

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Dugger</u>	<u>Liepshutz</u>	1. <u>JCR</u>	<u>Fav/CS</u>
2. <u>Wiehle (w)</u>	<u>Smawley</u>	2. <u>JCI</u>	<u>Favorable</u>
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Civil Actions-RICO

BILL NO. AND SPONSOR:

CS/SB 1322 by
Committee on JCR and
Senator Johnson

I. SUMMARY:

A. Present Situation:

When a defendant is convicted in a criminal RICO proceeding, he is precluded by s. 895.05, F.S., from litigating in the subsequent civil RICO proceeding those issues related to the criminal offenses for which he was convicted. In other words, in the subsequent civil RICO action, the state is not required to prove the occurrence of the criminal offenses giving rise to the conviction in the criminal RICO action.

B. Effect of Proposed Changes:

The CS would expand the rule of estoppel contained in s. 895.05, F.S., such that a defendant convicted in any criminal proceeding under state law, not just in a criminal proceeding under the RICO statute, would be precluded from litigating in the subsequent civil RICO proceeding those issues giving rise to the criminal conviction. The state would still be required to prove the other elements of a RICO violation, such as enterprise and pattern of racketeering activity, by a preponderance of the evidence.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

None.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.

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BILL VOTE SHEET

(VS-88: File with Secretary of Senate)

BILL NO. SB 1322

COMMITTEE ON: Judiciary-Civil

DATE: May 22, 1990

ACTION:

Favorably with _____ amendments

TIME: 8:00 a

Favorably with Committee Substitute

PLACE: Rm. 1 Capitol

Unfavorably

OTHER COMMITTEE REFERENCES:
(in order shown)

Submitted as a Committee Bill

Calendar

Temporarily Passed

Reconsidered

Not Considered

No Quorum

THE VOTE WAS:

FINAL BILL VOTE		SENATORS										
Aye	Nay		Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay
X		Casas										
X		Davis										
X		Dudley										
X		Girardeau										
X		Grant										
X		Johnson										
		Margolis										
X		Plummer										
X		Stuart										
X		VICE-CHAIRMAN Langley										
X		CHAIRMAN Weinstein										
10*	0	TOTAL										
Aye	Nay		Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay

* Present at the table without objection

Please Complete: The Key sponsor appeared (X)
 A Senator appeared (X)
 Sponsor's aide appeared ()
 Other appearance ()

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Dugger <i>D.W.</i>	Liepshutz <i>MM</i>	1. JCR	FAV/CS
2. _____	_____	2. JCI	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Civil Actions-RICO

BILL NO. AND SPONSOR:

CS/SB 1322 by
Committee on JCR and
Senator Johnson

I. SUMMARY:

A. Present Situation:

When a defendant is convicted in a criminal RICO proceeding, he is precluded by s. 895.05, F.S., from litigating in the subsequent civil RICO proceeding, those issues related to the criminal offenses for which he was convicted. In other words, in the subsequent civil RICO action, the state is not required to prove the occurrence of the criminal offenses giving rise to the conviction in the criminal RICO action.

B. Effect of Proposed Changes:

The CS would expand the rule of estoppel contained in s. 895.05, F.S., such that a defendant convicted in any criminal proceeding under state law, not just in a criminal proceeding under the RICO statute, would be precluded from litigating in the subsequent civil RICO proceeding, those issues giving rise to the criminal conviction. The state would still be required to prove the other elements of a RICO violation, such as enterprise and pattern of racketeering activity, by a preponderance of the evidence.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

None.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.

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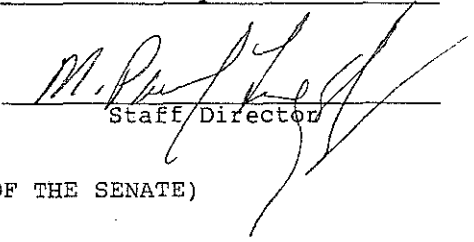
Tallahassee, FL 32399-0250

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1322

Expands the rule of estoppel contained in s. 895.05, F.S., such that a defendant convicted in any criminal proceeding under state law, not just in a criminal RICO proceeding, would be precluded from litigating in the subsequent civil RICO proceeding, those issues giving rise to the criminal conviction.

Committee on Judiciary-Criminal


Staff Director

(FILE TWO COPIES WITH THE SECRETARY OF THE SENATE)

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Lang <u>[Signature]</u>	Smawley <u>[Signature]</u>	1. JCI _____	_____
2. _____	_____	2. _____	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

County Courts/Amount in Controversy

BILL NO. AND SPONSOR:

SB 1482 by Senator Weinstein

I. SUMMARY:

A. Present Situation:

The Florida Constitution provides that the county courts are to exercise jurisdiction as prescribed by general law. s. 6, Art. V, Fla. Const. Currently county courts have original jurisdiction of actions at law in which the matter in controversy is \$5,000 or less exclusive of interest, costs, and attorney's fees, except those within the exclusive jurisdiction of the circuit courts. s. 34.01, F.S. All equitable defenses in a case before a county court may be tried in the same proceeding. Id.

