

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1223S.01I
Bill No.: SB 281
Subject: Attorneys; Civil Procedure; Courts; Evidence
Type: Original
Date: January 4, 2021

Bill Summary: This proposal modifies various provisions relating to civil proceedings before certain associate circuit judges.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on General Revenue	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS**ASSUMPTION**

Officials at the **Attorney General's Office (AGO)** assume a negative fiscal impact of \$0 to unknown. This proposal establishes a new procedure with respect to the admission of evidence and the creation of an affidavit. It is difficult to determine the additional time and expense that would be required of the Assistant Attorney General to meet the requirements of this proposal.

Oversight does not have information to the contrary and therefore, Oversight will reflect the estimates as provided by the AGO.

Officials from the **Office of the State Courts Administrator** assume the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this agency.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE			
Cost – AGO – modifies provisions to certain civil proceedings	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

Currently, certain cases tried before associate circuit judges shall be tried upon the return date of the summons or on a date to which the case has been continued. Under this act, every such case shall be tried on a date set by the court after the defendant has been duly served and has appeared. All parties shall receive notice of the setting from the court by e-filing or a notice mailed to a pro se party.

Additionally, current law requires change of venue and change of judge applications to be filed not later than five days before the return date of the summons. This act changes the five days to fifteen days prior to a trial setting before the particular judge. If the trial judge changes after the initial trial setting, any application for change of venue or change of judge shall be made not later than fifteen days before the subsequent date set for trial. Under this act, a case may be continued for a period exceeding thirty days if:

- (1) By written agreement of all parties and the judge's approval;
- (2) All defendants have not been timely served with process; or
- (3) It appears to the judge that there is discovery or other trial preparations to be done that would reasonably require more than thirty days.

Any matter that is continued shall be continued to a date certain.

Currently, in any case triable before a jury, trial by jury shall be deemed waived unless written demand is filed no later than 5 days before the return date of summons or the date set for trial, whichever is later. This act changes the five days to fifteen days.

Finally, this act specifies that a record of an act, event, condition, opinion, or diagnosis shall not be excluded by the rule against hearsay in certain civil proceedings, regardless of whether the declarant is available, if:

- (1) The record was made at or near the time by, or from information transmitted by, a person with knowledge;
- (2) The record was kept in the course of a regularly conducted activity of a business, organization, occupation, or calling;
- (3) Making the record was a regular practice of that activity;
- (4) The testimony of the custodian or another qualified witness or a certification demonstrates the aforementioned; and

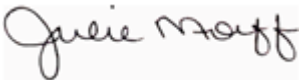
(5) The opponent does not show that the source of information or the method or circumstances of preparation indicate a lack of trustworthiness.

Records of regularly conducted activities shall be admissible, subject to other substantive or procedural objects, upon an affidavit of the custodian or another qualified person. Seven days before the trial or hearing, the proponent shall send an adverse party the affidavit of a custodian who is not expected to appear at the trial, with the records attached. The act specifies the form and content of the affidavit.

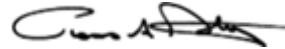
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Office of the State Courts Administrator



Julie Morff
Director
January 4, 2021



Ross Strobe
Assistant Director
January 4, 2021