

ADVISORY BULLETIN

Florida Association of Court Clerks/Comptrollers

Ref: 2009 Bills Effective October 1, 2009

DATE: May 20, 2009

NO: 09-013

FILE NO. F02-008-090520-01 TELEPHONE: (850) 921-0808

CONTACT: B. Allman PAGE 1 OF 4

This is a list of bills that are effective on October 1, 2009. These bills have passed the Legislature, but most have not yet been signed by the Governor. As such, they are not yet law. Please make sure to read the text of the entire bill as to the full impact to your operations.

HB 29 Unlawful Use of Utility Services

Summary:

This bill amends s. 812.14, F.S., to add a third degree felony offense if a person owns, leases, or subleases a property and permits a tenant or occupant to use utility services knowing that these have been connected in violation of the current provisions of this section. The bill also provides that theft of utility services for the purpose of facilitating the manufacture of a controlled substance is a third degree felony.

Clerk Point:

This bill creates new offenses.

HB 123 Human Smuggling

Summary:

This bill creates section 787.07, F.S., which makes it illegal for a person to transport into the state an individual who the person knows is illegally entering the United States.

The section also provides that a person commits a separate offense for each person he or she transports in violation of the section.

Clerk Point:

This bill creates a new offense.

HB 481 Highway Safety

Summary:

This bill amends s. 318.18, F.S., and creates an additional \$65 fine for failure to stop for a school bus and an additional \$65 fine for reckless driving and/or racing on highways.

Along with s. 318.21, F.S., disposition of civil penalties by county courts, s. 318.18, F.S., is further amended to require that the additional \$65 fine be remitted to the Department of Revenue for deposit into the Administrative Trust Fund of the Department of Health.

This bill amends s. 322.0261(3), F.S., to include s. 316.172, F.S. (traffic to stop for school bus), s. 316.191, F.S. (racing on highways), and s. 316.192, F.S. (reckless driving), to the list of those offenses for which a convicted driver must attend a department-approved driver improvement course in order to maintain driving privileges. This bill also removes the stipulation regarding the second or subsequent violation.

This bill amends s. 322.0261(3), F.S., to include s. 316.172, F.S. (traffic to stop for school bus), s. 316.191, F.S. (racing on highways), and s. 316.192, F.S. (reckless driving), to the list of those offenses for which a convicted driver must attend a department-approved driver improvement course in order to maintain driving privileges. This bill also removes the stipulation regarding the second or subsequent violation.

Clerk Point:

This bill creates an additional \$65 fine to be assessed against certain motor vehicle violations and revises its distribution. This bill also includes three new offenses for which a driver must attend driver improvement school.

HB 611 Public Construction Projects

Summary:

This bill amends s. 255.20, F.S., by revising various statutory requirements concerning competitively bidding public construction projects. Specifically, this bill revises the threshold amounts for competitive bidding by increasing the requirement for construction projects to \$300,000 and to \$75,000 for electrical work. This bill also defines the terms “repair” and “maintenance”; requires public notice, with a detailed cost estimate of the project, prior to the performance of certain projects; and provides for exemptions for those local governments that operate a public-use airport, certain ports, and a public or mass transit system.

Clerk Point:

This bill provides general information.

HB 1423 Fish and Wildlife Conservation Commission

Summary:

The bill amends numerous statutes relating to various programs under the Florida Fish and Wildlife Conservation Commission’s authority.

Of particular interest to the Clerks, this bill amends s. 253.04, F.S., and creates a noncriminal infraction for damaging seagrasses, punishable under s. 327.73, F.S., as a uniform boating citation. This bill further amends s. 327.73, F.S., by creating a \$50 fine for a first offense; a \$250 fine for a second offense within 12 months; a \$500 fine for a third offense occurring within 36 months; and a \$1,000 fine for a fourth or subsequent offense occurring within 72 months after a prior conviction.

This bill creates s. 327.66, F.S., which establishes requirements for the carriage of gasoline on vessels. This section establishes a second degree misdemeanor for violators, punishable under s. 775.082, F.S. (penalties), and s. 775.083, F.S. (fines).

This bill amends s. 327.70, F.S., to include s. 327.33(3)(b), F.S. (navigation rules), s. 327.44, F.S. (interference with navigation), s. 327.50(2), F.S. (required lights and shapes), s. 327.53, F.S. (marine sanitation), s. 328.48(5), F.S. (display of decal), and s. 328.52(2), F.S. (display of number), to the list of noncriminal violations that may be enforced by a uniform boating citation.

