141 Parenting and Time-Sharing of a Minor Child for a Convicted Parent](#)

Effective Date: July 1, 2021

Approved: June 21, 2021

Chapter Law: [2021-139](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

As noted in the legislative staff analysis, current law does not expressly prohibit a parent who has committed a sexual offense from exercising time-sharing with his or her minor child; however, a rebuttable presumption of detriment to the child exists if a parent has been convicted of a first degree misdemeanor or higher involving domestic violence or is incarcerated and meets the criteria of s. 39.806(1)(d), F.S.

The bill amends s. 61.13(2)(c), F.S., to expand the existing rebuttable presumption of detriment to the child to include when a parent has been convicted of or had adjudication withheld for an offense enumerated in s. 943.0435(1)(h)1.a., F.S., related to sexual offender registration, and at the time of the offense:

- the parent was 18 years of age or older; and
- the victim was under 18 years of age or the parent believed the victim to be under 18 years of age.

The bill also creates a rebuttable presumption, under new subparagraph 5., against granting time-sharing with a minor child based on the same criteria delineated above; however, the bill provides that a parent may rebut this presumption if the court makes a specific finding in writing that the parent poses no significant risk of harm to the child and that time-sharing is in the best interests of

the child. If the presumption is rebutted, the bill also requires the court to consider all time-sharing factors provided for in s. 61.13(3), F.S., when developing a time-sharing schedule.

Clerk Point:

This bill is provided for your information.

[SB 308 Florida Statutes](#)

Effective Date: June 29, 2021

Approved: June 4, 2021

Chapter Law: [2021-51](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

As noted in the legislative staff analysis, each year, the Legislature may pass a general “reviser’s” bill of technical nature that deletes expired or obsolete language; corrects cross references and grammatical errors; removes inconsistencies, redundancies, and unnecessary repetition in the statutes; improves the clarity of the statutes and facilitates their correct interpretation; and confirms the restoration of provisions unintentionally omitted from republication in the Legislature’s acts during the amendatory process.

Clerk Point:

Provided primarily for your information, this bill makes necessary conforming changes to subsection numbering and cross-references in Chapter 39, F.S., to reflect changes made by previous legislatures.

Juvenile

[SB 274 Juvenile Diversion Program Expunction](#)

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

Current law requires the Florida Department of Law Enforcement (FDLE) to expunge a nonjudicial arrest record of a juvenile who successfully completes a diversion program for a misdemeanor offense. A juvenile who successfully completes a diversion program for a first-time misdemeanor offense may lawfully deny or fail to acknowledge certain information for the offense.

This bill amends s. 943.0582 F.S., and expands existing law to require FDLE to expunge any nonjudicial arrest record when a juvenile successfully completes a diversion program for the offense. The decision to refer a juvenile to a diversion program remains at the discretion of either the law enforcement officer who interacts with the juvenile at the time of the offense or the state attorney assigned to the case.

Additionally, the bill amends s. 985.126(5), F.S., to permit a juvenile who completes a diversion program for any offense, rather than only a first-time misdemeanor, to lawfully deny or fail to acknowledge his or her participation in the program and the expunction of the nonjudicial arrest record, unless the inquiry is made by a criminal justice agency for the purpose of determining eligibility for diversion programs; a criminal investigation; or making a prosecutorial decision.

Clerk Point:

This bill is provided for your information.

[CS/CS/HB 885 Juvenile Justice Programs and Detention](#) *(Also of interest to Board Side)*

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill makes a number of changes related to the duties and responsibilities of the Department of Juvenile Justice (DJJ) in the management of juvenile justice programs in the state. Those items of interest to Clerks' offices are summarized below.

Clerk Point:

The bill amends s. 985.101(1)(c), F.S., to provide that before a court issues an order to take a child into custody for failing to appear, it must consider all of the following information relating to whether the child's nonappearance was willful:

- Whether notice was sent to the child's address included in the official court record.
- Whether any person provided notice to the child in any format.
- If the child is represented by counsel, whether counsel for the child has information that the nonappearance was not willful or was otherwise beyond the child's control.
- Whether a DJJ representative had contact or attempted to have contact with the child.
- Whether DJJ has any specific information to assist the court in the determination.

The bill also amends s. 985.435(4), F.S., relating to probation and postcommitment probation, to require each judicial circuit to develop, in consultation with judges, the state attorney, the public defender, the regional counsel, relevant law enforcement agencies, and DJJ, a written plan specifying the alternative consequence component. Such plan must be based upon the principle that sanctions must reflect the seriousness of the violation; the assessed criminogenic needs and risks of the child; the child's age and maturity level; and how effective the sanction or incentive will be in moving the child to compliant behavior.

The bill repeals s. 985.686, F.S., which provided for an obsolete detention cost sharing plan between DJJ and counties, and transfers relevant portions of the governance of this cost sharing plan to s. 985.6865, F.S.

As such, the bill goes on to amend s. 985.6865, F.S., to require each county that is not fiscally constrained and that does not provide its own detention care for juveniles to incorporate into its annual budget sufficient funds to pay its annual percentage share of the total shared detention costs.

Finally, the bill reenacts several corresponding statutory provisions to incorporate changes made by the bill.

[HB 7051 Law Enforcement and Correctional Officer Practices](#) *(Also of interest to Court Side-Criminal)*

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill makes several changes to the requirements for the operations and standards of law enforcement and correctional agencies, as well as training for law enforcement officers, correctional officers, and correctional probation officers, intended to fulfill an important state interest in protecting the safety of both law enforcement and correctional officers and the public.

Clerk Point:

Of specific interest, the bill creates s. 985.031, F.S., the "Kaia Rolle Act," to prohibit a child younger than seven years of age from being arrested, charged, or adjudicated delinquent for a delinquent act or violation of law, unless the violation of law is a forcible felony as defined in s. 776.08, F.S.

Office Operations/Employment

[SB 922 Veterans' Preference in Employment](#)

Effective Date: July 1, 2021

Approved: June 4, 2021

Chapter Law: [2021-57](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

As noted in the legislative staff analysis, Chapter 295, F.S., currently requires the state and its political subdivisions to give employment preference in hiring and retention to all veterans, Florida National Guard members, reserve components of the United States Armed Forces, Gold Star Mothers and Fathers, widows or widowers, legal guardians, and certain spouses who meet specified criteria. Certain government positions are exempt from the veterans' preference requirements including, but not limited to, heads of departments, personal secretaries of elected or appointed officers, and certain physicians.

This bill amends ss. 295.065, 295.07, and 295.08, F.S., to expand the benefit of a veterans' preference in employment and to also increase points used in appointment and retention determinations.

Clerk Point:

Of specific interest, this bill amends s. 295.07, F.S., to require, rather than authorize, each state agency and political subdivision to develop and implement a veterans' recruitment plan that establishes annual goals for ensuring the full use of veterans in the agency's or political subdivision's workforce. Each veterans' recruitment plan must be designed to meet the established goals.

Probate/Guardianship

[CS/CS/HB 431 Physician Assistants](#)

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill revises the practice acts for Physician Assistants under Chapters 458 and 459, F.S.

Of specific interest, this bill authorizes a Physician Assistant to authenticate any document by signature, certification, stamp, verification, affidavit, or endorsement, if the document may also be so authenticated by a physician, including initiation of an involuntary examination, pursuant to s. 394.463, F.S., and do-not-resuscitate orders or physician orders for the administration of life-sustaining treatments.

Clerk Point:

This bill is provided primarily for your information.

