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HB 7017

2013 Legislature

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

ENROLLED  
HB 7017

2013 Legislature

29 | repealing s. 26.362, F.S., relating to terms of the  
30 | Seventeenth Judicial Circuit; repealing s. 26.363,  
31 | F.S., relating to terms of the Eighteenth Judicial  
32 | Circuit; repealing s. 26.364, F.S., relating to terms  
33 | of the Nineteenth Judicial Circuit; repealing s.  
34 | 26.365, F.S., relating to terms of the Twentieth  
35 | Judicial Circuit; repealing s. 26.37, F.S., relating  
36 | to requiring a judge to attend the first day of each  
37 | term of the circuit court; repealing s. 26.38, F.S.,  
38 | relating to a requirement for a judge to state a  
39 | reason for nonattendance; repealing s. 26.39, F.S.,  
40 | relating to the penalty for nonattendance of the  
41 | judge; repealing s. 26.40, F.S., relating to  
42 | adjournment of the circuit court upon nonattendance of  
43 | the judge; repealing s. 26.42, F.S., relating to  
44 | calling all cases on the docket at the end of each  
45 | term; repealing s. 35.10, F.S., relating to regular  
46 | terms of the district courts of appeal; repealing s.  
47 | 35.11, F.S., relating to special terms of the district  
48 | courts of appeal; repealing s. 907.05, F.S., relating  
49 | to a requirement that criminal trials be heard in the  
50 | term of court before civil cases; repealing s.  
51 | 907.055, F.S., relating to a requirement that persons  
52 | in custody be arraigned and tried in the term of court  
53 | unless good cause is shown; amending ss. 26.46, 27.04,  
54 | 30.12, 30.15, 34.13, 35.05, and 38.23, F.S.;  
55 | conforming provisions to changes made by the act;  
56 | creating s. 43.43, F.S.; allowing the Supreme Court to

ENROLLED  
HB 7017

2013 Legislature

57 | set terms of court for the Supreme Court, district  
58 | courts of appeal, and circuit courts; creating s.  
59 | 43.44, F.S.; authorizing appellate courts to withdraw  
60 | a mandate within 120 days after its issuance; amending  
61 | ss. 112.19, 206.215, 450.121, 831.10, 831.17, 877.08,  
62 | 902.19, 903.32, 905.01, 905.09, 905.095, 914.03,  
63 | 924.065, and 932.47, F.S.; conforming provisions to  
64 | changes made by the act; providing an effective date.  
65 |

66 | Be It Enacted by the Legislature of the State of Florida:  
67 |

68 | Section 1. Sections 25.051, 26.21, 26.22, 26.23, 26.24,  
69 | 26.25, 26.26, 26.27, 26.28, 26.29, 26.30, 26.31, 26.32, 26.33,  
70 | 26.34, 26.35, 26.36, 26.361, 26.362, 26.363, 26.364, 26.365,  
71 | 26.37, 26.38, 26.39, 26.40, 26.42, 35.10, 35.11, 907.05, and  
72 | 907.055, Florida Statutes, are repealed.

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

75 | 26.46 Jurisdiction of resident judge after assignment.—If  
76 | ~~When~~ a circuit judge is assigned to another circuit, none of the  
77 | circuit judges in that ~~such~~ other circuit shall, because of the  
78 | ~~such~~ assignment, be deprived of or affected in his or her  
79 | jurisdiction other than to the extent essential so as not to  
80 | conflict with the authority of the temporarily assigned circuit  
81 | judge as to the particular case or cases or class of cases, ~~or~~  
82 | ~~in presiding at the particular term or part of term named or~~  
83 | ~~specified in the assignment.~~

84 | Section 3. Section 27.04, Florida Statutes, is amended to

ENROLLED  
HB 7017

2013 Legislature

85 read:

86 27.04 Summoning and examining witnesses for state.—The  
87 state attorney shall have summoned all witnesses required on  
88 behalf of the state; and he or she is allowed the process of his  
89 or her court to summon witnesses from throughout the state to  
90 appear before the state attorney ~~in or out of term time~~ at such  
91 convenient places in the state attorney's judicial circuit and  
92 at such convenient times as may be designated in the summons, to  
93 testify before him or her as to any violation of the law upon  
94 which they may be interrogated, and he or she is empowered to  
95 administer oaths to all witnesses summoned to testify by the  
96 process of his or her court or who may voluntarily appear before  
97 the state attorney to testify as to any violation or violations  
98 of the law.

