

1 A bill to be entitled
2 An act relating to the judiciary; repealing s. 25.051,
3 F.S., relating to regular terms of the Supreme Court;
4 repealing s. 26.21, F.S., relating to terms of the circuit
5 courts; repealing s. 26.22, F.S., relating to terms of the
6 First Judicial Circuit; repealing s. 26.23, F.S., relating
7 to terms of the Second Judicial Circuit; repealing s.
8 26.24, F.S., relating to terms of the Third Judicial
9 Circuit; repealing s. 26.25, F.S., relating to terms of
10 the Fourth Judicial Circuit; repealing s. 26.26, F.S.,
11 relating to terms of the Fifth Judicial Circuit; repealing
12 s. 26.27, F.S., relating to terms of the Sixth Judicial
13 Circuit; repealing s. 26.28, F.S., relating to terms of
14 the Seventh Judicial Circuit; repealing s. 26.29, F.S.,
15 relating to terms of the Eighth Judicial Circuit;
16 repealing s. 26.30, F.S., relating to terms of the Ninth
17 Judicial Circuit; repealing s. 26.31, F.S., relating to
18 terms of the Tenth Judicial Circuit; repealing s. 26.32,
19 F.S., relating to terms of the Eleventh Judicial Circuit;
20 repealing s. 26.33, F.S., relating to terms of the Twelfth
21 Judicial Circuit; repealing s. 26.34, F.S., relating to
22 terms of the Thirteenth Judicial Circuit; repealing s.
23 26.35, F.S., relating to terms of the Fourteenth Judicial
24 Circuit; repealing s. 26.36, F.S., relating to terms of
25 the Fifteenth Judicial Circuit; repealing s. 26.361, F.S.,
26 relating to terms of the Sixteenth Judicial Circuit;
27 repealing s. 26.362, F.S., relating to terms of the
28 Seventeenth Judicial Circuit; repealing s. 26.363, F.S.,

29 relating to terms of the Eighteenth Judicial Circuit;
 30 repealing s. 26.364, F.S., relating to terms of the
 31 Nineteenth Judicial Circuit; repealing s. 26.365, F.S.,
 32 relating to terms of the Twentieth Judicial Circuit;
 33 repealing s. 26.37, F.S., relating to requiring a judge to
 34 attend the first day of each term of the circuit court;
 35 repealing s. 26.38, F.S., relating to a requirement for a
 36 judge to state a reason for nonattendance; repealing s.
 37 26.39, F.S., relating to penalty for nonattendance of
 38 judge; repealing s. 26.40, F.S., relating to adjournment
 39 of the circuit court upon nonattendance of the judge;
 40 repealing s. 26.42, F.S., relating to calling all cases on
 41 the docket at the end of each term; repealing s. 35.10,
 42 F.S., relating to regular terms of the district courts of
 43 appeal; repealing s. 35.11, F.S., relating to special
 44 terms of the district courts of appeal; repealing s.
 45 907.05, F.S., relating to a requirement that criminal
 46 trials be heard in the term of court prior to civil cases;
 47 repealing s. 907.055, F.S., relating to a requirement that
 48 persons in custody be arraigned and tried in the term of
 49 court unless good cause is shown; amending ss. 26.46,
 50 27.04, 30.12, 30.15, 34.13, 35.05, and 38.23, F.S.;
 51 conforming provisions to changes made by the act; creating
 52 s. 43.43, F.S.; allowing the Supreme Court to set terms of
 53 court for the Supreme Court, district courts of appeal,
 54 and circuit courts; creating s. 43.44, F.S.; providing
 55 that appellate courts may withdraw a mandate within 120
 56 days after its issuance; amending ss. 112.19, 206.215,

57 450.121, 831.10, 831.17, 877.08, 902.19, 903.32, 905.01,
 58 905.09, 905.095, 914.03, 924.065, and 932.47, F.S.;

59 conforming provisions to changes made by the act;

60 providing state policy and legislative intent; requiring

61 each pretrial release program established by ordinance of

62 a county commission, by administrative order of a court,

63 or by any other means in order to assist in the release of

64 a defendant from pretrial custody to conform to the

65 eligibility criteria set forth in the act; preempting any

66 conflicting local ordinances, orders, or practices;

67 requiring that the defendant satisfy certain eligibility

68 criteria in order to be assigned to a pretrial release

69 program; providing that the act does not prohibit a court

70 from releasing a defendant on the defendant's own

71 recognizance or imposing any other reasonable condition of

72 release on the defendant; authorizing a county to

73 reimburse a licensed surety agent for the premium costs of

74 a bail bond for the pretrial release of an indigent

75 defendant under certain circumstances; providing effective

76 dates.