[CS/CS/HB 441 Elder-focused Dispute Resolution Process](#)

Effective Date: July 1, 2021

Approved: June 4, 2021

Chapter Law: [2021-67](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

Currently, Florida has pilot projects sites offering eldercaring coordination services in eight judicial circuits. This bill establishes eldercaring coordination in statute as a statewide alternative dispute resolution (ADR) option, specifically for high conflict cases involving issues related to elders. The bill does not require eldercaring coordination in all cases, but rather authorizes it as an additional form of ADR that could be ordered by a judge.

Clerk Point:

This bill creates s. 44.407, F.S., to provide legislative findings and defines “eldercaring coordination” in subsection (2) as an elder-focused dispute resolution process during which an eldercaring coordinator assists an elder, legally authorized decisionmakers, and others who participate by court order or invitation of the eldercaring coordinator in resolving disputes regarding the care and safety of an elder. These coordinators are defined by the bill as an impartial third person who is appointed by the court or designated by the parties and who meets certain statutory requirements, enumerated in subsection (5).

The bill authorizes a court to refer certain cases to eldercaring coordination and establishes a specified framework for the referral process in subsection (3). The bill prohibits the referral of certain cases where a party has a history of domestic violence or exploitation of an elderly person, unless the parties consent to the referral and the court considers certain factors.

The bill provides that court appointment of an eldercaring coordinator is for a term of up to two years and the court shall conduct review hearings intermittently to determine whether the term should be concluded or extended. In addition, the order of appointment by the court shall define the scope of the eldercaring coordinator’s authority and must specify that a party may move the court at any time during the period of appointment for termination of the coordinator.

The bill also stipulates the process for disqualification and removal of an eldercaring coordinator and generally requires an eldercaring coordinator’s fees to be paid in equal portion by each party referred. However, if a court finds that a party is indigent, the court may not order the party to eldercaring coordination unless funds are available to pay the indigent party’s allocated portion of the fees and costs.

The bill requires all communications made during eldercaring coordination to be kept confidential, subject to those exceptions enumerated in subsection (9), and provides a process in subsection (10) for an eldercaring coordinator to make emergency reports to the court.

[CS/SB 590 School Safety](#) *(Also of interest to Juvenile)*

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill revises parental notification requirements for public and charter schools relating to initiating involuntary examinations under the Baker Act of students and school safety threats and incidents. The bill provides additional supports to students in crisis and clarifies student discipline policies.

Of interest, the bill amends s. 394.463(4), F.S., to revise data reporting requirements for the Department of Children and Families (DCF) by requiring DCF to analyze data on both the initiation of

involuntary examinations of children as well as the initiation of involuntary examinations of students who are removed from school.

The bill also requires the Office of Safe Schools to include, for each school, the number of involuntary examinations that are initiated at the school, on school transportation, or at a school-sponsored activity as well as the number of children for whom an examination is initiated.

The bill amends s. 1006.07, F.S., to require that codes of student conduct include criteria for recommending to law enforcement that a student who commits a criminal offense be allowed to participate in a civil citation or similar prearrest diversion program as an alternative to expulsion or arrest. All civil citation or similar prearrest diversion programs must comply with s. 985.12, F.S. The bill also requires each district school board to adopt a policy mandating that the school superintendent annually report to the DCF the number of involuntary examinations initiated at a school, on school transportation, or at a school-sponsored activity.

Clerk Point:

This bill is provided primarily for your information as it relates to changes to the Baker Act.

[CS/HB 1041 Protection of Elderly Persons and Disabled Adults](#)

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

In 2018, the Florida Legislature created a process and cause of action for an injunction for protection against exploitation of a vulnerable adult in s. 825.1035, F.S., that is similar to the domestic violence injunction process found in Chapter 741, F.S.

This bill makes several revisions and additions to laws protecting elderly and disabled persons. Generally, the bill prohibits a person who commits abuse, neglect, exploitation, or aggravated manslaughter against an elderly or disabled person from inheriting from the victim's estate, trust, or other beneficiary assets.

Clerk Point:

The bill amends s. 16.56(1)(a), F.S., to authorize the Office of Statewide Prosecution to investigate and prosecute crimes concerning elderly persons and disabled adults under Chapter 825, F.S.

The bill amends s. 733.303(1), F.S., to prohibit a person convicted in any state or foreign jurisdiction of abuse, neglect, or exploitation of an elderly person or disabled adult from serving as personal representatives of an estate, as those terms are defined in s. 825.101, F.S.

The bill creates s. 732.8031, F.S., relating to forfeiture, and amends s. 736.1104, F.S., relating to trusts, to prohibit a person from inheriting from a victim's estate, trust, or other beneficiary assets if such person is convicted in any state or foreign jurisdiction of abuse, neglect, exploitation, or aggravated manslaughter, as those terms are defined in s. 825.101, F.S., of an elderly person or disabled adult.

Specifically, the bill:

- Provides in new s. 732.8031, F.S., that a final judgment of conviction for abuse, neglect, exploitation, or aggravated manslaughter of the decedent creates a rebuttable presumption that any of the following convicted persons may not inherit a beneficiary asset:
 - a surviving person whose beneficiary interest depends on the death of the victim;
 - a joint tenant with a right of survivorship and a tenant by the entirety in real and personal property, a joint and multiple-party accountholder in a bank, savings and loan association, credit union, and any other financial institution, and any other form of coownership with survivorship interests whose survivorship interest depends on the death of the victim; and
 - a named beneficiary of a bond, life insurance policy, or other contractual arrangement where the victim is the owner or principal obligee of the bond, life insurance policy, or other contractual arrangement or the person upon whose life such policy was issued.
- Further provides in new s. 732.8031, F.S., who may be liable in the event a person is unable to inherit due to abuse, neglect, exploitation, or aggravated manslaughter; and requires property acquired as a result of abuse, neglect, exploitation, or manslaughter of an elderly person or disabled adult to be returned.
- Provides a prohibition in amended s. 736.1104, F.S., for a beneficiary of a trust convicted of such crimes from receiving trust benefits when the victim is the settlor of a trust, or another person on whose death such beneficiary's interest depends, from inheriting trust interest, including a homestead dependent on the victim's death.
- Provides that in the absence of a qualifying conviction, the court may determine by the greater weight of the evidence whether the abuser's, neglector's, exploiter's, or killer's conduct, as defined in ss. 825.102, 825.103, or 782.07(2), F.S., caused the victim's death, in which the person may not inherit. However, a convicted person may inherit from an estate, trust, or other beneficiary asset if it can be shown by clear and convincing evidence that the incapacitated victim reinstated the person as a beneficiary.

The bill amends s. 825.101, F.S., to define "improper benefit" and "kickback," for the purposes of this chapter, and amends s. 825.102(1), F.S., to make the following changes:

- specifies additional conduct that constitutes the offense of abuse of an elderly person or disabled adult by prohibiting intentional isolation or restriction of access to an elderly person or disabled adult from his or her family members which can reasonably be expected to result in physical or psychological injury to an elderly person or disabled adult with the intent to promote, facilitate, conceal, or disguise some form of criminal activity;

- provides that it is a defense to a violation if the defendant had reasonable cause to believe that his or her action was necessary to protect the elderly person or disabled adult from danger to his or her welfare; and
- expands the applicability of the existing third degree felony in s. 825.102(1), F.S., to include a person who knowingly or willfully abuses an elderly person or disabled adult without causing great bodily harm, permanent disability, or permanent disfigurement to the elderly person or disabled adult.

The bill amends s. 825.103, F.S., to specify additional conduct that constitutes the offense of exploitation of an elderly person or disabled adult to include breach of a fiduciary duty resulting in a kickback or receipt of an improper benefit, and specifically:

- prohibits seeking out appointment as a guardian, trustee, or agent under power of attorney with the intent to benefit someone other than the principal or beneficiary; and
- prohibits intentional conduct by a perpetrator who modifies or alters the victim's originally intended estate plan to financially benefit either the perpetrator or a third party in a manner inconsistent with the intent of the elderly person or disabled adult.