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

101 30.12 Power to appoint sheriff.—~~If Whenever~~ any sheriff in  
102 the state fails ~~shall fail~~ to attend, in person or by deputy,  
103 ~~any term of~~ the circuit court or county court of the county,  
104 from sickness, death, or other cause, the judge attending the  
105 ~~said~~ court may appoint an interim a sheriff, who shall assume  
106 all the responsibilities, perform all the duties, and receive  
107 the same compensation as if he or she had been duly appointed  
108 sheriff, for only the ~~said~~ term of nonattendance ~~court~~ and no  
109 longer.

110 Section 5. Paragraph (c) of subsection (1) of section  
111 30.15, Florida Statutes, is amended to read:

112 30.15 Powers, duties, and obligations.—

ENROLLED  
HB 7017

2013 Legislature

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

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

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

119 34.13 Method of prosecution.—

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

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

127 35.05 Headquarters.—

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

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

135 38.23 Contempt ~~Contempts~~ defined.—A refusal to obey any  
136 legal order, mandate or decree, made or given by any judge  
137 ~~either in term time or in vacation~~ relative to any of the  
138 business of the ~~said~~ court, after due notice thereof, is ~~shall~~  
139 ~~be considered~~ a contempt, punishable ~~and punished~~ accordingly.  
140 ~~But nothing said or written, or published, in vacation, to or of~~

ENROLLED  
HB 7017

2013 Legislature

141 | ~~any judge, or of any decision made by a judge, shall in any case~~  
142 | ~~be construed to be a contempt.~~

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

145 | 43.43 Terms of courts.—The Supreme Court may establish  
146 | terms of court for the Supreme Court, the district courts of  
147 | appeal, and the circuit courts; may authorize district courts of  
148 | appeal and circuit courts to establish their own terms of court;  
149 | or may dispense with terms of court.

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

152 | 43.44 Mandate of an appeals court.—An appellate court may,  
153 | as the circumstances and justice of the case may require,  
154 | reconsider, revise, reform, or modify its own opinions and  
155 | orders for the purpose of making the same accord with law and  
156 | justice. Accordingly, an appellate court may recall its own  
157 | mandate for the purpose of allowing it to exercise such  
158 | jurisdiction and power in a proper case. A mandate may not be  
159 | recalled more than 120 days after it has been issued.

160 | Section 11. Paragraph (b) of subsection (1) of section  
161 | 112.19, Florida Statutes, is amended to read:

162 | 112.19 Law enforcement, correctional, and correctional  
163 | probation officers; death benefits.—

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

165 | (b) "Law enforcement, correctional, or correctional  
166 | probation officer" means any officer as defined in s. 943.10(14)  
167 | or employee of the state or any political subdivision of the  
168 | state, including any law enforcement officer, correctional

ENROLLED  
HB 7017

2013 Legislature

169 officer, correctional probation officer, state attorney  
170 investigator, or public defender investigator, whose duties  
171 require such officer or employee to investigate, pursue,  
172 apprehend, arrest, transport, or maintain custody of persons who  
173 are charged with, suspected of committing, or convicted of a  
174 crime; and the term includes any member of a bomb disposal unit  
175 whose primary responsibility is the location, handling, and  
176 disposal of explosive devices. The term also includes any full-  
177 time officer or employee of the state or any political  
178 subdivision of the state, certified pursuant to chapter 943,  
179 whose duties require such officer to serve process or to attend  
180 a session ~~terms~~ of a circuit or county court as bailiff.

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

183 206.215 Costs and expenses of proceedings.—

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

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

192 450.121 Enforcement of Child Labor Law.—

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

ENROLLED  
HB 7017

2013 Legislature

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

199 831.10 Second conviction of uttering forged bills.—A  
200 person previously ~~Whoever, having been~~ convicted of violating  
201 ~~the offense mentioned in s. 831.09 who~~ is again convicted of  
202 that the like offense committed after the former conviction, and  
203 on ~~whoever is at the same term of the court convicted upon~~ three  
204 distinct charges of such offense committed within a 6-month  
205 period, shall be deemed a common utterer of counterfeit bills,  
206 and shall be punished as provided in s. 775.084.

