

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 936

SPONSOR: Judiciary Committee and Senator Laurent

SUBJECT: Elder Assistance Centers

DATE: April 9, 2000

REVISED: 04/13/00 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Forgas</u>	<u>Johnson</u>	<u>JU</u>	<u>Favorable/CS</u>
2.	<u>Mannelli</u>	<u>Hadi</u>	<u>FP</u>	<u>Fav/1 amendment</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill creates s. 26.59, F.S., to provide that the chief judge of each judicial circuit may create an elder assistance center which shall facilitate access to the justice system for persons who are at least 60 years old and who require special assistance or accommodation. The division is required to perform a list of enumerated activities designed to assist elderly persons who are involved in the judicial system.

The bill also appropriates \$1,050,000 from the General Revenue Fund for the implementation of pilot programs to test the efficacy of the elder assistance center programs. The funds are to be divided equally between the 10th, 12th, and 13th circuits. Each circuit must provide a report on the pilot program to the Governor, President of the Senate, Speaker of the House of Representatives, and Chief Justice of the Supreme Court no later than December 31, 2001.

This bill creates section 26.59 of the Florida Statutes.

II. Present Situation:

The Florida Constitution prohibits the establishment of any court other than the supreme court, district courts of appeal, circuit courts, and county courts. *See* Art. V, s. 1, Fla. Const. However, all courts with the exception of the supreme court may establish specialized court divisions as allowed by general law. *See* Art. V, §7, Fla. Const. General law currently provides for the establishment of a specialized court division through a local rule approved by the Florida Supreme Court. *See* §43.30, F.S. These constitutional and legislative grants of authority have been used by county and circuit courts to channel their judicial resources to create divisions responsive to the caseload demands, community needs, and judicial agenda of the county or circuit. For example, most caseload activities are categorized under five primary circuit court divisions: criminal, civil, domestic relations, juvenile and probate. County courts in more populous areas are also divided into civil and criminal divisions.

As a judicial and case management tool, the courts have created sub-specialty court divisions or programs to differentiate, streamline and process specific categories of cases in response to specific caseload demands of the circuit. These divisions or programs are frequently misnomered as courts such as the “felony compliance courts” or “mental health courts.” At least 17 judicial circuits exercise this tool to create sub-specialty court divisions that may be as formal as a circuit-wide court division or as informal as a 2-hour monthly judicial assignment to hear specific categories of cases solely in one county. The two most popular types of sub-specialty court divisions are “drug courts” (14) and “domestic violence courts” (9). There are also “felony compliance courts,” “mental health courts,” “repeat offender courts,” and “collection courts.”

Whether specialized court divisions or sub-specialty “courts” actually improve efficiency in the courts, relieve court backlog and ensure adequate public access to the courts or not, their creation has been one of the trial courts’ responses to caseload pressures, judicial workload and case management needs. *See e.g., An Overview of Florida Criminal Justice Specialized Courts*, Interim Project Report 97-P21, Committee on Criminal Justice, October 1997.

According to the Legislature’s Office of Economic and Demographic Research, Florida’s age distribution on April 1, 2010, will reflect the continuation of an aging trend of the population. In 1980, there were 1,687,573 Floridians aged 65 and older (17.3% of the total population). The 1990 census enumerated 2,355,926 persons over 65 years old (18.2% of the total population). By April 1, 2010, this age group will number 3,401,881 and constitute 19% of the total population. These changes represent increases of 39.6% between 1980 and 1990, 20.9% between 1990 and 2000, and 19.4% between 2000 and 2010.

The Study on Jury Service Accessibility for Older Persons and Persons With Disabilities in Florida, issued June 4, 1999, was a collaborative project by the Southeast Florida Center on Aging of Florida International University and the Supreme Court Commission on Fairness. The executive summary, in the findings and conclusions section, offers a mixed, but generally positive, assessment of the capacity of the court system to handle matters involving the elderly and disabled.