Finally, the bill amends s. 825.1035, F.S., to make the following changes relating to injunctions:

- authorizes an agent under a durable power of attorney to petition for an injunction for protection against exploitation of a vulnerable adult;
- revises the statutory form in subsection (3) for a petition for an injunction for protection against exploitation of a vulnerable adult to include sufficient identifying information about the petitioner or the vulnerable adult; and
- provides that an ex parte temporary injunction may be effective for a period not to exceed 15 days, unless good cause is shown to extend the injunction, and allows a court to make a one-time extension of the injunction for up to 30 days.

[CS/CS/SB 1070 Estates and Trusts](#)

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill makes several revisions to Florida probate, estate, and trust law.

The bill amends s. 69.031, F.S., to change the term "assets" to "property," and to require the court, in situations where a probate court has ordered that estate assets be placed in a financial institution, to vacate or terminate any order establishing the depository if the estate's personal representative posts and maintains a bond for the value of the estate's assets or in some other reasonable amount determined by the court.

The bill amends s. 732.507(2), F.S., to provide that, absent specific intent in a divorce judgment, an ex-spouse is not a beneficiary of the former spouse's will even if the will was executed before the marriage, subject to certain exceptions. The bill also specifies that dissolution of marriage occurs at the time the decedent's marriage is judicially dissolved or declared invalid by court order. This section applies to wills of decedents who die on or after the bill's effective date.

The bill also amends s. 736.0103, F.S., to expand the definition of "terms of a trust" to include trust provisions as established, determined, or amended by a trustee or trust director in accordance with applicable law; court order; or a non-judicial settlement agreement.

The bill amends s. 736.0105, F.S., to revise the exceptions for when the terms of a trust do not prevail over provisions of the Florida Trust Code, as set forth in new ss. 736.1409, 736.1411, 736.1412, F.S., created under the bill.

The bill amends s. 736.0201, F.S., to authorize a proceeding to determine the homestead status of real property owned by a trust to be filed in the probate proceeding for the settlor's estate if the settlor was treated as the owner of the interest held in the trust under s. 732.4015, F.S., with such a proceeding to be governed by the Florida Probate Rules.

The bill repeals s. 736.0808, F.S., relating to a non-trustee's powers to direct, as such powers are addressed in the Uniform Directed Trust Act, created under the bill.

The bill also amends s. 736.1008, F.S., to extend to a "trust director" the limitations on proceedings against a trustee, and to specify that any claim barred against a trustee or a trust director is also barred against the directors, officers, and other personnel acting for a trust.

The bill creates s. 736.1109, F.S., to clarify the treatment of homestead property when a devise of such property under a trust violates article X, section 4(c) of the Florida Constitution.

The bill creates Part XIV as part of the Trust Code (Chapter 736, F.S.), entitled the "Florida Uniform Directed Trust Act," set out in new ss. 736.1401–736.1416, F.S., to provide guidance for the creation and administration of directed trusts. The bill, in part, establishes limitations on actions against trust directors, including a six-month statute of limitations; authorizes a trust director to assert the same defenses in a breach of trust action as a trustee may assert; and specifies that a trust director is subject to the personal jurisdiction of Florida courts by accepting appointment.

Finally, the bill creates Part XV as part of the Trust Code (Chapter 736, F.S.), entitled the "Community Property Trust Act," set out in new ss. 736.1501–736.1512, F.S., to provide federal tax benefits upon the death of a settlor spouse if the property is in a community trust. The bill, in part, specifies the following:

- the initiation of an action to dissolve the settlor spouses' marriage does not automatically terminate a community property trust unless otherwise agreed to by the settlor spouses in writing or otherwise ordered by the court with jurisdiction over the dissolution proceedings,

but that if a dissolution of marriage action remains pending for 180 days, the trust automatically terminates unless an exception applies;

- a community property trust does not affect the rights of a child of either settlor who must be provided with child support; and
- homestead property transferred to a community property trust continues to qualify as homestead property.

Clerk Point:

This bill is provided for your information.

[CS/HB 6077 Assets of an Estate in Administration](#)

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

As noted in the legislative staff analysis, a court having jurisdiction over the administration of an estate may order that part or all of the personal assets of the estate be placed with a financial institution designated by the court, prescribed by s. 69.031, F.S., as a bank, trust company, or savings and loan association that is a member of the Federal Savings and Loan Insurance Corporation and doing business in the state. However, the Federal Savings and Loan Insurance Corporation was abolished in 1989 and now savings and local associations are insured by the Federal Deposit Insurance Corporation (FDIC) like commercial banks.

This bill amends s. 69.031, F.S., to remove the statutory reference to the Federal Savings and Loan Insurance Corporation, as it is no longer in existence.

Clerk Point:

This bill removes obsolete language from the Florida Statutes and is provided primarily for your information.

Public Records

[CS/SB 166 Public Records/Nonjudicial Record of the Arrest of a Minor](#)

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

Linked to the passage of [SB 274 Juvenile Diversion Program Expunction](#), this bill creates subsection (5) of s. 943.0582, F.S., and a new public records exemption for a nonjudicial record of the arrest of a

minor who has successfully completed a diversion program which is sealed or expunged under this section and which is retained by the Florida Department of Enforcement (FDLE). The exemption applies to records held by FDLE before, on, or after July 1, 2021.

The bill authorizes such records to be made available to criminal justice agencies only for the purposes of determining eligibility for diversion programs; a criminal investigation; or making a prosecutorial decision.

This public records exemption is subject to the state's Open Government Sunset Review Act and will repeal on October 2, 2026, unless reviewed and saved from repeal by the Legislature. Finally, the bill includes a statement of public necessity, as required by the state constitution.

Clerk Point:

This bill creates a new public records exemption for certain records retained by FDLE and is provided for your information

[SB 310 Florida Statutes](#)

Effective Date: June 29, 2021

Approved: June 4, 2021

Chapter Law: [2021-52](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

As noted in the legislative staff analysis, each year, the Legislature may pass a general "reviser's" bill to delete statutory provisions that have been repealed during a previous legislative session where that repeal or expiration date has now occurred, rendering the provision of no effect. Such provisions may be omitted from publication in the 2021 Florida Statutes only through a reviser's bill duly enacted by the Legislature.

Clerk Point:

This bill repeals s. 119.071(5)(k), F.S., which provides a public records exemption for certain identification and location information of certain servicemembers who served after September 11, 2001, as this exemption was not reenacted by the Legislature pursuant to the Open Government Sunshine Review Act.

[SB 400 Public Records](#)

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill amends s. 119.07, F.S., to specify that, after receiving a request to inspect or copy a record, an agency may not respond to that request by filing an action for declaratory relief against the requestor to determine whether the record is a public record, as defined by s. 119.011, F.S., or the status of the record as confidential or exempt from the provisions of s. 119.07(1). F.S.

Clerk Point:

As an agency that is subject to public records requests, this bill is provided for your information.

[CS/CS/HB 781 Public Records \(Also of interest to Court Side-Criminal\)](#)

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

Section 119.071(4), F.S., provides general exemptions from inspection or copying of certain categories of public records and is divided into the following subparts: agency administration; agency investigations; security and firesafety; agency personnel; and other personal information.

Section 28.222, F.S., provides that the Clerk of the Court shall be the recorder of all instruments that he or she may be required or authorized by law to record. The Clerk shall record all instruments in one general series called "Official Records."

As county recorder, Clerks record numerous documents that are eligible for redaction or removal pursuant to s. 119.071, F.S.

Clerk Point:

This bill amends s. 28.222(7), F.S., to delete obsolete language and improve readability by replacing the word "copies" for "extracts" in reference to instruments recorded in the Official Records.

