

## CHAPTER 2013-25

### House Bill No. 7017

An act relating to terms of courts; repealing s. 25.051, F.S., relating to regular terms of the Supreme Court; repealing s. 26.21, F.S., relating to terms of the circuit courts; repealing s. 26.22, F.S., relating to terms of the First Judicial Circuit; repealing s. 26.23, F.S., relating to terms of the Second Judicial Circuit; repealing s. 26.24, F.S., relating to terms of the Third Judicial Circuit; repealing s. 26.25, F.S., relating to terms of the Fourth Judicial Circuit; repealing s. 26.26, F.S., relating to terms of the Fifth Judicial Circuit; repealing s. 26.27, F.S., relating to terms of the Sixth Judicial Circuit; repealing s. 26.28, F.S., relating to terms of the Seventh Judicial Circuit; repealing s. 26.29, F.S., relating to terms of the Eighth Judicial Circuit; repealing s. 26.30, F.S., relating to terms of the Ninth Judicial Circuit; repealing s. 26.31, F.S., relating to terms of the Tenth Judicial Circuit; repealing s. 26.32, F.S., relating to terms of the Eleventh Judicial Circuit; repealing s. 26.33, F.S., relating to terms of the Twelfth Judicial Circuit; repealing s. 26.34, F.S., relating to terms of the Thirteenth Judicial Circuit; repealing s. 26.35, F.S., relating to terms of the Fourteenth Judicial Circuit; repealing s. 26.36, F.S., relating to terms of the Fifteenth Judicial Circuit; repealing s. 26.361, F.S., relating to terms of the Sixteenth Judicial Circuit; repealing s. 26.362, F.S., relating to terms of the Seventeenth Judicial Circuit; repealing s. 26.363, F.S., relating to terms of the Eighteenth Judicial Circuit; repealing s. 26.364, F.S., relating to terms of the Nineteenth Judicial Circuit; repealing s. 26.365, F.S., relating to terms of the Twentieth Judicial Circuit; repealing s. 26.37, F.S., relating to requiring a judge to attend the first day of each term of the circuit court; repealing s. 26.38, F.S., relating to a requirement for a judge to state a reason for nonattendance; repealing s. 26.39, F.S., relating to the penalty for nonattendance of the judge; repealing s. 26.40, F.S., relating to adjournment of the circuit court upon nonattendance of the judge; repealing s. 26.42, F.S., relating to calling all cases on the docket at the end of each term; repealing s. 35.10, F.S., relating to regular terms of the district courts of appeal; repealing s. 35.11, F.S., relating to special terms of the district courts of appeal; repealing s. 907.05, F.S., relating to a requirement that criminal trials be heard in the term of court before civil cases; repealing s. 907.055, F.S., relating to a requirement that persons in custody be arraigned and tried in the term of court unless good cause is shown; amending ss. 26.46, 27.04, 30.12, 30.15, 34.13, 35.05, and 38.23, F.S.; conforming provisions to changes made by the act; creating s. 43.43, F.S.; allowing the Supreme Court to set terms of court for the Supreme Court, district courts of appeal, and circuit courts; creating s. 43.44, F.S.; authorizing appellate courts to withdraw a mandate within 120 days after its issuance; amending ss. 112.19, 206.215, 450.121, 831.10, 831.17, 877.08, 902.19, 903.32, 905.01, 905.09, 905.095, 914.03, 924.065, and 932.47, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

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

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

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

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

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

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

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

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

30.15 Powers, duties, and obligations.—

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

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

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

34.13 Method of prosecution.—

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

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

35.05 Headquarters.—

(2) A district court of appeal may designate other locations within its district as branch headquarters for the conduct of the business of the court ~~in special or regular term~~ and as the official headquarters of its officers or employees pursuant to s. 112.061.

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

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

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

43.43 Terms of courts.—The Supreme Court may establish terms of court for the Supreme Court, the district courts of appeal, and the circuit courts; may authorize district courts of appeal and circuit courts to establish their own terms of court; or may dispense with terms of court.