77

78 Be It Enacted by the Legislature of the State of Florida:

79 Section 1. Sections 25.051, 26.21, 26.22, 26.23, 26.24,
 80 26.25, 26.26, 26.27, 26.28, 26.29, 26.30, 26.31, 26.32, 26.33,
 81 26.34, 26.35, 26.36, 26.361, 26.362, 26.363, 26.364, 26.365,
 82 26.37, 26.38, 26.39, 26.40, 26.42, 35.10, 35.11, 907.05, and
 83 907.055, Florida Statutes, are repealed.

84 Section 2. Section 26.46, Florida Statutes, is amended to
 85 read:

86 26.46 Jurisdiction of resident judge after assignment.—
 87 When a circuit judge is assigned to another circuit, none of the
 88 circuit judges in such other circuit shall, because of such
 89 assignment, be deprived of or affected in his or her
 90 jurisdiction other than to the extent essential so as not to
 91 conflict with the authority of the temporarily assigned circuit
 92 judge as to the particular case or cases or class of cases, ~~or~~
 93 ~~in presiding at the particular term or part of term named or~~
 94 ~~specified in the assignment.~~

95 Section 3. Section 27.04, Florida Statutes, is amended to
 96 read:

97 27.04 Summoning and examining witnesses for state.—The
 98 state attorney shall have summoned all witnesses required on
 99 behalf of the state; and he or she is allowed the process of his
 100 or her court to summon witnesses from throughout the state to
 101 appear before the state attorney ~~in or out of term time~~ at such
 102 convenient places in the state attorney's judicial circuit and
 103 at such convenient times as may be designated in the summons, to
 104 testify before him or her as to any violation of the law upon
 105 which they may be interrogated, and he or she is empowered to
 106 administer oaths to all witnesses summoned to testify by the
 107 process of his or her court or who may voluntarily appear before
 108 the state attorney to testify as to any violation or violations
 109 of the law.

110 Section 4. Section 30.12, Florida Statutes, is amended to
 111 read:

112 30.12 Power to appoint sheriff.—Whenever any sheriff in
 113 the state shall fail to attend, in person or by deputy, ~~any term~~
 114 ~~of~~ the circuit court or county court of the county, from
 115 sickness, death, or other cause, the judge attending said court
 116 may appoint an interim a sheriff, who shall assume all the
 117 responsibilities, perform all the duties, and receive the same
 118 compensation as if he or she had been duly appointed sheriff,
 119 for only the said term of nonattendance ~~court~~ and no longer.

120 Section 5. Paragraph (c) of subsection (1) of section
 121 30.15, Florida Statutes, is amended to read:

122 30.15 Powers, duties, and obligations.—

123 (1) Sheriffs, in their respective counties, in person or
 124 by deputy, shall:

125 (c) Attend all sessions ~~terms~~ of the circuit court and
 126 county court held in their counties.

127 Section 6. Subsection (2) of section 34.13, Florida
 128 Statutes, is amended to read:

129 34.13 Method of prosecution.—

130 (2) Upon the finding of indictments by the grand jury for
 131 crimes cognizable by the county court, the clerk of the court,
 132 without any order therefor, shall docket the same on the trial
 133 docket of the county court ~~on or before the first day of its~~
 134 ~~next succeeding term.~~

135 Section 7. Subsection (2) of section 35.05, Florida
 136 Statutes, is amended to read:

137 35.05 Headquarters.—

138 (2) A district court of appeal may designate other
 139 locations within its district as branch headquarters for the

140 | conduct of the business of the court ~~in special or regular term~~
 141 | and as the official headquarters of its officers or employees
 142 | pursuant to s. 112.061.

