

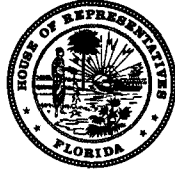
Justice Appropriations Subcommittee

**Wednesday, February 22, 2017
3:30 PM – 6:00 PM**

Meeting Packet

**Richard Corcoran
Speaker**

**Bill Hager
Chair**



The Florida House of Representatives

Appropriations Committee

Justice Appropriations Subcommittee

Richard Corcoran
Speaker

Bill Hager
Chair

Meeting Agenda

Wednesday, February 8, 2017



Morris Hall (17 HOB)

3:30 p.m. – 6:00 p.m.

- I. Call to Order / Roll Call**
- II. Opening Remarks**
- III. Consideration of the Following Bill(s)**
 - CS/HB 39 Autism Awareness Training for Law Enforcement Officers by Criminal Justice Subcommittee, Jenne, Stafford**
 - CS/HB 175 Florida Court Educational Council by Civil Justice & Claims Subcommittee and Byrd**
- IV. Closing Remarks / Meeting Adjourned**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 39 Autism Awareness Training for Law Enforcement Officers
SPONSOR(S): Jenne and others
TIED BILLS: IDEN./SIM. **BILLS:** CS/SB 154

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	14 Y, 0 N, As CS	Brummett	White
2) Justice Appropriations Subcommittee		Wery 	Gusky 
3) Judiciary Committee			

SUMMARY ANALYSIS

Autism Spectrum Disorder (ASD) is a developmental disorder that is characterized, in varying degrees, by repetitive behaviors and difficulties with social interaction and verbal and nonverbal communication. The Centers for Disease Control and Prevention states that approximately one in 68 children has been identified with ASD. Individuals with ASD are estimated to have up to seven times more contacts with law enforcement agencies during their lifetimes than others.

Currently, individuals seeking law enforcement officer certification receive information relating to ASD in two sections of the *basic* recruit curriculum developed by the Criminal Justice Standards and Training Commission (CJSTC). The CJSTC does not currently offer specific *post-basic* training on ASD which may be completed as part of an officer's requirement for at least 40 hours of continued employment training (CET) every four years; however, the Florida Department of Law Enforcement (FDLE) is developing a CET course that will address the symptoms of ASD and how to respond to individuals who exhibit such symptoms. The course will be available in Spring 2017.

The committee substitute creates s. 943.1727, F.S., requiring FDLE to establish a CET component relating to ASD. The training must include, but is not limited to, instruction on the recognition of the symptoms and idiosyncrasies of an individual on the autism disorder spectrum and appropriate responses to such individuals. Completion of the training may count toward a law enforcement officer's required 40 hours of CET under s. 943.135, F.S.

The bill has a fiscal impact of \$10,548, which can be absorbed within the existing resources of the FDLE.

The bill takes effect October 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Autism Spectrum Disorder

Autism Spectrum Disorder (ASD) is a developmental disorder that is characterized, in varying degrees, by repetitive behaviors and difficulties with social interaction and verbal and nonverbal communication.¹ The ASD diagnosis once included Autistic Disorder, Asperger Syndrome, Pervasive Developmental Disorder Not Otherwise Specified, and other disorders; however, in June 2013, all autism disorders were merged into one umbrella diagnosis of ASD when the fifth edition of the Diagnostic and Statistical Manual of Mental Disorder (DSM-5) was published.²

Current Florida law provides the following definitions of terms relating to autism:

- “Autism” is defined as a “pervasive, neurologically based developmentally based disability of extended duration which causes severe learning, communication, and behavior disorders with age of onset during infancy or childhood. Individuals with autism exhibit impairment in reciprocal social interaction, impairment in verbal and non-verbal communication and imaginative ability, and markedly restrictive repertoire of activities and interests.”³
- “Developmental disability” is defined as “a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.”⁴
- “Autism spectrum disorder” is defined as “any of the following disorders as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association: 1. Autistic disorder. 2. Asperger’s syndrome. 3. Pervasive developmental disorder not otherwise specified.”⁵

The latest analysis from the Centers for Disease Control and Prevention estimates that approximately one in 68 children have been identified with ASD.⁶ This estimate is based on surveys of eight-year-old children living in 11 communities in the United States in 2012.⁷ According to this data, boys are almost 5 times more likely than girls to be identified with ASD and white children are more likely to be identified than black or Hispanic children.⁸

Law Enforcement and ASD

Individuals with ASD are estimated to have up to seven times more contacts with law enforcement agencies during their lifetimes than other individuals. Yet, only 20 percent of patrol responses related to autistic individuals are for criminal activity.⁹ Instead, reports regarding autistic individuals are often

¹ CENTER FOR DISEASE CONTROL & PREVENTION, *Facts about ASD*, <http://www.cdc.gov/nbcddd/autism/facts.html> (last visited Jan. 26, 2017).

² NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE, *Autism Spectrum Disorder Fact Sheet*, <https://www.ninds.nih.gov/Disorders/Patient-Caregiver-Education/Fact-Sheets/Autism-Spectrum-Disorder-Fact-Sheet> (last visited Jan. 26, 2017).

³ s. 393.063(5), F.S.

⁴ s. 393.063(12), F.S.

⁵ ss. 627.6686(2)(b), F.S. and 641.31098(2)(b), F.S.

⁶ CENTERS FOR DISEASE CONTROL & PREVENTION, *Data and Statistics*, <https://www.cdc.gov/nbcddd/autism/data.html> (last visited Jan. 26, 2017).

⁷ CENTERS FOR DISEASE CONTROL & PREVENTION, *10 Things You Need to Know about CDC’s Latest Report from The Autism and Developmental Disabilities Monitoring Network*, <http://www.cdc.gov/features/dsautismdata/index.html> (last visited Jan. 26, 2017).

⁸ *Id.*

⁹ Pamela Kulbarsh, *Law Enforcement and Autism*, OFFICER.COM (Feb. 15, 2013), <http://www.officer.com/article/10880086/law-enforcement-and-autism> (last visited Jan. 26, 2017).

made by individuals who are observing a domestic disturbance or suspicious person acting in an unusual manner or requesting assistance with a medical emergency.¹⁰

Law Enforcement Training on Autism Spectrum Disorder

Basic Training

The current Florida Law Enforcement Academy basic recruit curriculum includes the topic of ASD in two sections:

- 1) Chapter 3 (Interactions in a Diverse Community- 40 classroom hours), Unit 2 (Communicating in a Diverse Society), Lesson 3 (Developmental Disabilities); and
- 2) Chapter 6 (Calls for Service- 36 classroom hours), Unit 6 (Responding to a Person in Crisis), Lesson 2 (Intervention and Referral).¹¹

Instructors for the courses described above are provided with resources such as videos and links to informational websites to aid classroom instruction. A guide is provided to all instructors that, along with required activities, include suggested activities such as: reviewing websites related to autism, reviewing case law, and inviting a guest speaker from the Autism Society or a member of the Exceptional Student Education Program.¹²

Post-Basic Training

Currently, as a condition of continued employment or appointment, s. 943.135, F.S., requires law enforcement officers to receive at least 40 hours of continued employment training (CET) every four years. Current Florida law requires the department to develop training relating to several topics, such as training for diabetic emergencies¹³, juvenile sexual offender investigations¹⁴, and interpersonal skills relating to diverse populations¹⁵. The employing agency must document that the CET is job-related and consistent with the needs of the employing agency, and report training completion to the Criminal Justice Standards and Training Commission (CJSTC).¹⁶

The CJSTC does not currently offer specific post-basic training on ASD. Agencies wishing to offer training to their officers rely on CJSTC-certified training schools or vendors to provide training on the topic. Training schools may use CJSTC Trust Fund Officer Training Monies to deliver the training. The training topic is provided in the Crisis Intervention Team (CIT) training program (the Memphis Model) that is independently offered through training facilitated by the Florida Sheriffs Association through June 2018.¹⁷

The Criminal Justice Professionalism Division within the Florida Department of Law Enforcement (FDLE) is currently developing a CET course that will address the symptoms of ASD and how to respond to individuals who exhibit such symptoms. The course will be available to all Florida law enforcement officers in the Spring of 2017. Completion of the training may count toward an officer's mandatory CET requirement.¹⁸

Effect of the Bill

The bill creates s. 943.1727, F.S., requiring FDLE to establish a CET component relating to ASD as defined in s. 627.6866, F.S. The training must include, but is not limited to, instruction on the

¹⁰ *Id.*

¹¹ Florida Department of Law Enforcement, Agency Bill Analysis for HB 39 (2017) (on file with the Justice Appropriations Subcommittee).