County courts have exclusive jurisdiction of landlord and tenant eviction actions unless jurisdiction is otherwise in the circuit court. Jurisdiction would be in the circuit court, for example, where the tenant counterclaims for damages greater than \$5,000. s. 34.011, F.S.

The circuit courts have exclusive original jurisdiction in all cases in equity including injunctions. s. 26.012, F.S. The circuit courts also have exclusive original jurisdiction in a number of other areas including all actions at law exceeding \$5,000; probate and estate matters, guardianship and incompetency; juvenile matters except traffic offenses; the legality of a tax assessment; actions of ejectment; and all actions involving title or boundaries to real property. Id.

B. Effect of Proposed Changes:

The bill would raise the jurisdictional amount in county court to \$15,000 or less. Thus, on or after January 1, 1991 the county courts would have original jurisdiction of all actions at law in which the matter in controversy does not exceed \$15,000 exclusive of interest, costs, and attorney's fees, except those within the exclusive jurisdiction of the circuit court. A county court could hear equitable defenses in a case properly before it.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

The bill may reduce the backlog in circuit courts, so that parties may get before a court sooner.

B. Government:

The bill will likely increase the number of civil cases filed in county court. Filing fees in county court are somewhat lower than in circuit court, thus overall fee collections may be reduced. The extent of this fiscal impact is indeterminable at this time.

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The bill would require reorganization of the daily operation of the circuit and county courts. Judge time would be reallocated and staffing of the clerks of court will be affected by the shifting of cases to the county courts. This may entail some cost.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

	<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>* ACTION</u>
1.	Lang <i>ML</i>	Smawley <i>ES</i>	1. JCI	Fav/CS
2.	_____	_____	2. _____	_____
3.	_____	_____	3. _____	_____
4.	_____	_____	4. _____	_____

SUBJECT: COUNTY COURTS/Amount in Controversy

BILL NO. AND SPONSOR: CS/SB 1482 by Judiciary Civil and Senator Weinstein

I. SUMMARY:

A. Present Situation:

The Florida Constitution provides that the county courts are to exercise jurisdiction as prescribed by general law. s. 6, Art. V, Fla. Const. Currently county courts have original jurisdiction of actions at law in which the matter in controversy is \$5,000 or less exclusive of interest, costs, and attorney's fees, except those within the exclusive jurisdiction of the circuit courts. s. 34.01, F.S. All equitable defenses in a case before a county court may be tried in the same proceeding. Id.

County courts have exclusive jurisdiction of landlord and tenant eviction actions unless jurisdiction is otherwise in the circuit court. Jurisdiction would be in the circuit court, for example, where the tenant counterclaims for damages greater than \$5,000. s. 34.011, F.S.

The circuit courts have exclusive original jurisdiction in all cases in equity including injunctions. s. 26.012, F.S. The circuit courts also have exclusive original jurisdiction in a number of other areas including all actions at law exceeding \$5,000; probate and estate matters, guardianship and incompetency; juvenile matters except traffic offenses; the legality of a tax assessment; actions of ejection; and all actions involving title or boundaries to real property. Id.

Section 28.241, F.S., provides for filing charges in trial and appellate proceedings. Some of the charges apply to cases filed in circuit court only, and some apply to cases filed in circuit or county court. Thus, filing fees are somewhat lower in county court.

B. Effect of Proposed Changes:

The bill would raise the jurisdictional amount in county court to \$15,000 or less. Thus, with respect to causes of action accruing on or after January 1, 1991 the county courts would have original jurisdiction of all actions at law in which the matter in controversy does not exceed \$15,000 exclusive of interest, costs, and attorney's fees, except those within the exclusive jurisdiction of the circuit court. A county court could hear equitable defenses in a case properly before it.

The bill would provide that for cases filed in county court under the new jurisdictional amount, the same filing fees and services charges as provided in s. 28.241, F.S., would apply when the amount in controversy is in excess of \$5,000.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

The bill may reduce the backlog in circuit courts, so that parties may get before a court sooner.

B. Government:

The bill will likely increase the number of civil cases filed in county court. Filing fees in county court are somewhat lower than in circuit court, thus overall fee collections may be reduced. The bill would attempt to offset this reduction by making applicable to cases filed in county court under the new jurisdictional amount, the same filing fees and service charges as provided in s. 28.241, F.S., when the amount in controversy is in excess of \$5,000. This continues the current system of filing fees and service charges.