The bill amends s. 28.2221, F.S., Electronic access to official records, to make language clarifications and remove past implementation dates regarding notice, and specifically makes the following changes:

- prohibits a county recorder, unless otherwise required by the court, from removing a grantor name, grantee name, or party name from the register of the Official Records and the index on the publicly available Internet website on the basis of a public records exemption, unless

the name of the grantor or grantee includes the street address portion of the home address, as defined in s. 119.071(4)(d), F.S., in which case the county recorder must remove the street address portion from display.

- provides that home addresses that are exempt from inspection or copying under s. 119.071, F.S., must be included within the Official Records but may not be included within the index or otherwise displayed on the county recorder's publicly available Internet website on which images or copies of the county's Official Records are placed.
- prohibits a county recorder from placing information made exempt from inspection or copying under s. 119.071, F.S., on a publicly available Internet website for general public display.
- requires the county recorder to display a notice on its publicly available Internet website of the right of any affected party to request removal of certain information or records. The notice must:
 - contain instructions for making the removal request, and state that any person has a right to request that the county recorder remove from a publicly available Internet website information made exempt under s. 119.071, F.S.; and
 - state that information removed as exempt under s. 119.071, F.S., will not be removed from the Official Records.
- requires that a request for removal of information or records identify the Official Records book and page number, instrument number, or Clerk's file number for each document to be removed.
- for a person claiming a public records exemption under s. 119.071(4), F.S., the bill provides that a party making a false attestation is subject to the penalty of perjury and delineates that the request must be in writing; be notarized; state under oath the statutory basis for removal of the information, image, or copy that is restricted from general public display on the county recorder's publicly available Internet website; and confirm the individual's eligibility for exempt status.
- creates new paragraph (6)(a), to provide that any information restricted from general public display, inspection, or copying, pursuant to a request for removal, must be provided to the individual whose information was removed, at any time. A party making a false attestation in such a request is subject to the penalty of perjury. Additionally, a fee may not be charged to produce any document pursuant to such a request. The written request for the restricted information must be by sworn affidavit; include the Official Records book and page number, instrument number, or the Clerk's file number for any information or document to be released; include a description of the lawful purpose; and identify the individual or property that is the subject of the search.
- creates new paragraph (6)(b), for the purpose of conducting a title search of the Official Records, to:
 - authorize access to information restricted from general public display, inspection, or copying under paragraph (5)(a), pursuant to a request for removal made under s. 119.071(4)(d), F.S., upon presentation of photo identification and affirmation by sworn affidavit, to:
 - An authorized title insurer and its affiliates.

- A title insurance agent or title insurance agency.
- An attorney duly admitted to practice law in this state and in good standing with The Florida Bar.
- the photo identification and affirmation by sworn affidavit may be delivered in person, by mail, or by electronic transmission to the county recorder.
- the affiant requestor must attest to his or her authority and the authorized purpose to access exempt information for the property specified within the sworn affidavit.
- for each document requested within the sworn affidavit, the affiant requestor must identify the Official Records book and page number, instrument number, or the Clerk's file number; include a description of the lawful purpose; and identify the individual or property that is the subject of the search within the sworn affidavit.
- an affidavit submitted by a title insurer, title insurance agent, or title insurance agency must include the Florida Company Code or the license number, as applicable, and an attestation to the affiant requestor's authorization to transact business in this state.
- an affidavit submitted by an attorney must include the affiant requestor's Florida Bar number and a statement that the affiant requestor has an agency agreement with a title insurer directly or through his or her law firm.
- requires the county recorder to record such affidavit in the Official Records; however, the image or copy of the affidavit may not be placed on a publicly available Internet website for general public display.
- upon providing a document disclosing redacted information to an affiant requestor, the county recorder must:
 - provide a copy of the affidavit requesting disclosure of the redacted information to each affected party at the address listed on the document or on the request for removal made by the affected party;
 - prepare a certificate of mailing to be affixed to the affidavit; and
 - receive the statutory service charges, as prescribed by s. 28.24, F.S., from the affiant requestor.
- any party who makes a false attestation is subject to the penalty of perjury.
- creates subsection (7) to provide the following new criminal penalties:
 - a person who unlawfully uses any Official Record in a manner not authorized under this section commits a second degree misdemeanor.
 - a person who unlawfully uses any Official Record with intent to cause bodily harm or with intent to threaten to cause bodily harm commits a third degree felony.

The bill amends s. 119.071(4)(d), F.S., related to exemptions for agency personnel information, to require that a request for maintenance of an exemption be notarized; state under oath the statutory basis for the individual's exemption request; and confirm the individual's status as a party eligible for exempt status.

The bill also creates new subparagraph 4.a. to require a county property appraiser or county tax collector who receives a written request for maintenance of an exemption to comply by removing the name of the individual with exempt status and the instrument number and/or Official Records

book and page number identifying the property with the exempt status from all publicly available records maintained by the property appraiser or tax collector. The bill further provides:

- for written requests received on or before July 1, 2021, a county property appraiser or county tax collector must comply with the request by October 1, 2021.
- a county property appraiser or county tax collector may not remove the street address, legal description, or other information identifying real property within the agency's records so long as the name or personal information otherwise exempt from inspection and copying pursuant to this section are not associated with the property or otherwise displayed in the public records of the agency.

The bill goes on to:

- create new subparagraph 4.b. to provide that any information restricted from public display, inspection or copying, under new subparagraph 4.a., must be provided to the individual whose information was removed.
- Provides notice, in renumbered subparagraph 7., that information made exempt under s. 119.071(4)(d), F.S., may be disclosed pursuant to s. 28.2221, F.S., to:
 - an authorized title insurer and its affiliates;
 - a title insurance agent or title insurance agency; or
 - an attorney duly admitted to practice law in this state and in good standing with The Florida Bar.
- Creates subparagraph 8. to provide that the exempt status of a home address contained in the Official Records be maintained only during the period when a protected party resides at the dwelling location. Upon conveyance of the real property after October 1, 2021, and when such real property no longer constitutes the protected party's home address, the protected party must submit a written request to the county recorder to release the removed information. The written request must:
 - be notarized;
 - confirm that a protected party's request for release is pursuant to a conveyance of his or her dwelling location; and
 - specify the Official records book and page, instrument number, or Clerk's file number for each document containing the information to be released.
- Creates subparagraph 9. that upon the death of the protected party as verified by a certified copy of a death certificate or court order, any party can request the county recorder to release the protected removed information unless there is a related request on file with the county recorder for continued removal of the information or unless such removal is otherwise by statute or by court order. A fee may not be charged for the release of any such document. The written request must:
 - attach the certified copy of a death certificate or court order;
 - be notarized;
 - confirm the request for release is due to the death of the protected party; and
 - specify the Official Records book and page number, instrument number, or Clerk's file number for each document containing the information to be released.

Finally, the bill amends s. 695.22, F.S., to delete obsolete language and to require that the daily schedule of deeds and conveyances include notification of any information therein that is subject to a request for removal on file with the county recorder.

[CS/SB 1048 Public Records/Conviction Integrity Unit Reinvestigation Information](#)

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

As noted in the legislative staff analysis, current law provides a public records exemption for “active criminal intelligence information” and “active criminal investigative information;” however, this exemption may not apply, in some circumstances, to the reinvestigation of a crime that resulted in a criminal conviction.

This bill amends s. 119.071(2), F.S., to define the terms “conviction integrity unit” and “conviction integrity unit reinvestigation information” as follows:

- "conviction integrity unit" means a unit established within a state attorney's office to review plausible claims of actual innocence; and
- “conviction integrity unit reinvestigation information” means information or materials generated during a new investigation by a conviction integrity unit following the unit's formal written acceptance of an applicant's case. However, the term does not include:
 - investigative information, materials, or records generated by a state attorney's office for the purpose of responding to certain motions or any other collateral proceeding;
 - petitions by applicants to the conviction integrity unit; or
 - criminal investigative information generated before the commencement of a conviction integrity unit investigation, which is not otherwise exempt.