This bill also amends s. 379.3761, F.S. (exhibition or sale of wildlife), and s. 379.3762, F.S. (personal possession of wildlife), to stipulate that a person violating these sections is punishable under s. 379.4015, captive wildlife penalties.

This bill creates s. 379.501, F.S., which relates to aquatic weeds and plants. It also creates a third degree felony for anyone who violates paragraph (1)(a) of this section; a second degree misdemeanor for anyone who violates paragraph (1)(a) due to reckless indifference; and a first degree misdemeanor for anyone who violates paragraph (1)(b) or (1)(c).

Clerk Point:

This bill creates new offenses, penalties, and fines.

HB 7015 OGSR/Campaign Finance Reports

Summary:

Florida law requires candidates, political committees supporting or opposing certain candidates or statewide ballot issues, committees of continuous existence, and certain individuals to file periodic reports of their financial activities with the Division of Elections. As of 2005, the reports must be filed electronically. Current law provides that user identifications and passwords held by the Department of State are confidential and exempt from public records requirements. In addition, all records, reports, and files stored in the electronic filing system are exempt until the report is submitted as a filed report.

This bill amends s. 106.0706, F.S., to reenact the public record exemptions

Clerk Point:

This bill provides general information relating to elected public officials.

HB 7025 OGSR/Archival Materials

Summary:

Current law provides a public record exemption for archival material held by a local government. A manuscript or other archival material donated to and held by an official archive of a city or county contingent upon special terms and conditions that limit the right to inspect or copy such manuscript or other material is confidential and exempt from public records requirements. Such manuscript or archival material is available for public inspection 50 years after the date of its creation, at an earlier date specified in the special terms or conditions, or upon a showing of good cause before a court of competent jurisdiction.

This bill amends s. 257.35, F.S., and s. 257.38, F.S., to reenact the public record exemption for local government archival material. The bill also creates a definition for “nonpublic manuscript or other archival material”.

Clerk Point:

This bill provides general information to the Clerk as the custodian of official records.

HB 7027 OGSR/Motor Vehicle Records

Summary:

In order to alleviate any future conflicts between State exemption and the Driver’s Privacy Protection Act (DPPA), this bill amends s. 119.0712, F.S., to remove codification of the federal law and make it clear that personal information, including highly restricted personal information, contained in a motor vehicle record is confidential pursuant to the DPPA by cross-referencing the federal law and its protections. Further, this bill provides that the information may be released only as authorized by the federal act. Finally, the bill maintains the public record exemption for emergency contact information.

Clerk Point:

This bill provides general information to the Clerk as the custodian of official records.

HB 7051 OGSR/Social Security Numbers

Summary:

This bill amends s. 119.071, F.S., to make the SSNs of current and former agency employees confidential and exempt from public records requirements, raising the standard from merely exempt. Under current law, current or former agency employees may file a written notice with a non-employing agency to notify them that the employee's SSN is exempt from public records requirements; this bill removes that process.

This bill further amends the general exemption for SSNs to modify agency notice requirements and to modify the exceptions to the exemption. It also amends the definition of "commercial activity" by including permissible uses established under federal law and to clarify that a commercial activity is for the verification of the accuracy of personal information received by a commercial entity.

This bill also reenacts s. 119.0714, F.S., which deals with court files, court records, and official records.

Clerk Point:

This bill provides general information to the Clerks as the custodian of official records.

SB 258 Name Change/Petition/Criminal History Check

Summary:

This bill amends s. 68.07, F.S., to require that, prior to a court hearing on a request for a change of name, a petitioner must first submit fingerprints for a state and national criminal history records check. This check is not required for petitions to restore a former name or for changes of name in proceedings for dissolution of marriage or adoption of children.

Clerk Point:

This bill requires the Clerk to provide to the petitioner instructions and information on the fingerprinting process. Immediately upon the Clerk's receipt of the fingerprint results, a hearing on the petition for change of name may be held. The results of the criminal history records check, if applicable, must be included in the report on final judgment that is sent to the Department of Law Enforcement.

SB 2064 Construction Defects

Summary:

This bill amends s. 558.008, F.S. (definitions), s. 558.003, F.S. (action, compliance), s. 558.004, F.S. (notice and opportunity to repair), and s. 558.005, F.S. (contract provisions, application). It provides for uniform use of terms, defines new terms, and provides clarification for when the provisions of the construction defects law apply to construction defect cases.

The bill further revises procedures for notice and opportunity to repair certain defects and specifies that there are no construction lien rights for destructive testing under certain circumstances.

Clerk Point:

This bill provides general information.