143 | Section 8. Section 38.23, Florida Statutes, is amended to
 144 | read:

145 | 38.23 Contempt ~~Contempts~~ defined.—A refusal to obey any
 146 | legal order, mandate or decree, made or given by any judge
 147 | ~~either in term time or in vacation~~ relative to any of the
 148 | business of said court, after due notice thereof, shall be
 149 | considered a contempt, and punished accordingly. ~~But nothing~~
 150 | ~~said or written, or published, in vacation, to or of any judge,~~
 151 | ~~or of any decision made by a judge, shall in any case be~~
 152 | ~~construed to be a contempt.~~

153 | Section 9. Section 43.43, Florida Statutes, is created to
 154 | read:

155 | 43.43 Terms of courts.—The Supreme Court may establish
 156 | terms of court for the Supreme Court, the district courts of
 157 | appeal, and the circuit courts; may provide that district courts
 158 | and circuit courts may establish their own terms of court; or
 159 | may dispense with terms of court.

160 | Section 10. Section 43.44, Florida Statutes, is created to
 161 | read:

162 | 43.44 Mandate of an appeals court.—An appellate court has
 163 | the jurisdiction and power, as the circumstances and justice of
 164 | the case may require, to reconsider, revise, reform, or modify
 165 | its own judgments for the purpose of making the same accord with
 166 | law and justice. Accordingly, an appellate court has the power
 167 | to recall its own mandate for the purpose of enabling it to

168 exercise such jurisdiction and power in a proper case. A mandate
 169 may not be recalled more than 120 days after it is filed with
 170 the lower tribunal.

171 Section 11. Paragraph (b) of subsection (1) of section
 172 112.19, Florida Statutes, is amended to read:

173 112.19 Law enforcement, correctional, and correctional
 174 probation officers; death benefits.—

175 (1) Whenever used in this section, the term:

176 (b) "Law enforcement, correctional, or correctional
 177 probation officer" means any officer as defined in s. 943.10(14)
 178 or employee of the state or any political subdivision of the
 179 state, including any law enforcement officer, correctional
 180 officer, correctional probation officer, state attorney
 181 investigator, or public defender investigator, whose duties
 182 require such officer or employee to investigate, pursue,
 183 apprehend, arrest, transport, or maintain custody of persons who
 184 are charged with, suspected of committing, or convicted of a
 185 crime; and the term includes any member of a bomb disposal unit
 186 whose primary responsibility is the location, handling, and
 187 disposal of explosive devices. The term also includes any full-
 188 time officer or employee of the state or any political
 189 subdivision of the state, certified pursuant to chapter 943,
 190 whose duties require such officer to serve process or to attend
 191 session ~~terms~~ of a circuit or county court as bailiff.

192 Section 12. Subsection (2) of section 206.215, Florida
 193 Statutes, is amended to read:

194 206.215 Costs and expenses of proceedings.—

195 (2) The clerks of the courts performing duties under the

196 provisions aforesaid shall receive the same fees as prescribed
 197 by the general law for the performance of similar duties, and
 198 witnesses attending any investigation pursuant to subpoena shall
 199 receive the same mileage and per diem as if attending as a
 200 witness before the circuit court ~~in term time~~.

201 Section 13. Subsection (4) of section 450.121, Florida
 202 Statutes, is amended to read:

203 450.121 Enforcement of Child Labor Law.—

204 (4) Grand juries shall have inquisitorial powers to
 205 investigate violations of this chapter; also, trial court judges
 206 shall specially charge the grand jury, ~~at the beginning of each~~
 207 ~~term of the court,~~ to investigate violations of this chapter.

208 Section 14. Section 831.10, Florida Statutes, is amended
 209 to read:

210 831.10 Second conviction of uttering forged bills.—
 211 Whoever, having been convicted of the offense mentioned in s.
 212 831.09 is again convicted of the like offense committed after
 213 the former conviction, ~~and whoever is at the same term of the~~
 214 ~~court convicted upon three distinct charges of such offense,~~
 215 shall be deemed a common utterer of counterfeit bills, and shall
 216 be punished as provided in s. 775.084.