The bill goes on to provide that conviction integrity unit reinvestigation information is exempt from public records requirements for a reasonable period of time during an active, ongoing, and good faith investigation of a claim of actual innocence in a case that previously resulted in the conviction of the accused person and until the claim is no longer capable of further investigation.

This public records exemption is subject to the state's Open Government Sunset Review Act and will repeal on October 2, 2026, unless reviewed and saved from repeal by the Legislature.

Finally, the bill includes a statement of public necessity, as required by the state constitution.

Clerk Point:

The bill creates a new agency investigation exemption under Chapter 119, F.S., for conviction integrity unit reinvestigation information, as defined by the bill, and is provided for your information.

[CS/CS/HB 1229 Public Records](#) *(Also of interest to Court Side-Civil; Real Property/Recording)*

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

As noted in the legislative staff analysis, although the Florida Supreme Court has adopted standards for access to electronic court records through administrative rule, local Clerks' websites may differ on how much case detail is available electronically. As such, when a criminal case is not prosecuted, but a protective injunction is obtained against a perpetrator, potential employers and other members of the public may have difficulty finding or verifying such injunction, including through the use of a background check.

Clerk Point:

This bill, which may be cited as "Serena's Law," amends s. 28.2221, F.S., to require each county recorder or Clerk of the Court to make the following information available on an Internet website for general public display unless the defendant or respondent is a minor:

- the identity of each respondent against whom a final judgment for injunction for protection of a minor is entered, under ss. 741.30, 784.046, or 784.0485, F.S.; and
- the fact that such final judgment for an injunction for protection of a minor has been entered against that respondent.

The bill specifies that any of the previously described information not made available by the county recorder or the Clerk prior to July 1, 2021, must be made publicly available on an Internet website if the affected party identifies the information and requests that the information be added to a publicly available Internet website for general public display. A fee may not be charged for the addition of information pursuant to such request.

Such request must be in writing; delivered by mail, facsimile, or electronic transmission or in person to the county recorder or Clerk; and specify the case number assigned to the final judgment for an injunction for the protection of a minor, under ss. 741.30, 784.046, or 784.0485, F.S.

The bill further amends s. 28.2221, F.S., to provide that, no later than 30 days after July 1, 2021, the county recorder or Clerk must conspicuously and clearly display on its publicly available website, and in its office, notice of the affected party's right to request the addition of such information to the publicly available website. The bill provides that any affected person may petition the circuit court for an order directing compliance with these provisions.

Finally, the bill amends s. 28.29, F.S., Recording of orders and judgments, to require final judgments for injunctions for protection, as provided in Chapters 741 and 784, F.S., to be recorded in the Official Records. Other orders must be recorded only on written direction of the court. The direction may be

by incorporation in the order of the words, “To be recorded in official records,” or words to that effect.

[CS/HB 1315 Pub. Rec./Department of Highway Safety and Motor Vehicles](#)

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

[CS/HB 1313](#), to which this bill is linked, requires DHSMV to establish digital proof of driver licenses and identification cards, and creates corresponding statutory guidelines. Accordingly, this bill creates new paragraph (2)(e) of s. 119.0712, F.S., and a public records exemption for certain information held by DHSMV, including secure login credentials and internet protocol addresses, geolocation data, and other information that describes the location, computer, computer system, or computer network from which a user accesses a public-facing portal, and the dates and times that a user accesses a public-facing portal.

The bill provides that the exemption is retroactive, applying to records held before, on, or after the effective date of the exemption.

This public records exemption is subject to the state’s Open Government Sunset Review Act and will repeal on October 2, 2026, unless reviewed and saved from repeal by the Legislature.

Finally, the bill includes a statement of public necessity, as required by the state constitution.

Clerk Point:

This bill creates a new agency-specific public records exemption under Chapter 119, F.S., for certain information held by DHSMV, and is provided primarily for your information.

[HB 1359 Pub. Rec./Department of Highway Safety and Motor Vehicles](#) *(Also of interest to Court Side-Criminal)*

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

As noted in the legislative staff analysis, [CS/HB 1151](#), to which this bill is linked, provides the Department of Highway Safety and Motor Vehicles (DHSMV) with investigative and subpoena power and the ability to administer oaths or affirmations, examine witnesses, require affidavits, take depositions, and compel the attendance of witnesses and the production of documents, records, and other evidence for use in conducting investigations or examinations.

Accordingly, this bill amends ss. 319.1414, 319.25, 320.861, and 322.71, F.S., to create four new public records exemptions, each making confidential and exempt from public disclosure certain investigatory and examination information until the investigation or examination ceases to be active or administrative action taken by DHSMV has concluded or been made part of any hearing or court proceeding.

These public records exemptions are subject to the state's Open Government Sunset Review Act and will repeal on October 2, 2026, unless reviewed and saved from repeal by the Legislature.

Finally, the bill includes a statement of public necessity, as required by the state constitution.

Clerk Point:

Provided primarily for your information, this bill creates new public records exemptions for certain information received by DHSMV, until the investigation or examination ceases to be active or has been made part of any hearing or court proceeding.

[SB 7074 Public Records/Social Media Platform Activities](#)

Effective Date: July 1, 2021

Approved: May 24, 2021

Chapter Law: [2021-33](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill creates ss. 287.137(8) and 501.2041(10), F.S., and a new public records exemption for all information received by the Florida Attorney General (AG) or the Department of Legal Affairs (DLA), respectively, pursuant to an investigation by the AG or DLA, or a law enforcement agency. Under the bill, all such information remains confidential and exempt from the state constitution and Chapter 119, F.S., until the investigation is completed or ceases to be active. However, during an active investigation, such information may be disclosed by the AG or DLA in certain circumstances. The bill goes on to provide that once the investigation ceases to be active, the following information remains confidential and exempt:

- all information to which another public records exemption applies;
- personal identifying information;
- a computer forensic report;
- information that would otherwise reveal weakness in a business' data security; and
- proprietary business information.

This public records exemption is subject to the state's Open Government Sunset Review Act and will repeal on October 2, 2026, unless reviewed and saved from repeal by the Legislature.

Finally, the bill includes a statement of public necessity, as required by the state constitution.

Clerk Point:

This bill provides a new public records exemption for information received by the AG or the DLA during an investigation relating to whether a social media platform has committed an antitrust violation or has failed to meet certain requirements before restricting a user's speech and is provided primarily for your information.

Real Property/Recording**[CS/CS/SB 56 Community Association Assessment Notices](#) *(Also of interest to Court Side-Civil)***

Effective Date: July 1, 2021

Approved: June 16, 2021

Chapter Law: [2021-91](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

This comprehensive bill amends various sections of Florida law related to a condominium association's collection of assessments and related notices to owners.

Clerk Point:

Of interest, the bill amends ss. 718.116, 718.121, 719.108, F.S., to align condominium and cooperative law to homeowner's association law by increasing the period of time a condominium or cooperative association must wait before filing a lien or foreclosing on a lien from 30 days after delivering the written notice of intent to file or foreclose to 45 days after delivery. As part of these changes, the bill also updates the related statutory forms for Delinquent Assessment and Notice of Intent to Record a Claim of Lien.

[CS/CS/SB 630 Community Associations](#) *(Also of interest to Court Side-Civil)*

Effective Date: July 1, 2021

Approved: June 16, 2021

Chapter Law: [2021-99](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

This comprehensive bill amends various sections of Florida law related to condominium, cooperative, and homeowner's associations (HOAs), as well as the duties of the Department of Business and Professional Regulation (DBPR) therein.