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

209 831.17 Violation of s. 831.16; second or subsequent  
210 conviction.—A person previously ~~Whoever having been~~ convicted of  
211 violating ~~either of the offenses mentioned in s. 831.16 who~~, is  
212 again convicted of violating that statute ~~either of the same~~  
213 ~~offenses~~, committed after the former conviction on, and ~~whoever~~  
214 ~~is at the same term of the court convicted upon~~ three distinct  
215 charges of such offense committed within a 6-month period ~~said~~  
216 ~~offenses~~, commits a felony of the second degree, punishable as  
217 provided in s. 775.082, s. 775.083, or s. 775.084.

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

220 877.08 Coin-operated vending machines and parking meters;  
221 defined; prohibited acts, penalties.—

222 (4) Whoever violates ~~the provisions of~~ subsection (3) a  
223 second or subsequent time commits, and ~~is convicted of such~~  
224 ~~second separate offense, either at the same term or a subsequent~~



ENROLLED  
HB 7017

2013 Legislature

225 | ~~term of court, shall be guilty of a felony of the third degree,~~  
226 | ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

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

229 | 902.19 When prosecutor liable for costs.—

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

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

240 | 903.32 Defects in bond.—

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

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

252 | 905.01 Number and procurement of grand jury; replacement

ENROLLED  
HB 7017

2013 Legislature

253 of member; term of grand jury.-

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

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

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

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

273 905.09 Discharge and recall of grand jury.-A grand jury  
274 that has been dismissed may be recalled at any time during the  
275 ~~same~~ term of the grand jury ~~court~~.

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

278 905.095 Extension of grand jury term.-Upon petition of the  
279 state attorney or the foreperson of the grand jury acting on  
280 behalf of a majority of the grand jurors, the circuit court may

ENROLLED  
HB 7017

2013 Legislature

281 extend the term of a grand jury impaneled under this chapter  
 282 beyond the term ~~of court~~ in which it was originally impaneled. A  
 283 grand jury whose term has been extended as provided under this  
 284 section herein shall have the same composition and the same  
 285 powers and duties it had during its original term. ~~If In the~~  
 286 ~~event~~ the term of the grand jury is extended under this section,  
 287 it shall be extended for a time certain, not to exceed a total  
 288 of 90 days, and only for the purpose of concluding one or more  
 289 specified investigative matters initiated during its original  
 290 term.

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

293 914.03 Attendance of witnesses.—A witness summoned by a  
 294 grand jury ~~or in a criminal case~~ shall remain in attendance  
 295 until excused by the grand jury. A witness summoned in a  
 296 criminal case shall remain available for attendance until the  
 297 case for which he or she was summoned is disposed of or until he  
 298 or she is excused by the court. A witness who departs without  
 299 permission of the court shall be in criminal contempt of court.  
 300 ~~A witness shall attend each succeeding term of court until the~~  
 301 ~~case is terminated.~~

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

304 924.065 Denial of motion for new trial or arrest of  
 305 judgment; appeal bond; supersedeas.—

306 (2) An appeal may ~~shall~~ not be a supersedeas to the  
 307 execution of the judgment, sentence, or order until the  
 308 appellant has entered into a bond with at least two sureties to

ENROLLED  
HB 7017

2013 Legislature

309 | secure the payment of the judgment, fine, and any future costs  
310 | that may be adjudged by the appellate court. The bond shall be  
311 | conditioned on the appellant's personally answering and abiding  
312 | by the final order, sentence, or judgment of the appellate court  
313 | and, if the action is remanded, on the appellant's appearing  
314 | before ~~at the next term of~~ the court in which the case was  
315 | originally determined and not departing without leave of court.

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

318 |       932.47 Informations filed by prosecuting attorneys.-  
319 | Informations may be filed by the prosecuting attorney of the  
320 | circuit court with the clerk of the circuit court ~~in vacation or~~  
321 | ~~in term~~ without leave of the court first being obtained.

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