¹² *Id.*

¹³ s. 943.1726, F.S.

¹⁴ s. 943.17295, F.S.

¹⁵ s. 943.1716, F.S.

¹⁶ Florida Department of Law Enforcement, Agency Bill Analysis for HB 39 (2017) (on file with the Justice Appropriations Subcommittee).

¹⁷ *Id.*

¹⁸ *Id.*

recognition of the symptoms and idiosyncrasies of an individual on the autism disorder spectrum and appropriate responses to such individuals. Completion of the training component may count toward a law enforcement officer's required 40 hours of instruction for CET under s. 943.135, F.S.

The bill takes effect October 1, 2017.

B. SECTION DIRECTORY:

Section 1: Creates s. 943.1727, F.S., requiring FDLE to establish a continued employment training component relating to ASD.

Section 2: Provides an effective date of October 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: This bill does not appear to have any impact on state revenues.
2. Expenditures: The bill requires FDLE to develop continued employment training relating to ASD. The department estimates the cost of developing the training is \$10,548, which is based on curriculum development workshops and production of training.¹⁹ However, the Criminal Justice Professionalism Division within FDLE is currently developing a course that will address this topic. Any fiscal impact of the bill can be absorbed within existing agency resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: This bill does not appear to have any impact on local government revenues.
2. Expenditures: This bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: None.
2. Other: None.

B. RULE-MAKING AUTHORITY: This bill does not appear to create the need for rulemaking or rulemaking authority.

¹⁹ Florida Department of Law Enforcement, Agency Bill Analysis for HB 39 (2017) (on file with the Justice Appropriations Subcommittee).

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 8, 2017, the Criminal Justice Subcommittee adopted a proposed committee substitute and reported the bill favorably as a committee substitute (CS). The CS differs from the bill as filed in that the CS removed the bill's requirements for the CET component relating to ASD to be a minimum of four hours and consist of in-person instruction.

This analysis is drafted to the CS as passed by the Criminal Justice Subcommittee.

1 A bill to be entitled
 2 An act relating to autism awareness training for law
 3 enforcement officers; creating s. 943.1727, F.S.;
 4 requiring the Department of Law Enforcement to
 5 establish a continued employment training component
 6 relating to autism spectrum disorder; providing a
 7 definition; specifying instruction to be included in
 8 the training component; providing that completion of
 9 the training may count toward continued employment
 10 instruction requirements; providing an effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Section 943.1727, Florida Statutes, is created
 15 to read:

16 943.1727 Continued employment training relating to autism
 17 spectrum disorder.—The department shall establish a continued
 18 employment training component relating to autism spectrum
 19 disorder as defined in s. 627.6686. The training component shall
 20 include, but need not be limited to, instruction on the
 21 recognition of the symptoms and idiosyncrasies of an individual
 22 on the autism disorder spectrum and appropriate responses to an
 23 individual exhibiting such symptoms and idiosyncrasies.
 24 Completion of the training component may count toward the 40
 25 hours of instruction for continued employment or appointment as

CS/HB 39

2017

26 | a law enforcement officer required under s. 943.135.

27 | Section 2. This act shall take effect October 1, 2017.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 39 (2017)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Justice Appropriations

2 Subcommittee

3 Representative Jenne offered the following:

4
5 **Amendment**

6 Remove lines 21-23 and insert:

7 recognition of the symptoms and characteristics of an individual
8 on the autism disorder spectrum and appropriate responses to an
9 individual exhibiting such symptoms and characteristics.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 175 Florida Court Educational Council
SPONSOR(S): Civil Justice & Claims Subcommittee; Byrd and others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 748

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice & Claims Subcommittee	11 Y, 5 N, As CS	MacNamara	Bond
2) Justice Appropriations Subcommittee		Smith <i>JS</i>	Gusky <i>YR</i>
3) Judiciary Committee			

SUMMARY ANALYSIS

In 1978, the Supreme Court established the Florida Court Education Council ("FCEC" or "Council") to oversee educational programs for Florida judges and certain court personnel. The Council also makes budget, program and policy recommendations to the Supreme Court regarding continuing education. The Chief Justice of the Supreme Court selects the members of the Council, with representation from all levels of trial and appellate courts and others involved with the judicial branch. The Office of the State Courts Administrator ("OSCA") provides staff support to the FCEC through its Court Education section.