Clerk Point:

Of interest, the bill amends ss. 718.112, 719.106, and 720.3075, F.S., to authorize condominiums, cooperatives, and homeowner's associations to extinguish discriminatory restrictions in the same manner as a property owners' association under s. 712.065, F.S.

The bill also allows these entities' election and recall disputes to be filed in a court of competent jurisdiction in lieu of arbitration with DBPR; however, arbitration with DBPR remains an option for such disputes.

[SB 2512 Documentary Stamp Tax Distributions](#)

Effective Date: July 1, 2021

Approved: June 2, 2021

Chapter Law: [2021-39](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

As noted in the legislative staff analysis, the documentary stamp tax imposes an excise tax imposed on certain documents executed, delivered, or recorded in Florida. The most common examples include documents that transfer an interest in Florida real property, like deeds, and mortgages and written obligations to pay money, such as promissory notes. Tax is paid to the local Clerk of Court when the document is recorded and remitted to the Florida Department of Revenue (DOR); however, when a taxable document is not recorded, the tax must be paid directly to DOR. Revenue collected from the documentary stamp tax is divided between the General Revenue Fund and various trust funds, according to a statutory formula.

This bill conforms to funding decisions made in the state FY 2021–2022 General Appropriations Act, by revising certain documentary stamp distributions; prohibiting funds distributed to the State Housing Trust Fund and the Local Government Housing Trust Fund from being transferred to the General Revenue Fund; and expanding the use of the Water Protection and Sustainability Program Trust Fund to include the wastewater grant program that is authorized in Florida Statutes.

Clerk Point:

As the recorder of deeds, charged with collecting and disbursing documentary stamp monies to the state, this bill is provided primarily for your information.

[HB 7061 Taxation \(Also of interest to Court Side-Criminal; VAB\)](#)

Effective Date: July 1, 2021, except as otherwise expressly provided

Approved: May 21, 2021

Chapter Law: [2021-31](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

This comprehensive bill provides for a number of tax reductions and modifications for families and businesses. Items of specific interest to Clerks and Comptrollers are provided below.

Clerk Point:

Section 7. As noted in the legislative staff analysis, the bill provides that the amendments made to ss. 193.155(4), 193.1554, and 193.1555, F.S., related to property damaged or destroyed by calamity or

misfortune, are remedial and clarifying in nature and may not affect any assessment for tax rolls before 2021, unless the assessment is under review by a value adjustment board or a Florida court.

For property repaired or replaced prior to 2021 and not assessed as provided by the bill, a property appraiser must recalculate the just and assessed value for each subsequent year so that the 2021 tax roll and subsequent rolls are assessed as provided by the bill.

Section 14. This bill amends s. 201.08, F.S., to provide that a modification of an original document that changes only the interest rate and is made as the result of the discontinuation of an index to which the original interest rate is referenced is not a renewal and, therefore, is not subject to the documentary stamp tax, pursuant to this section.

Section 19. This bill expands the applicability of, and renumbers to new paragraph (4)(c), the existing first and second degree misdemeanor penalties in s. 212.07, F.S., for dealers who violate those provisions allowing for certain advertisements related to payment of applicable sales taxes for purchasers.

Section 22. This bill amends s. 212.13(2), F.S., to require dealers to provide electronic records when maintained in an electronic format and removes language that references a physical visit requirement. Dealers who violate this subsection are currently subject to a first degree misdemeanor, or a third degree felony for subsequent offenses involving intentional destruction of records with the intent to evade payment of taxes.

Section 23. This bill expands the applicability of the existing criminal penalties in s. 212.15(2), F.S., for failure to remit collected taxes to the Florida Department of Revenue to include taxes absorbed by the dealer. In addition, the bill provides that the amount of stolen revenue may be aggregated in determining the grade of the offense.

Traffic/Motor Vehicles

[HB 353 Bicycle Operation Regulations](#)

Effective Date: July 1, 2021

Approved: May 7, 2021

Chapter Law: [2021-020](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

Current law prohibits a person from operating a bicycle other than upon or astride a permanent and regular seat attached to the bicycle. A violation of this provision is a noncriminal traffic infraction, punishable as a pedestrian violation, pursuant to Chapter 318, F.S.

This bill amends s. 316.2065, F.S., to provide an exception to the prohibition against a person operating a bicycle other than upon or astride a permanent and regular seat attached thereto, when the bicycle was designed by the manufacturer to be ridden without a seat.

Clerk Point:

As it relates to changes made to Florida's uniform traffic control laws, this bill is provided for your information.

[CS/CS/CS/HB 805 Volunteer Ambulance Services](#)

Effective Date: July 1, 2021

Approved: June 14, 2021

Chapter Law: [2021-90](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

The Florida Uniform Traffic Control Law, Chapter 316, F.S., allows the drivers of certain authorized emergency vehicles to disregard specified traffic laws and ordinances and use emergency lights and sirens while responding to an emergency. However, current law does not recognize an ambulance providing volunteer services as an authorized emergency vehicle.

This bill authorizes vehicles of certain not-for-profit faith-based volunteer ambulance services, as authorized by the chief of police of an incorporated city or any sheriff of any county, to display red lights and operate emergency lights and sirens while responding to an emergency. The bill also authorizes privately owned vehicles belonging to medical staff physicians and technicians of volunteer ambulance services to use red lights on privately owned vehicles and to disregard specified traffic laws and ordinances while responding to an emergency, if the drivers have received certain training.

The bill also prohibits county and municipal governments from preventing volunteer ambulance services from responding to emergencies or providing emergency medical services or transport within its jurisdiction, or from requiring volunteer ambulance services to obtain a license or certificate or pay a fee. A county or municipal government, however, may impose, collect, or enforce payment of any occupational license tax authorized by law.

Clerk Point:

As it relates to changes made to Florida's uniform traffic control laws, this bill is provided for your information.

CS/SB 950 Bicycle and Pedestrian Safety

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill addresses issues relating to bicycle and pedestrian safety and amends the applicability of existing noncriminal traffic violations.

Specifically, the bill amends s. 316.083, F.S., to stipulate requirements for a vehicle overtaking a bicycle or other nonmotorized vehicle, or an electric bicycle occupying the same travel lane, and requires the Department of Highway Safety and Motor Vehicles (DHSMV) to create a related public awareness and safety campaign. The bill provides in renumbered subsection (6) that a person who violates this section commits a noncriminal traffic infraction, punishable as a moving violation as provided in Chapter 318, F.S.

The bill also amends s. 316.0875, F.S., to exempt a motor vehicle driver from certain provisions relating to no-passing zones, including that these zones do not apply to drivers who are trying to safely pass a bicycle or other nonmotorized vehicle. Current subsection (4) provides a noncriminal traffic infraction, punishable as a moving violation as provided in Chapter 318, F.S., for violations.

The bill amends s. 316.151, F.S., to revise the requirements for vehicles turning at intersections, specifically those related to safely overtaking and passing a bicycle. Current subsection (3) provides a noncriminal traffic infraction, punishable as a moving violation as provided in Chapter 318, F.S., for violations

The bill also amends s. 316.2065, F.S., related to bicycle regulations, and expands the applicability of the existing noncriminal traffic infraction in subsection (19), which is punishable as a pedestrian violation under Chapter 318, F.S.

Clerk Point:

As it relates to changes to Florida's uniform traffic control laws, this bill is provided for your information.

[CS/SB 1126 Department of Transportation](#)

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill contains several revisions to current law relating to the Florida Department of Transportation (DOT).

