

The background of the entire page is a faded, light-colored photograph of the Florida State Capitol building in Tallahassee. The building is a large, white, neoclassical structure with a prominent central dome and a portico with columns. American flags are visible on the building's facade. The image is semi-transparent, allowing the text to be clearly legible.

TRIAL LAWYERS SECTION THE FLORIDA BAR

LEGISLATIVE REPORT SPECIAL SESSION

January 26, 2009

BOB L. HARRIS, Esq.
KRISTEN PLYLER, L.A.
MESSER, CAPARELLO & SELF, P.A.

www.lawfla.com



MESSER CAPARELLO & SELF, P.A.

Attorneys At Law

LEGISLATIVE REPORT

2009 SESSION

TRIAL LAWYERS SECTION, THE FLORIDA BAR

January 2009

CALENDAR OF EVENTS

February 2-6, 2009

SENATE & HOUSE

Interim Committee Meetings

February 9-13, 2009

SENATE & HOUSE

Interim Committee Meetings

February 16-20, 2009

SENATE & HOUSE

Interim Committee Meetings

March 3, 2009

Regular Session Convenes

March 3, 2009

12:00 noon

Deadline for filing bills for introduction

April 21, 2009

50th day

Last day for regularly scheduled committee meetings

April 27, 2009

- All bills immediately certified

- Conference Committee Reports require only one reading

- Motion to reconsider made and considered same day

May 1, 2009

60th day

Last day of Regular Session

Dear TLS FB Members,

The Florida Legislature met for **Special Session** from January 5th through January 14th. [Senate Bill 2-A](#), relating to Special Appropriations, includes reductions for FY 2008-2009 and provides \$1 billion in recurring sources to balance the \$2.3 billion deficit, including:

- \$922 million in recurring General Revenue reductions
- \$45 million redirected from trust funds
- \$21 million from the Florida Forever bonding freeze
- An additional \$200 million in recurring reductions will be generated from annualizations of the reductions in FY 2009-2010

The remainder of the current year deficit is resolved with the following non-recurring sources:

- \$487 million from various trust fund sweeps
- \$57 million in non-recurring budget reductions
- \$400 million from the Budget Stabilization Fund
- \$700 million from the Chiles Endowment

****To best view the links, you may need to right click and open weblink in browser****



CRIMINAL & CIVIL JUSTICE APPROPRIATIONS COMMITTEE

The Committee on Criminal & Civil Justice Appropriations reduced 206 vacant positions and \$15.2 million based on the reduced prison population as forecasted by the Criminal Justice Estimating Conference. The committee incorporated the reduction plan proposed by the state court system and reduced state attorney and public defender funding by an equivalent level.

Increased revenue going to the state court system, state attorneys, and public defenders through targeted fine and fee

increases and established dedicated trust funds in each entity to provide increased visibility and accountability for the new funds. A total of \$15.3 million was raised for the current fiscal year by the Conference Report on CS/SB 12-A and 60.9 million will be raised in FY 2009-2010. The majority of the new funding will be spent in the courts.

CS/SB 12-A – STATE JUDICIAL SYSTEM

If approved by the Governor, the following provisions take effect February 1, 2009, except as otherwise provided, or upon becoming law, whichever occurs later. This bill relating to the Judicial System:

- Increases by \$25 the fine for exceeding the speed limit by 15-19 miles per hour to 20-29 miles per hour and directs that the revenue from the increase be deposited into the new State Courts Revenue Trust Fund.
- Creates a \$10 assessment to be paid, in addition to any other penalties, for noncriminal moving and nonmoving traffic violations.
- Directs \$5 of the \$10 assessment to the State Courts Revenue Trust Fund, \$3.33 to the new State Attorneys Revenue Trust Fund, and \$1.67 to the new Public Defenders Revenue Trust Fund.
- Eliminates and 18% discount in certain traffic-infracton penalties which drivers may receive for attending a basic driver improvement course and directs that the revenue be deposited into the State Courts Revenue Trust Fund.
- Specifies that certain criminal fines may be imposed in cases in which the offender enters a plea of guilty or a plea of nolo contendere, regardless of whether adjudication of guilt is withheld.
- Provides that the criminal fines imposed when adjudication is withheld shall be deposited in the State Courts Revenue Trust Fund.
- Makes it discretionary rather than mandatory for a court to impose probation in a nonfelony matter in which it determines the recurrence of the criminal behavior is unlikely.
- Specifies that a court may impose a criminal fine in a nonfelony matter when it does not impose probation.
- Specifies that the new revenue generated under the bill is not considered as revenue for purposes of determining the budgets of the clerks of court.