In 1982, the Legislature established the Court Education Trust Fund, which is the primary funding source for training provided to judges and other court personnel. The trust fund's sole revenue source is statutorily authorized fees assessed in specified civil actions. Current law directs the Supreme Court to administer the fund through the FCEC.

The bill establishes the Florida Court Educational Council in law and transfers responsibility for the administration of the Court Education Trust Fund directly to the FCEC. The bill provides that membership of the FCEC is composed of the 20 chief judges of the circuit courts and the 5 chief judges of the District Courts of Appeal. The bill also establishes the Council's administrative duties, establishes a headquarters in the Ninth Judicial Circuit, limits administrative costs and the number of employees, and requires the Council to submit an annual report to the President of the Senate and the Speaker of the House of Representatives.

The bill provides that if any provisions of the bill are declared invalid for any reason, the fees that would be distributed to the Court Education Trust Fund may not be assessed, any unencumbered balance in the trust fund shall revert to the General Revenue Fund, and the trust fund shall be terminated.

The bill has an indeterminate fiscal impact on revenues and expenditures. See Section II.

The effective date of the bill is July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background and Current Law

Florida Court Education Council

In 1978, the Supreme Court established the Florida Court Education Council ("FCEC"). The FCEC was originally created to oversee educational programs for Florida judges and certain court support personnel;¹ and make budgetary, programmatic, and policy recommendations to the Supreme Court regarding continuing education.² The Council is currently comprised of 20 members, chosen by the Chief Justice, and selected from the following entities:

- The Supreme Court (1)
- The Appellate Courts (2)
- The Circuit Courts (4)
- The County Courts (4)
- Deans and Associate Deans (4)
- Trial Court Administrators (1)
- Florida Court Personnel (2)
- The Universal Planning Committee (2)³

The Office of the State Court Administrator ("OSCA") provides staffing for the FCEC through its Court Education section. There are currently 16 full-time equivalent (FTE) positions funded through the Court Education Trust Fund, of which 11.5 positions are "fully engaged in direct service delivery."⁴ The staff supplied to the Council assists with budgeting, record keeping, and processing travel reimbursements and other budgetary items.⁵ Staff also assists in planning and developing training and works with other entities to help judges meet their educational requirements.

Pursuant to s. 25.385, F.S., the FCEC is also required to establish standards for providing periodic and timely instruction to circuit and county court judges who have responsibility for domestic violence cases.

Continuing Judicial Education

Rule 2.320 of the Florida Rules of Judicial Administration requires all county, circuit, and appellate judges and Supreme Court justices to comply with continuing education requirements. Each judge and justice is required to complete a minimum of 30 credits hours of approved judicial education programs every three years.⁶

In addition to the 30-hour continuing education requirement, every new judge must complete the Florida Judicial College program. This program, organized by the FCEC, includes an in-depth trial skills

¹ See e.g., Fla. R. Jud. Admin. 2.320(c-e). The FCEC develops the educational programs for the Florida Judicial College. See generally *In Re 2015 Florida Judicial College*, Fla. Admin. Order No. AOSC14-57 (October 2, 2014) (on file with the Clerk, Fla. Sup. Ct.).

² See *In Re Florida Court Education Council*, Fla. Admin. Order No. AOSC16-42 (June 30, 2016) (on file with Clerk, Fla. Sup. Ct.).

³ *Id.* at p.3-5.

⁴ OSCA 2017 Judicial Impact Statement Draft, HB 175 (Created January 16, 2017) (Received by the Civil Justice & Claims Subcommittee on February 2, 2017).

⁵ Office of Program Policy Analysis & Government Accountability ("OPPAGA") Report, No. 15-13, p. 18 (December 2015). Available at oppaga.state.fl.us/MonitorDocs/Reports/pdf/1513rpt.pdf.