Overall, the Florida courts generally appear aware of and sensitive to disability issues. A vast majority of the courts have assigned a staff member to function in some capacity as an ADA coordinator; however, this is not necessarily a full-time position. Within the courthouse, this person coordinates efforts to comply with Title II of the act and disseminates information about disability issues.

It seems that many courts have provided training on ADA compliance and other disability issues to staff at a variety of levels. All of the courts note that policies and procedures are in place for identifying cases requiring reasonable accommodations under the ADA. Most courts also feel that these policies and procedures are effective in identifying these cases. Based on their reports, Florida courts appear aware of and informed about their obligations under the ADA.

An Elder Courts Task Force of the Thirteenth Judicial Circuit was formed “to establish a court system that is user friendly to elders of the Thirteenth Judicial Circuit.” The task force, scheduled to meet quarterly over a two year period from November 1998 until November 2000, has focused upon “criminal cases involving elders, civil cases involving abuse and neglect, guardianship and incapacity proceedings.”

Chief Judge F. Dennis Alvarez, of the Thirteenth Judicial Circuit, originally envisioned the Elder Court as a division empowered to “hear cases regarding guardianship, mental health, elder abuse, domestic violence and other crimes and civil litigation involving the elderly.” After ascertaining that a full-fledged division would need to be established by local rule, Chief Judge Alvarez scaled back his proposal, instead recommending the creation of a specialized subdivision of the Criminal Division. On May 28, 1998, February 24, 1999, and September 7, 1999, the Florida Supreme Court concluded that even the scaled-back version of the Elder Court would constitute a new division within the meaning of Article V, Section 7, of the Florida Constitution and Section 43.30, F.S., and, accordingly, a local rule would be needed to establish an Elder Court. Additionally, Chief Justice Harding stated that “in light of the small number of cases that would be assigned to such a court, and this Court’s policies regarding the establishment of new subdivisions within a court, we are not able to approve your request.”

III. Effect of Proposed Changes:

The bill creates s. 26.59, F.S., to provide that the chief judge of each judicial circuit may create an elder assistance center. If created, the division shall:

- Work with the Americans with Disabilities Act coordinator to assist elderly persons with disabilities;
- Assist the court in managing cases in which an elderly person is a party so that these cases can be handled expeditiously;
- Coordinate access to agencies that provide services to elderly persons;
- Provide education to elderly persons concerning the operation of the judicial system;
- Gather information and provide documentation concerning the special needs of elderly persons in the judicial system; and
- Designate a person to act as liaison with the Statewide Public Guardianship Office.

The bill appropriates \$1,050,000 from the General Revenue Fund to implement pilot programs to test the efficacy of the elder assistance center program. The programs are to be implemented in the 10th, 12th, and 13th circuits, with the money to be divided equally between the circuits. Reports from each circuit describing the activities of the elder assistance center, the number of cases handled, the types of needs met, and the overall effectiveness of the program are to be submitted no later than December 31, 2001, to the Governor, President of the Senate, Speaker of the House of Representatives, and the Chief Justice of the Supreme Court. The bill also provides that the elder assistance center shall create a consumer survey that shall be provided to each elderly person, or family member representing an elderly person, asking for feedback on the elder assistance center’s performance and the usefulness of services provided.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill would have an impact upon Florida's growing elderly population who become involved in the court system. Conceivably, elderly persons could enjoy quicker resolution of their cases and easier access to court facilities and services. The exact impact is indeterminate at this time but could become clearer upon the completion of the pilot programs in the 10th, 12th, and 13th circuits.

C. Government Sector Impact:

The bill appropriates \$1,050,000 to be divided equally between the 10th, 12th, and 13th circuits to implement pilot projects. According to the Office of the State Courts Administrator, the \$350,000 appropriated to each of the pilot circuits should suffice to accomplish much of the work which the creation of elder divisions would require. Additionally, since the workload of current court divisions would be reduced by an indeterminate amount, there is the opportunity to redirect current resources to the new elder divisions.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Fiscal Policy:

Eliminates the 12th Judicial Circuit as a pilot circuit for the elder assistance centers and reduces the appropriation from \$1,050,000 to \$700,000.