CS/SB 14-A – STATE COURTS INDEPENDENT TRUST FUND

This bill relating to the State Courts Revenue Trust Fund:

- Creates the State Courts Revenue Trust Fund;
- Sets forth that the purpose of the fund is to support the activities

of the state court system.

CS/SB 16-A – STATE ATTORNEYS INDEPENDENT TRUST FUND

This bill relating to the State Attorneys Revenue Trust Fund:

- Creates the State Attorneys Revenue Trust Fund;
- Sets forth that the purpose of the fund is to support the activities of the state attorneys.

SC/SB 18-A – PUBLIC DEFENDERS INDEPENDENT TRUST FUND/JAC

This bill relating to the Public Defenders Revenue Trust Fund:

- Creates the State Courts Revenue Trust Fund;
- Sets forth that the purpose of the fund is to support the activities of the public defenders.

2009 SESSION FILED BILLS

Seven hundred eighty eight have been filed by the Senate and House for the 2009 Legislative Session. The Legislature has until noon on March 3, 2009 to file bills for introduction for 2009 Session. "HB" denotes a bill filed in the House and is always assigned an odd number. "SB" indicates a Senate bill and has an even number. Click on the bill number to view the complete bill summary and actions taken.

Num.	Title	Sponsor
<u>HB 0113</u>	Relating to Service of Process Service of Process: Increases service fees in civil cases; exempts state agencies; deletes prohibition on additional fees for certain documents; provides that criminal witness subpoenas & summonses may be served by special process server or certified server; provides that unsatisfied executions docketed before specified date may be returned to issuing court; requires submission of affidavit before levying on real property; requires sheriff to furnish to judgment debtor copy of notice of sale, notice of levy & affidavit within specified period before execution; requires basing priority of liens on real property on effective date of lien for specified purpose; requires levying creditor to deliver affidavit setting forth certain information & attestations to sheriff at time of levy; in domestic violence or sexual abuse cases, authorizes transmission of facsimile copies of certified injunctions to sheriffs upon request, requires verification of receipt of facsimile before service, & authorizes service of facsimiles the same as certified copies. Effective Date: July 1, 2009	Frishe
<u>HB 0121</u>	Relating to Collection of Court-Related Fees, Service Charges, Costs, and Fines by Circuit Courts and County Courts Collection of Court-Related Fees, Service Charges, Costs, and Fines by Circuit Courts and County Courts: Requires certain persons who owe court-related fees, service charges, costs, & fines to appear before court; requires each circuit court to implement Comprehensive Court Enforcement Program; requires clerk to record certified copy of order imposing additional costs; provides that order constitutes lien against person upon whom costs are imposed; provides exception; requires joint select committee to review methods of collecting court-related fees, costs, & fines & submit recommendations for uniform statewide collection method. Effective Date: July 1, 2009	Soto

HB 0185

Relating to Access to Health Care

Hudson

Access to Health Care: Establishes Florida Dental Health Access Task Force for specified purposes; specifies task force membership; provides for appointments, meetings, & filling vacancies; requires task force to develop recommendations & report to Legislature; provides for termination; expands membership of board of directors of Florida Healthy Kids Corporation; specifies provider arrangement contract prohibitions or restrictions; prohibits prepaid limited health service organizations from requiring specified contract continuation or renewal conditions; provides for absence of liability for specified criminal penalties; provides for application to health maintenance organizations of prohibition against requiring specified contract continuation or renewal conditions; revises time requirements for health care practitioner's waiver of license renewal fees & continuing education requirements. Effective Date: July 1, 2009

HB 0205

Relating to Mortgage Foreclosure Diversion Pilot Programs

Kreegel

Mortgage Foreclosure Diversion Pilot Programs: Authorizes each judicial circuit to establish mortgage foreclosure diversion pilot program; provides for applicable rules of practice & procedure; requires that when such program exists, conciliation conference must be held before foreclosure order may issue in proceeding concerning owner-occupied residential property; prescribes time period for such conference; specifies items included in order for such conference; provides for person to preside; specifies issues that must be addressed; specifies consequences if defendant fails to attend; provides for termination of pilot programs; provides intent concerning construction of provisions with regard to constitutional prerogatives of judiciary. Effective Date: upon becoming a law