⁶ Fla. R. Jud. Admin. 2.320(b)(2). These requirements are similar to the continuing legal education (CLE) credits attorneys in the state are required to obtain every 3 years. See Fla. Bar Reg. R. 6-10.3.

workshop, a mock trial experience, intensive substantive law courses, and a mentoring program providing one-on-one guidance from experienced judges. The FCEC also provides educational opportunities to magistrates, staff, and other court personnel.⁷

Last year, approximately 3,200 judges and court staff received in-person training, and an additional 142 individuals attended distance learning sessions. In addition to these in-person training sessions, 28 publications were maintained online.⁸

Court Education Trust Fund

In 1982, the Legislature created s. 25.384, F.S., establishing the Court Education Trust Fund.⁹ The funds are used to provide education and training for judges and other court personnel as defined and determined by the FCEC.¹⁰ The Legislature directed the Supreme Court, through the FCEC, to administer the fund.¹¹ The moneys credited to the trust fund include filing fees from circuit civil cases,¹² service charges and filing fees in probate matters,¹³ and filing fees from civil proceedings in county court.¹⁴

The statute requires the Supreme Court, through the FCEC, to adopt a comprehensive plan for the operation of the trust fund and the expenditure of moneys deposited in the trust fund. The comprehensive plan must provide for travel, per diem, tuition, educational materials, and other related costs incurred for educational programs that will benefit the state.

In addition to managing funds and adopting a comprehensive plan, the Supreme Court, through the FCEC, is required to provide a report to the President of the Senate and the Speaker of the House of Representatives detailing the fees deposited in the fund and the costs incurred in providing education and training for judges.

For Fiscal Year 2015-2016, the Court Education Trust Fund had a nonrecurring cash balance on July 1, 2015 of \$1,204,003¹⁵, revenues totaling \$2,585,010¹⁶ and cash disbursements totaling \$2,019,300.¹⁷ According to the OSCA, the administrative expenses associated with providing court education and training was approximately \$255,000 for Fiscal Year 2015-2016.¹⁸

Effect of the Bill

The bill amends s. 25.384, F.S., to remove the Supreme Court as the administrator of the Court Education Trust Fund and transfers that responsibility to the FCEC. The Council is required to adopt a comprehensive plan to operate the fund similar to the comprehensive plan required under current law. The fund will continue to be funded by the same fees and will continue providing training and education for judges and other court personnel.

⁷ See e.g., note 5, p.23 Exhibit 9.

⁸ See note 4, Section III.

⁹ ch. 82-168, L.O.F.

¹⁰ s. 25.384(2), F.S.

¹¹ The statute refers to the Supreme Court and the Florida Court Educational Council. As such, the statute as written references a council with a slightly different name than the "Florida Court Education Council" established by the Supreme Court. However, in operation, the Council has acted pursuant to s. 25.384, F.S. since its adoption.

¹² ss. 28.241(1)(a)1.c., and 28.241(1)(a)2.e., F.S. (\$3.50).

¹³ s. 28.2401(3), F.S., (\$3.50).

¹⁴ s. 34.041(1)(b), F.S., (\$3.50).

¹⁵ Transparency Florida website: <http://www.transparencyflorida.gov/Reports/TrustFundsDetailReport> (Last accessed February 19, 2017).

¹⁶ *Id.* at <http://www.transparencyflorida.gov/Reports/TrustFundRevReport>; (Last accessed February 19, 2017).

¹⁷ *Id.* at <http://www.transparencyflorida.gov/Reports/TrustFundsDetailReport> (Last accessed February 19, 2017).

¹⁸ See note 4, Section III. This total was calculated using the definition of administrative costs consistent with the definition utilized by the US Department of Labor: "the allocable portion of necessary and reasonable costs that are not related to the direct provision of services."

The bill amends s. 25.385, F.S., to statutorily establish the Florida Court Educational Council. The bill specifies that the Council consists of 25 members: the chief judge of each judicial circuit (20 members) and the chief judge of each district court of appeal (5 members). The Council must elect a chair from its membership to serve a 1-year term and may also elect other offices from its membership as it deems necessary. The Council must be headquartered in the Ninth Judicial Circuit (Orange and Osceola counties). The bill allows the Council to employ up to three full-time employees.

The bill requires the FCEC to:

- Adopt guidelines for administrative expenses, capping the total amount at 15% of the previous fiscal year's deposited funds.
- Adopt policies related to the selection and approval of education and training programs.
- Submit a report each year to the President of the Senate and the Speaker of the House of Representatives in substantially the same form as current law.

The bill repeals a definition of "family or household member" that is related to the term "domestic violence" as the term "family or household member" is not used in s. 25.385, F.S.