Clerk Point:

Of specific interest, this bill amends s. 316.126, F.S., to expand the applicability of the existing noncriminal traffic infraction in subsection (1) and require motorists to also move over for road and bridge maintenance or construction vehicles displaying warning lights. Such infraction is punishable under Chapter 318, F.S., as a moving violation.

[SB 1134 Department of Highway Safety and Motor Vehicles](#)

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill amends numerous sections of law relating to the duties and responsibilities of the Department of Highway Safety and Motor Vehicles (DHSMV).

Clerk Point:

Of specific interest, this bill:

- clarifies that safety belt usage requirements apply to a motor vehicle that is in operation but stationary on the public highways of this state;
- amends s. 316.70, F.S., to remove the existing civil penalty language in amended subsection (2), but references existing statutory language that provides for identical penalties in s. 316.3025, F.S.;
- provides DHSMV with the authority to issue investigatory subpoenas, take depositions, and compel the production of documents as it relates to certain violations; in the event of noncompliance, DHSMV may enforce the subpoena in circuit court and subject the person subpoenaed to a contempt of court order;
- amends s. 322.01, F.S., to revise the definition of “human trafficking” to have the same meaning as provided in s. 787.06(2)(d), F.S., and prohibits DHSMV from issuing a driver license to any person, as a commercial motor vehicle (CMV) operator, who has been convicted of, or has entered a plea of guilty or nolo contendere, regardless of whether adjudication was withheld, to any felony involving human trafficking under state or federal law involving the use of a CMV;

- creates subsection (7) of s. 322.25, F.S., to require each Clerk of Court to promptly report to DHSMV each conviction, regardless of whether adjudication was withheld, for human trafficking which involves the use of a CMV;
- amends s. 322.28, F.S., to provide that the court is required to permanently revoke the commercial driver license of a person who has been convicted of, or has entered a plea of guilty or nolo contendere, regardless of whether adjudication is withheld to any felony involving human trafficking under state or federal law involving the use of a CMV; if the court has not permanently revoked such driver license or privilege within 30 days after imposing a sentence, DHSMV must do so; and
- amends s. 322.61, F.S., to incorporate violations for texting or using a handheld phone device while operating a CMV as a serious disqualifying offense, in alignment with federal regulations, and to permanently disqualify a person convicted of human trafficking through the use of a CMV from obtaining a commercial driver license.

[CS/CS/CS/SB 1194 Transportation](#) *(Also of interest to Board Side; Real Property/Recording)*

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

This comprehensive bill contains various provisions related to transportation.

Of interest, the bill creates s. 177.107, F.S., to authorize a municipal or county governing body to abandon roads and rights of way dedicated in a recorded residential subdivision plat and to simultaneously convey the municipality's or the county's interest to a community development district under specified conditions.

The bill creates s. 287.05705, F.S., to preclude a governmental entity from prohibiting certain entities holding a certificate of qualification from the Florida Department of Transportation (DOT) or the appropriate construction license from bidding on road, bridge, and other specified public construction projects, and to specify that this provision applies to competitive solicitation issued by a governmental entity on or after October 1, 2021.

The bill also provides new fines for violations of a prohibition against modifying a motor vehicle exhaust system in a certain manner.

Clerk Point:

This bill creates new subsection (23) of s. 318.18, F.S., Amount of penalties, to require, in addition to any penalties imposed, a fine of \$200 for a first offense and a fine of \$500 for a second or subsequent offense for a violation of s. 316.293(5), F.S., related to noise abatement equipment modifications.

[CS/CS/HB 1289 Autonomous Vehicles](#)

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill amends various provisions of Chapter 316, F.S., the Florida Uniform Traffic Control Law, to define “low-speed autonomous delivery vehicles” as a fully autonomous vehicle that meets the current federal definition, and is not designed for or capable of human occupancy, and provides the Department of Transportation (DOT) with certain rulemaking authority.

The bill amends s. 316.2122, F.S., to authorize low-speed autonomous delivery vehicles to operate only on streets or roads where the posted speed limit is 35 miles per hour or less, with specific exceptions. The bill also delineates equipment requirements for such vehicles and establishes insurance coverage requirements for such vehicles.

The bill also amends s. 316.215, F.S., to specify that the provisions of any motor vehicle equipment laws or regulations of this state, relating to or supporting motor vehicle operation by a human driver but not relevant for an automated driving system, are rendered inapplicable to fully autonomous vehicles designed to be operated exclusively by the automated driving system for all trips. The existing noncriminal traffic infraction, punishable as a nonmoving violation as provided in Chapter 318, F.S., is renumbered from subsection (6) to subsection (7).

Finally, the bill amends s. 316.2126, F.S., to create subsection (5) and exempt autonomous vehicles from specified provisions of law relating to authorized use of golf carts, low-speed vehicles, and utility vehicles.

Clerk Point:

As it relates to changes to Florida’s uniform traffic control laws, this bill is provided for your information.

[CS/HB 1313 Digital Driver Licenses and Identification Cards](#) *(Also of interest to Court Side-Criminal)*

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill amends s. 322.032, F.S., to require the Department of Highway Safety and Motor Vehicles (DHSMV) to establish a secure and uniform system for issuing optional digital proofs of driver licenses and identification cards (ID).

The bill requires the digital proof of driver license and IDs established by DHSMV to be in a format to allow for verification and prohibits DHSMV from issuing a digital proof of driver license or ID until the applicant satisfies all requirements for issuance of the respective driver license or ID and has been issued a printed driver license or ID. DHSMV may not issue a digital proof of driver license if a licensee's driving privilege is suspended, revoked, or disqualified, or if his or her driver license is otherwise canceled or expired; however, a digital proof of ID may be issued if the licensee is otherwise eligible under s. 322.051, F.S.

The bill also requires DHSMV to issue a printed driver license to every qualified applicant; and requires a person to present or submit his or her printed driver license if a law enforcement officer is unable to verify the digital proof of driver license.

Clerk Point:

As it relates to the issuance of optional digital proofs of driver licenses and IDs in Florida, this bill is provided for your information.

Of specific interest, this bill creates a new civil penalty, not to exceed \$5,000, in s. 322.032(7)(c), F.S., for a private entity that violates the provision against storing, selling, or sharing personal information collected from the scanning of digital driver licenses or IDs.

The bill also renumbers the existing third degree felony and second degree misdemeanor penalties in subsection (4) to paragraphs (8)(a) and (b), respectively, for manufacture or possession of false digital driver licenses and expands their applicability to include manufacture or possession of false digital IDs.

[SB 2510 State Agency Law Enforcement Radio System](#)

Effective Date: July 1, 2021

Approved: April 19, 2021

Chapter Law: [2021-3](#)

[Final Legislative Staff Bill Analysis](#)

Summary:

As noted in the legislative staff analysis, the Department of Management Services (DMS) has the responsibility of administering the Statewide Radio Communications System (SLERS) to serve state law enforcement officers and other participating agencies through the state.

To support the cost of SLERS, a \$1 fee is imposed on each vehicle and vessel registration in Florida and a \$3 surcharge is imposed on certain criminal offenses and noncriminal moving traffic violations.

Clerk Point:

This bill conforms to appropriations provided in the state FY 2021–2022 General Appropriations Act and, of specific interest, extends the expiration date to July 1, 2026, for the \$3 SLERS surcharge collected pursuant to s. 318.18(17), F.S.

Value Adjustment Board

[CS/HB 649 Petition for Objection to Assessment](#) *(Also of interest to Court Side-Civil)*

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

Under current law, a condominium, cooperative, or mobile homeowners' association may challenge an ad valorem tax assessment on behalf of all its members by filing a single joint petition with the Value Adjustment Board (VAB); associations may also appeal the decision of the VAB in circuit court.