HB 0215

Relating to Contingency Fee Agreements Between the Department of Legal Affairs and Private Attorneys

Eisnaugle

Contingency Fee Agreements Between the Department of Legal Affairs and Private Attorneys: Prohibits DLA from entering into contingency fee contract with private attorney unless AGO makes written determination prior to entering into such contract that contingency fee representation is both cost-effective & in public interest; requires written determination to include certain findings; requires AGO, upon making his or her written determination, to request proposals from private attorneys to represent DLA on contingency fee basis unless AGO determines in writing that requesting such proposals is not feasible under the circumstances; provides that written determination does not constitute final agency action; provides that request for proposals & contract award are not subject to challenge under APA; requires maintenance of specified records; limits amount of contingency fee that may be paid to private attorney pursuant to contract with DLA; requires Internet posting of specified information. Effective Date: July 1, 2009

HB 0217

Relating to Court Costs

Eisnaugle

Court Costs: Expands list of provisions of law for which court is required to impose additional court cost for specified pleadings or findings relating to offenses against minor. Effective Date: July 1, 2009

SB 0248

Relating to Court Costs/Joint Select Committee of Legislature

Ring

Court Costs/Joint Select Committee of Legislature [SPSC]; Requires certain persons who owe court-related fees, service charges, costs, and fines to appear before the court. Requires each circuit court to implement the Comprehensive Court Enforcement Program. Requires the clerk of the court to record in the official record a certified copy of any court order imposing additional court costs, etc. EFFECTIVE DATE:

07/01/2009.

HB 0363 **Relating to Parental Authority** Horner
Parental Authority: Authorizes natural guardians to waive & release, in advance, any claim or cause of action that would accrue to any of their minor children to same extent that any adult may do so on his or her own behalf. Effective Date: July 1, 2009

HB 0369 **Relating to Senior Judges** Ambler
Senior Judges: Provides for chief judge of judicial circuit, subject to approval by Chief Justice, to establish program for retired justices or judges to preside over civil cases & trials upon written request of one or more parties; provides for compensation; provides for additional court cost. Effective Date: upon becoming a law.

HB 0383 **Relating to Discovery Depositions** Thompson (N)
Discovery Depositions: Provides that discovery deposition may not be taken in case in which defendant is charged only with felony of third degree, misdemeanor, or criminal traffic offense when all other discovery provided by law has been completed; provides exception for good cause; requires trial court to consider certain factors before allowing deposition; provides that prohibition against taking discovery deposition does not apply under specified circumstance; repeals Rule 3.220(h)(1)(D), Florida Rules of Criminal Procedure, relating to discovery depositions for misdemeanors. Effective Date: October 1, 2009, except that section 2 of this act shall take effect only if this act is enacted by a two-thirds vote of the membership of each house of the Legislature

HB 0395 **Relating to Collaborative Process** Tobia
Collaborative Process: Provides that a collaborative process in which parties attempt to resolve a matter pursuant to a collaborative participation agreement without court intervention begins with a collaborative participation agreement among the parties; provides that a collaborative participation agreement tolls statute of limitations while it remains in effect; provides that collaborative communications are confidential; provides exceptions; provides that information otherwise admissible or subject to discovery does not become inadmissible or protected by reason of its disclosure or use in a collaborative process; provides that a party that discloses or makes a representation about a privileged collaborative communication waives privilege but only to the extent necessary for the other party to respond; provides for sanctions for breaches of confidentiality; provides immunity from sanctions for certain actions. Effective Date: July 1, 2009

SB 0412 **Relating to Service of Process** Crist
Service of Process [SPSC]; Increases fees charged by the sheriff in civil cases for service of process. Exempts the State of Florida and its agencies from increased fees. Provides that criminal witness subpoenas and criminal summonses may be served by a special process server appointed by the local sheriff or by a certified process server. Requires the submission of an affidavit before levying a judgment upon real property, etc. EFFECTIVE DATE: 07/01/2009.