The bill requires that the Court Education Trust Fund be terminated, with all remaining unencumbered funds reverting to the General Revenue Fund, in the event that any provision contained in sections 1 or 2 of the bill is declared invalid for any reason. In such circumstance, the \$3.50 additional fee pursuant to ss. 28.2401(3), 28.241(1)(a)1.c., 28.241(1)(a)2.e., and 34.041(1)(b), F.S. (probate, general circuit civil, foreclosure, and general county civil, respectively) would no longer be collected.

B. SECTION DIRECTORY:

Section 1 amends s. 25.384, F.S., relating to the Court Education Trust Fund.

Section 2 substantially amends and retitles s. 25.385, F.S., relating to the standards for instruction of circuit and county court judges.

Section 3 includes provisions that address if any provision of section 1 or 2 is declared invalid.

Section 4 provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill has an indeterminate impact on state revenues. If any provision in Section 1 or 2 of the bill is declared invalid for any reason, the additional filing fee of \$3.50 pursuant to ss. 28.2401(3), 28.241(1)(a)1.c., 28.241(1)(a)2.e., and 34.041(1)(b), F.S. would no longer be collected.

If any provision in section 1 or 2 of the bill is declared invalid, there would be a non-recurring increase the General Revenue Fund as any remaining unencumbered funds from the Court Education Trust Fund would revert to that fund.

2. Expenditures:

The fiscal impact on state expenditures is indeterminate. The costs to establish the FCEC and its staff in the Ninth Judicial Circuit are unknown. While the bill limits positions dedicated to the council and administrative overhead, presumably the costs to provide court education and training will still be incurred.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have an impact on local government revenues.

2. Expenditures:

The bill does not appear to have an impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

In OSCA's 2017 Judicial Impact Statement draft for the bill, the Office stated that "[i]t is unclear if an FCEC-controlled Court Education unit staffed by a maximum of three employees would be able to continue to produce meaningful, high-quality education to meet [the judicial education] requirements." "It is possible that the production and facilitation of judicial education would need to be outsourced."¹⁹

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of sales tax shared with counties or municipalities.

2. Other:

Article V, s. 2(a) of the state Constitution provides that "[t]he supreme court shall adopt rules for the practice and procedure in all courts... [and] the administrative supervision of all courts[.]" Article V, s. 14(d) of the state Constitution provides that "[t]he judiciary shall have no power to fix appropriations."

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

At lines 69-70 of the bill, it places a cap on administrative expenses at 15%. There is no definition of "administrative expense."

The bill also contains the original language from ss. 25.384, F.S., and 25.385, F.S., that refers to the FCEC as the Florida Court Educational Council. The Council, as established by the Supreme Court, is called the Florida Court Education Council.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 9, 2017, the Civil Justice & Claims Subcommittee adopted a proposed committee substitute and reported the bill favorably as a committee substitute. The committee substitute differs from the bill as filed by adding cross-references to filing fees that may be affected by the bill. This analysis is drafted to the committee substitute as passed by the Civil Justice & Claims Subcommittee.

¹⁹ See note 4, Section V.
STORAGE NAME: h0175a.JUA.DOCX
DATE: 2/16/2017

1 A bill to be entitled
 2 An act relating to the Florida Court Educational
 3 Council; amending s. 25.384, F.S.; specifying that the
 4 Court Education Trust Fund shall be administered by
 5 the Florida Court Educational Council; deleting a
 6 provision requiring the council to provide an annual
 7 report; amending s. 25.385, F.S.; specifying the
 8 membership, voting procedures, and duties of the
 9 council; specifying the location of the council
 10 headquarters; requiring the council to submit an
 11 annual report; providing for nonseverability;
 12 providing an effective date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Subsections (1), (2), and (4) of section
 17 25.384, Florida Statutes, are amended to read:

18 25.384 Court Education Trust Fund.—

19 (1) There is created a Court Education Trust Fund to be
 20 administered by ~~the Supreme Court through~~ the Florida Court
 21 Educational Council as set forth in s. 25.385.

22 (2)(a) The Florida Court Educational Council shall adopt a
 23 comprehensive plan for the operation of the Court Education
 24 Trust Fund and the expenditure of the moneys deposited in the
 25 trust fund.

26 (b) The plan shall provide for travel, per diem, tuition,
 27 educational materials, and other related costs incurred for in-
 28 state and out-of-state education and training programs for
 29 judges and other court personnel to benefit the judiciary of the
 30 state. Such ~~The trust fund moneys shall be used to provide~~
 31 education and training programs shall be for judges and other
 32 court personnel as defined and determined by the Florida Court
 33 Educational council as set forth in s. 25.385.