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

43.44 Mandate of an appeals court.—An appellate court may, as the circumstances and justice of the case may require, reconsider, revise, reform, or modify its own opinions and orders for the purpose of making the same accord with law and justice. Accordingly, an appellate court may recall its own mandate for the purpose of allowing it to exercise such jurisdiction and power in a proper case. A mandate may not be recalled more than 120 days after it has been issued.

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

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

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

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

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

206.215 Costs and expenses of proceedings.—

(2) The clerks of the courts performing duties under the provisions aforesaid shall receive the same fees as prescribed by the general law for the performance of similar duties, and witnesses attending any investigation pursuant to subpoena shall receive the same mileage and per diem as if attending as a witness before the circuit court ~~in term time~~.

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

450.121 Enforcement of Child Labor Law.—

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

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

831.10 Second conviction of uttering forged bills.—~~A person previously~~ Whoever, having been convicted of violating the offense mentioned in s. 831.09 who is again convicted of that ~~the like~~ offense committed after the former conviction; and on ~~whoever is at the same term of the court convicted upon~~ three distinct charges of such offense committed within a 6-month period, shall be deemed a common utterer of counterfeit bills, and shall be punished as provided in s. 775.084.

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

831.17 Violation of s. 831.16; second or subsequent conviction.—~~A person previously~~ Whoever having been convicted of violating either of the offenses mentioned in s. 831.16 who, is again convicted of violating that statute either of the same offenses, committed after the former conviction on, and ~~whoever is at the same term of the court convicted upon three distinct charges of such offense committed within a 6-month period said offenses,~~ commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

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

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

902.19 When prosecutor liable for costs.—

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

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

903.32 Defects in bond.—

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

Section 19. Section 905.01, Florida Statutes, is amended to read:

905.01 Number and procurement of grand jury; replacement of member; term of grand jury.—

(1) The grand jury shall consist of no ~~not~~ fewer than 15, but no ~~not~~ more than 21 persons. The ~~provisions of~~ law governing the qualifications, disqualifications, excusals, drawing, summoning, supplying deficiencies, compensation, and procurement of petit jurors apply to grand jurors. In addition, an elected public official is not eligible for service on a grand jury.

(2) The chief judge of any circuit court may provide for the replacement of any grand juror who, for good cause, is unable to complete the term of the grand jury. Such replacement shall be made by appropriate order of the chief judge from the list of prospective jurors from which the grand juror to be replaced was selected.

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

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

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

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

905.095 Extension of grand jury term.—Upon petition of the state attorney or the foreperson of the grand jury acting on behalf of a majority of the grand jurors, the circuit court may extend the term of a grand jury impaneled under this chapter beyond the term ~~of court~~ in which it was originally impaneled. A grand jury whose term has been extended as provided under this section ~~herein~~ shall have the same composition and the same powers and duties it had during its original term. ~~If~~ ~~In the event~~ the term of the grand jury is extended under this section, it shall be extended for a time certain, not to exceed a total of 90 days, and only for the purpose of concluding one or more specified investigative matters initiated during its original term.

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

914.03 Attendance of witnesses.—A witness summoned by a grand jury ~~or in a criminal case~~ shall remain in attendance until excused by the grand jury. A witness summoned in a criminal case shall remain available for attendance until the case for which he or she was summoned is disposed of or until he or she is excused by the court. A witness who departs without permission of the court shall be in criminal contempt of court. ~~A witness shall attend each succeeding term of court until the case is terminated.~~

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

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

(2) An appeal ~~may~~ shall not be a supersedeas to the execution of the judgment, sentence, or order until the appellant has entered into a bond with at least two sureties to secure the payment of the judgment, fine, and any future costs that may be adjudged by the appellate court. The bond shall be conditioned on the appellant’s personally answering and abiding by the final order, sentence, or judgment of the appellate court and, if the action is remanded, on the appellant’s appearing before ~~at the next term~~ of the court in which the case was originally determined and not departing without leave of court.

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

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

Section 25. This act shall take effect January 1, 2014.

Approved by the Governor April 17, 2013.

Filed in Office Secretary of State April 17, 2013.