217 Section 15. Section 831.17, Florida Statutes, is amended
 218 to read:

219 831.17 Violation of s. 831.16; second or subsequent
 220 conviction.—Whoever having been convicted of either of the
 221 offenses mentioned in s. 831.16, is again convicted of either of
 222 the same offenses, committed after the former conviction, ~~and~~
 223 ~~whoever is at the same term of the court convicted upon three~~

224 ~~distinct charges of said offenses,~~ commits a felony of the
 225 second degree, punishable as provided in s. 775.082, s. 775.083,
 226 or s. 775.084.

227 Section 16. Subsection (4) of section 877.08, Florida
 228 Statutes, is amended to read:

229 877.08 Coin-operated vending machines and parking meters;
 230 defined; prohibited acts, penalties.—

231 (4) Whoever violates ~~the provisions of~~ subsection (3) a
 232 second or subsequent time commits, ~~and is convicted of such~~
 233 ~~second separate offense, either at the same term or a subsequent~~
 234 ~~term of court,~~ shall be guilty of a felony of the third degree,
 235 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

236 Section 17. Subsection (1) of section 902.19, Florida
 237 Statutes, is amended to read:

238 902.19 When prosecutor liable for costs.—

239 (1) When a person makes a complaint before a county court
 240 judge that a crime has been committed and is recognized by the
 241 county court judge to appear before ~~at the next term of~~ the
 242 court having jurisdiction to give evidence of the crime and
 243 fails to appear, the person shall be liable for all costs
 244 occasioned by his or her complaint, and the county court judge
 245 may enter ~~obtain~~ a judgment and execution for the costs as in
 246 other cases.

247 Section 18. Subsection (2) of section 903.32, Florida
 248 Statutes, is amended to read:

249 903.32 Defects in bond.—

250 (2) If no day, or an impossible day, is stated in a bond
 251 for the defendant's appearance before a trial court judge for a

252 hearing or trial, the defendant shall be bound to appear 10 days
 253 after receipt of notice to appear by the defendant, the
 254 defendant's counsel, or any surety on the undertaking. ~~If no~~
 255 ~~day, or an impossible day, is stated in a bond for the~~
 256 ~~defendant's appearance for trial, the defendant shall be bound~~
 257 ~~to appear on the first day of the next term of court that will~~
 258 ~~commence more than 3 days after the undertaking is given.~~

259 Section 19. Subsection (3) of section 905.01, Florida
 260 Statutes, is amended to read:

261 905.01 Number and procurement of grand jury; replacement
 262 of member; term of grand jury.-

263 (3) The chief judge of each ~~any~~ circuit court shall
 264 regularly order ~~may dispense with~~ the convening of the grand
 265 jury for a ~~at any~~ term of 6 months ~~court by filing a written~~
 266 ~~order with the clerk of court directing that a grand jury not be~~
 267 ~~summoned.~~

268 Section 20. Section 905.09, Florida Statutes, is amended
 269 to read:

270 905.09 Discharge and recall of grand jury.-A grand jury
 271 that has been dismissed may be recalled at any time during the
 272 ~~same~~ term of the grand jury ~~court~~.

273 Section 21. Section 905.095, Florida Statutes, is amended
 274 to read:

275 905.095 Extension of grand jury term.-Upon petition of the
 276 state attorney or the foreperson of the grand jury acting on
 277 behalf of a majority of the grand jurors, the circuit court may
 278 extend the term of a grand jury impaneled under this chapter
 279 beyond the term ~~of court~~ in which it was originally impaneled. A

280 grand jury whose term has been extended as provided herein shall
 281 have the same composition and the same powers and duties it had
 282 during its original term. In the event the term of the grand
 283 jury is extended under this section, it shall be extended for a
 284 time certain, not to exceed a total of 90 days, and only for the
 285 purpose of concluding one or more specified investigative
 286 matters initiated during its original term.