34 ~~(b) The Supreme Court, through its Florida Court~~
 35 ~~Educational Council, shall adopt a comprehensive plan for the~~
 36 ~~operation of the trust fund and the expenditure of the moneys~~
 37 ~~deposited in the trust fund. The plan shall provide for travel,~~
 38 ~~per diem, tuition, educational materials, and other related~~
 39 ~~costs incurred for educational programs, in and out of state,~~
 40 ~~which will be of benefit to the judiciary of the state.~~

41 ~~(4) The Supreme Court, through the Florida Court~~
 42 ~~Educational Council, shall submit a report each year, on October~~
 43 ~~1, to the President of the Senate and the Speaker of the House~~
 44 ~~of Representatives, which report shall include the total number~~
 45 ~~of judges and other court personnel attending each training or~~
 46 ~~educational program, the educational program attended and the~~
 47 ~~location of the program, and the costs incurred. In addition,~~
 48 ~~the report shall identify the judges and other court personnel~~
 49 ~~attending out-of-state programs and the costs associated with~~
 50 ~~such programs. The report shall also show the total dollars~~

51 ~~deposited in the fund for the fiscal year and the balance at the~~
 52 ~~end of the fiscal year.~~

53 Section 2. Section 25.385, Florida Statutes, is amended to
 54 read:

55 25.385 Florida Court Educational Council; composition;
 56 duties; reports standards for instruction of circuit and county
 57 court judges in handling domestic violence cases.-

58 (1)(a) The Florida Court Educational Council shall consist
 59 of the chief judge of each district court of appeal and the
 60 chief judge of each judicial circuit. The council shall elect a
 61 chair from its membership for a 1-year term to preside at all
 62 council meetings. The council shall also elect other officers
 63 from its membership as it deems necessary.

64 (b) A majority of the council members shall constitute a
 65 quorum, and the affirmative vote of a majority of the members
 66 present shall be necessary for any action to be taken by the
 67 council.

68 (c) The administrative duties of the council include:

69 1. Adopting guidelines on permissible administrative
 70 expenses, which may not exceed 15 percent of the funds deposited
 71 into the previous fiscal year's Court Education Trust Fund.

72 2. Adopting policies and guidelines related to the
 73 selection of education and training programs, approval of
 74 courses for such programs, and selection of participants. The
 75 council shall also develop and fund appropriate education and

76 training programs for new trial judges, appellate judges, child
 77 support hearing officers, and magistrates.

78 3. Adopting reporting formats.

79 4. Supervising council employees. However, the council may
 80 not employ more than three full-time employees.

81 (d) The council and its employees shall be headquartered
 82 in the ninth circuit.

83 (2)(a)-(1) The Florida Court Educational council shall
 84 establish standards for instruction of circuit and county court
 85 judges who have responsibility for domestic violence cases, and
 86 the council shall provide such instruction on a periodic and
 87 timely basis.

88 (b)-(2) As used in this subsection, section:

89 (a) the term "domestic violence" has the meaning set forth
 90 in s. 741.28.

91 (b) "Family or household member" has the meaning set forth
 92 in s. 741.28.

93 (3) The council shall submit a report each year, on
 94 October 1, to the President of the Senate and the Speaker of the
 95 House of Representatives that includes the total number of
 96 judges and other court personnel attending each in-state
 97 training or educational program, the training or educational
 98 program attended and the location of the program, and the costs
 99 incurred. The report shall also identify the judges and other
 100 court personnel attending out-of-state training or educational

101 programs and the costs associated with such programs. The report
 102 shall identify the total dollars deposited into the trust fund
 103 for the fiscal year and the balance in the trust fund at the end
 104 of the fiscal year.

105 Section 3. If any provision contained in sections 1 or 2
 106 of this act is declared invalid for any reason, then sections 1
 107 and 2 of this act shall be declared invalid, the fees that would
 108 be directed to the Court Education Trust Fund may not be
 109 assessed pursuant to ss. 28.2401(3), 28.241(1)(a)1.c.,
 110 28.241(1)(a)2.e., and 34.041(1)(b), the remaining unencumbered
 111 funds in the Court Education Trust Fund shall revert to the
 112 General Revenue Fund, and the trust fund shall be terminated.

113 Section 4. This act shall take effect July 1, 2017.