HB 0495 **Relating to Negligence** Murzin
Negligence: Provides that if person slips & falls on transitory foreign substance in business establishment, injured person must prove that business establishment had actual or constructive knowledge of condition & should have taken action to remedy it; provides that constructive knowledge may be proven by circumstantial evidence; repeals provisions relating to duty to maintain premises & burden of proof in claims of negligence involving transitory foreign objects or substances. Effective Date: July 1, 2009

<u>SB 0510</u>	Relating to Injunctions for Protection/Violence	Hill
<p>Injunctions for Protection/Violence [SPSC]; Requires the sheriff or other law enforcement officer who serves injunctions for protection against domestic violence, repeat violence, sexual violence, or dating violence upon a respondent to notify the petitioner within a specified period that the respondent has been served if the petitioner has requested notification and has registered a telephone number or e-mail address with the sheriff. Provides for the content of the notice. EFFECTIVE DATE: 07/01/2009.</p>		
<u>HB 0511</u>	Relating to Professional Liability Claims	O'Toole
<p>Professional Liability Claims: Revises requirements for professional liability claims & actions; requires absence of claims submission reports to be filed under specified circumstances. Effective Date: July 1, 2009</p>		
<u>HB 0525</u>	Relating to Senior Judges	Planas
<p>Senior Judges: Revises definition of terms "retired justice" & "retired judge" for purposes of assignment to temporary duty. Effective Date: July 1, 2009</p>		
<u>SB 0526</u>	Relating to Court Costs/Crimes Against Minors	Lynn
<p>Court Costs/Crimes Against Minors [SPSC] ; Requires a court to impose court costs against an offender for committing certain additional enumerated crimes against minors. Reenacts a specified provision, relating to the funding of the Florida Network of Child Advocacy Centers, to incorporate the amendment made to the provision in a reference thereto. EFFECTIVE DATE: 07/01/2009.</p>		
<u>HB 0601</u>	Relating to Self-Critical Analysis	Crisafulli
<p>Self-Critical Analysis: Defines "self-critical analysis"; provides that reports & other items created principally for purpose of self-critical analysis & promotion of safety are confidential & may not be discovered or admitted into evidence if they meet specified criteria; provides that privilege may be waived; provides that specified actions do not constitute waiver of privilege; provides that this privilege does not prevent plaintiff from proving culpable conduct by other independent evidence or sources, even if they are mentioned or included in self-critical analysis. Effective Date: July 1, 2009</p>		
<u>SB 0704</u>	Relating to Foreclosure/Termination of a Rental Agreement	Lynn
<p>Foreclosure/Termination of a Rental Agreement [SPSC]; Prohibits a landlord from terminating the rental agreement without a specified period of prior notice. Requires a landlord to notify each tenant that foreclosure proceedings have been initiated against the premises of which his or her dwelling unit is a part. Requires the tenant to pay rent so long as the tenant remains in the dwelling unit, etc. EFFECTIVE DATE: 07/01/2009.</p>		
<u>SB 0882</u>	Relating to Government Contractors/Contractual Relationships	Fasano
<p>Government Contractors/Contractual Relationships; Provides that certain charitable organizations that execute a contract with a health care provider are agents for purposes of sovereign immunity and may not be named as a defendant in an action arising out of medical care or treatment. Requires that certain charitable organizations provide written notice to patients that the provider is an agent of the governmental contractor. Revises requirements for rules adopted by the DOH, etc. EFFECTIVE DATE: 07/01/2009.</p>		

SB 0886

Relating to Parental Authority

Oelrich

Parental Authority; Authorizes natural guardians to waive and release, in advance, any claim or cause of action that would accrue to any of their minor children to the same extent that any adult may do so on his or her own behalf. EFFECTIVE DATE: 07/01/2009.

SB 7028

Relating to Small Claims Process

Judiciary Committee

Small Claims Process; Increases certain fees for filing a civil action in county court. Eliminates the filing fee for reopening a small claims suit, action, or proceeding. Encourages the Florida Supreme Court to study the feasibility of increasing the current limit on the amount in controversy in a small claims action, etc. EFFECTIVE DATE: 07/01/2009.

CLOSING STATEMENT: Governor Crist has until January 29, 2009 to veto any budget items and has indicated that he's leaning towards "definite decisions" on vetoing some education and public safety cuts. It is expected he will announce his decisions the first of this week.

Bob Harris, Esq.

(850) 222-0720 work
(850) 558-0662 e-fax
(850) 566-0408 cell
bharris@lawfla.com

Kristen Plyler, L.A.

(850) 222-0720 work
(850) 558-0662 e-fax
(850) 443-4551 cell
legislativeassist@lawfla.com



MESSER CAPARELLO & SELF, P.A.

Attorneys At Law

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