287 Section 22. Section 914.03, Florida Statutes, is amended
 288 to read:

289 914.03 Attendance of witnesses.—A witness summoned by a
 290 grand jury ~~or in a criminal case~~ shall remain in attendance
 291 until excused by the grand jury. A witness summoned in a
 292 criminal case shall remain in attendance until excused by the
 293 court. A witness who departs without permission of the court
 294 shall be in criminal contempt of court. ~~A witness shall attend~~
 295 ~~each succeeding term of court until the case is terminated.~~

296 Section 23. Subsection (2) of section 924.065, Florida
 297 Statutes, is amended to read:

298 924.065 Denial of motion for new trial or arrest of
 299 judgment; appeal bond; supersedeas.—

300 (2) An appeal shall not be a supersedeas to the execution
 301 of the judgment, sentence, or order until the appellant has
 302 entered into a bond with at least two sureties to secure the
 303 payment of the judgment, fine, and any future costs that may be
 304 adjudged by the appellate court. The bond shall be conditioned
 305 on the appellant's personally answering and abiding by the final
 306 order, sentence, or judgment of the appellate court and, if the
 307 action is remanded, on the appellant's appearing before ~~at the~~

308 ~~next term~~ of the court in which the case was originally
 309 determined and not departing without leave of court.

310 Section 24. Section 932.47, Florida Statutes, is amended
 311 to read:

312 932.47 Informations filed by prosecuting attorneys.—
 313 Informations may be filed by the prosecuting attorney of the
 314 circuit court with the clerk of the circuit court ~~in vacation or~~
 315 ~~in term~~ without leave of the court first being obtained.

316 Section 25. Eligibility criteria for government-funded
 317 pretrial release.—

318 (1) It is the policy of this state that only defendants
 319 who are indigent and therefore qualify for representation by the
 320 public defender are eligible for government-funded pretrial
 321 release. Further, it is the policy of this state that, to the
 322 greatest extent possible, the resources of the private sector be
 323 used to assist in the pretrial release of defendants. It is the
 324 intent of the Legislature that this section not be interpreted
 325 to limit the discretion of courts with respect to ordering
 326 reasonable conditions for pretrial release for any defendant.
 327 However, it is the intent of the Legislature that government-
 328 funded pretrial release be ordered only as an alternative to
 329 release on a defendant's own recognizance or release by the
 330 posting of a surety bond.

331 (2) A pretrial release program established by an ordinance
 332 of the county commission, an administrative order of the court,
 333 or by any other means in order to assist in the release of
 334 defendants from pretrial custody is subject to the eligibility
 335 criteria set forth in this section. These eligibility criteria

336 supersede and preempt all conflicting local ordinances, orders,
 337 or practices. Each pretrial release program shall certify
 338 annually, in writing, to the chief circuit court judge, that it
 339 has complied with the reporting requirements of s. 907.043(4),
 340 Florida Statutes.

341 (3) A defendant is eligible to receive government-funded
 342 pretrial release only by order of the court after the court
 343 finds in writing upon consideration of the defendant's affidavit
 344 of indigence that the defendant is indigent or partially
 345 indigent as set forth in Rule 3.111, Florida Rules of Criminal
 346 Procedure, and that the defendant has not previously failed to
 347 appear at any required court proceeding.

348 (4) If a defendant seeks to post a surety bond pursuant to
 349 a bond schedule established by administrative order as an
 350 alternative to government-funded pretrial release, the defendant
 351 shall be permitted to do so without any interference or
 352 restriction by a pretrial release program.

353 (5) This section does not prohibit the court from:

354 (a) Releasing a defendant on the defendant's own
 355 recognizance.

356 (b) Imposing upon the defendant any additional reasonable
 357 condition of release as part of release on the defendant's own
 358 recognizance or the posting of a surety bond upon a finding of
 359 need in the interest of public safety, including, but not
 360 limited to, electronic monitoring, drug testing, and substance
 361 abuse treatment.

362 (6) In lieu of using a government-funded program to ensure
 363 the court appearance of any defendant, a county may reimburse a

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364 licensed surety agent for the premium costs of a surety bail
365 bond that secures the appearance of an indigent defendant at all
366 court proceedings if the court establishes a bail bond amount
367 for the indigent defendant.

368 Section 26. Sections 1 through 24 of this act shall take
369 effect July 1, 2012. Section 25 of this act shall take effect
370 October 1, 2011.