In response to a recent District Court of Appeal decision, this bill provides that a condominium or cooperative association, which has filed a single joint petition with the VAB, has the right to seek judicial review or appeal a decision, as well as the right to continue to represent the unit or parcel owners throughout any related proceedings. The association must defend the unit or parcel owners throughout any such related proceedings if the property appraiser seeks judicial review or appeals a decision on the single joint petition. Additionally, the property appraiser is not required to name the individual unit or parcel owners as defendants in such proceedings. The bill specifies that this provision is intended to clarify existing law and applies to cases pending on July 1, 2021.

The bill also makes certain noticing requirements of an association to its members related to its intention to petition the VAB and that, by not opting out of the petition, the owner agrees that the association may represent him or her in any subsequent proceedings.

The bill specifies that in any case brought by a taxpayer or a condominium or cooperative association contesting the assessment of any property, the county property appraiser is a party defendant; and that in any case brought by the property appraiser, the taxpayer is a party defendant.

For those cases brought by the property appraiser relating to a VAB decision on a single joint petition filed by a condominium or cooperative association, the association is the only required party defendant. The unit or parcel owners are not required to be named as parties.

The bill also requires the tax collector, if requested by a unit or parcel owner, to accept payment of the estimated amount in controversy. Upon payment, the unit or parcel will be released from any lis pendens and the unit or parcel owner may elect to remain in or be dismissed from the action.

Clerk Point:

As Clerk to the local VAB, this bill is provided for your information.

Wildlife/Boating

[CS/CS/SB 1086 Operation and Safety of Motor Vehicles and Vessels](#)

Effective Date: July 1, 2021

Approved:

Chapter Law:

[Final Legislative Staff Bill Analysis](#)

Summary:

This bill contains numerous changes to existing laws administered by the Fish and Wildlife Conservation Commission (FWC) and other law enforcement entities. Those items that may be of specific interest to Clerks' offices are summarized below.

Clerk Point:

Effective October 1, 2021, this bill amends ss. 316.1932, 316.1939, 327.352, and 327.359, F.S., to revise the conditions under which a person operating a motor vehicle or vessel commits a misdemeanor by failing to submit to breath or urine testing. The bill clarifies that violations of these sections are subject to a first degree misdemeanor penalty. The bill also deletes the provisions establishing a misdemeanor penalty under s. 316.1932(1)(c), F.S., for refusal to submit to a blood test in both boating under the influence (BUI) and driving under the influence (DUI) cases where a person has a previous refusal.

The bill creates s. 327.462, F.S., Temporary protection zones for spaceflight launches and recovery of spaceflight assets, to authorize the head of a law enforcement agency or entity, or his or her designee, to temporarily establish a protection zone upon state waters within the agency's or entity's jurisdiction, when necessary, for preparations in advance of a launch service or reentry service or for the recovery of spaceflight assets before or after a launch service or reentry service. The bill creates subsection (6) and a new second degree misdemeanor, punishable by the existing second degree misdemeanor penalty, for a person who violates this section or any directive given by a law enforcement officer relating to the establishment of a protection zone after being advised of the establishment of the protection zone.

The bill also amends s. 327.35215(3), F.S., relating to civil penalties for failure to submit to a test, to require the Clerk of Court to notify the Department of Highway Safety and Motor Vehicles (DHSMV) of all final dispositions filed under this section by electronic transmission in the format proscribed by DHSMV. The bill further requires DHSMV to enter such disposition on the person's driving record.

The bill creates s. 327.371, F.S., Human-powered vessels regulated, to allow a person to operate a human-powered vessel within the boundaries of the marked channel of the Florida Intracoastal Waterway under specified circumstances. The bill creates subsection (3) and a new noncriminal infraction for a person who violates this section, subject to a civil penalty of \$50, as provided in s. 327.73, F.S.

The bill creates s. 327.463, F.S., Special hazards, to prohibit the operation of vessels faster than slow speed, minimum wake upon approaching certain hazardous conditions, and to establish new penalties in new subsection (4) for vessels creating special hazards as specified in the bill. Specifically, the bill provides the following in:

- (4)(a) a person operating a vessel in violation of these slow speed, minimum wake requirements commits a noncriminal infraction, punishable as provided in s. 327.73, F.S.;
- (4)(b) the owner of, or party who is responsible for, a construction vessel or barge who displays an orange flag on the vessel or barge when it is not actively engaged in construction operations commits a noncriminal infraction, punishable as provided in s. 327.73, F.S.; and
- specifies that the speed and penalty provisions described above do not apply to a law enforcement, firefighting, or rescue vessel that is owned or operated by a governmental entity.

The bill also creates s. 327.521, F.S., No-discharge zones, to establish in new subsection (1) a no-discharge zone within statutorily designated aquatic preserves upon approval by the United States Environmental Protection Agency (EPA), where the discharge of treated or untreated sewage from a vessel or floating structure is prohibited. The bill goes on to provide the following:

- Creates subsection (2) and a new noncriminal infraction for a person who violates the no-discharge prohibition, punishable by a civil penalty of up to \$250. If any prohibited discharge is ongoing or continuous, the person discharging may be assessed a penalty of up to \$250 for each day the violation continues.
- Requires, in new paragraph (3)(a), the owner or operator of a vessel or floating structure convicted a second time for violating the no-discharge zone to, within 30 days following the conviction, remove the vessel or floating structure from state waters. The term “conviction” is defined to mean a disposition other than acquittal or dismissal.
- If the vessel or floating structure remains on state waters in violation of this requirement, new paragraph (3)(b) requires law enforcement officers charged with the enforcement of Chapter 327, F.S., to apply to the appropriate court in the county in which the vessel or floating structure is located to order or otherwise cause the removal of such vessel or floating structure from state waters at the owner’s expense.
- Specifies in new paragraph (3)(c) that if the owner cannot be found or otherwise fails to pay the removal costs, the provisions governing the nonjudicial sale of vessels apply. If the proceeds under the nonjudicial sale of vessels are not sufficient to pay all removal costs, the bill authorizes funds appropriated from the Marine Resources Conservation Trust Fund to be used.

The bill amends s. 327.73, F.S., to make the following changes:

- Provides additional violations that qualify as noncriminal infractions, relating to marine sanitation, in amended paragraph (1)(q).
- Specifies in amended paragraph (1)(s) that a person cited for failure to have the required proof of boating safety education in his or her possession may not be convicted if, before or at the time of a county court hearing, the person produces proof of the boating safety education identification card or temporary certificate for verification to the hearing officer or

Clerk, and the identification card or temporary certificate was valid at the time the person was cited.

- Increases the existing civil penalties relating to vessels at risk of becoming derelict, in paragraph (1)(aa), as follows:
 - for a first offense, from \$50 to \$100;
 - for a second offense occurring 30 days or more after a first offense, from \$100 to \$250; and
 - for a third or subsequent offense occurring 30 days or more after a previous offense, from \$250 to \$500.
- Creates paragraph (1)(cc) and the following tiered civil penalties relating to vessels that create special hazards:
 - for a first offense, \$50;
 - for a second offense occurring within 12 months after a prior offense, \$100; and
 - for a third offense occurring within 36 months after a prior offense, \$250.

Finally, the bill amends various provisions in ss. 705.103 and 823.11, F.S., to revise provisions relating to the removal of derelict vessels and public nuisance vessels, and creates specific procedures for such vessels, including notice and hearing requirements and liability for removal costs. The bill, in part, provides the following:

- Creates first degree misdemeanor penalties in ss. 705.103(4) and 823.11(2)(a), F.S., for a person who has neglected or refused to pay all costs of removal, storage, and destruction of an abandoned or lost vessel or motor vehicle, after having been provided written notice via certified mail that such costs are owed, and who applies for and is issued a registration for a vessel or motor vehicle before such costs have been paid in full.