The bill would require reorganization of the daily operation of the circuit and county courts. Judge time would be reallocated and staffing of the clerks of court will be affected by the shifting of cases to the county courts. This may entail some cost.

III. COMMENTS:

None.

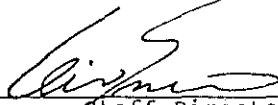
IV. AMENDMENTS:

None.

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1482

The committee substitute adds a provision which makes applicable to cases filed in county court under the new jurisdictional amount, the same filing fees and service charges as currently provided in s. 28.241, F.S., when the amount in controversy is in excess of \$5,000. This continues the current system of filing fees and service charges.

Committee on Judiciary-Civil


Staff Director

(FILE TWO COPIES WITH THE SECRETARY OF THE SENATE)

BILL VOTE SHEET

(VS-88: File with Secretary of Senate)

BILL NO. SB 1482

COMMITTEE ON: Judiciary-Civil

DATE: April 25, 1990

ACTION:

TIME: 1:00 P

Favorably with _____ amendments

PLACE: Room 1C, Capitol Building

Favorably with Committee Substitute

OTHER COMMITTEE REFERENCES:
(in order shown)

Unfavorably

Calendar

Submitted as a Committee Bill

Temporarily Passed

Reconsidered

Not Considered

No Quorum

THE VOTE WAS:

FINAL BILL VOTE		SENATORS	04/25/90 0a Amd. by Senator Weinstein		04/25/90 0b Title by Senator Weinstein		04/25/90 Motion to have staff prepare tech. ams		04/25/90 Motion to report as CS by Sen. Dudley			
Aye	Nay		Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay
X		Casas										
X		Davis										
X		Dudley										
		Girardeau										
X		Grant										
X		Johnson										
		Margolis										
X		Plummer										
X		Stuart										
		MAJORITY LEADER Gordon										
X		VICE-CHAIRMAN Langley										
X		CHAIRMAN Weinstein										
9	* 0	TOTAL	FWO	-	FWO	-	FWO	-	FWO	-		
Aye	Nay		Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay

* Present at the table without objection

Please Complete: The Key sponsor appeared (X)
 A Senator appeared (X)
 Sponsor's aide appeared ()
 Other appearance (X)

STORAGE NAME: h1061s1.jud
DATE: April 7, 1990

AS REPORTED TO CLERK

HOUSE OF REPRESENTATIVES
COMMITTEE ON JUDICIARY
STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/HB 1061

RELATING TO: County Court/Civil Actions

SPONSOR(S): Judiciary and Representative Cosgrove

EFFECTIVE DATE: July 1, 1990 or upon becoming a law, whichever occurs later

COMPANION BILL(S): Compare H 741, S 810

OTHER COMMITTEES OF REFERENCE: (1) Appropriations
(2)

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I. SUMMARY:

A. PRESENT SITUATION:

Florida currently operates under a two-tier trial court system established in 1972 with the adoption of Article V to the Florida Constitution which provides for county and circuit courts, (S.J.R. 52-D, 1971; adopted 1972). Article V, Section 6, of the Florida Constitution provides that county courts shall exercise jurisdiction as prescribed by general law which shall be uniform throughout the state. By statute, county courts have original jurisdiction over misdemeanor cases, violations of municipal and county ordinances and civil causes of action where the amount in controversy does not exceed \$5,000, (s. 34.01(1), F.S.). This amount was last increased from \$2,500 in 1980, (ch. 80-165, Laws of Florida). In addition, s. 34.01(2) provides that, except for the jurisdiction vested in the circuit court by s. 26.012, F.S., county courts may exercise all jurisdiction previously exercised by county courts and various lower courts that existed prior to the adoption of the current Article V of the Florida Constitution, (for example: small claims, justice of the peace, and municipal courts.).

Generally, circuit courts have original jurisdiction not vested in the county courts, appeals as provided by general law, and the power to issue writs, (Art. V, s. 5, Fla. Const.).

B. EFFECT OF PROPOSED CHANGES:

Committee Substitute for House Bill 1061 would increase the monetary jurisdiction of the county court by \$5,000 every other year starting on July 1, 1990 until it reached \$15,000 on July 1, 1992. In addition, the bill would authorize county judges to hear matters in equity except in divorce cases where the county courts would be limited to hearing simplified divorces under Rule 1.540, Florida Rules of Civil Procedure and they could issue

final orders if a divorce was uncontested. Filing fees for cases filed above \$5,000 would be same as if the case had been filed in circuit court pursuant to s. 28.241, F.S. The bill specifies that filing fees collected by the clerk would be considered fee income (except as otherwise provided, e.g. the court library and legal aid funds).

C. SECTION-BY-SECTION ANALYSIS:

Section 1 amends s. 34.01(1), F.S., to increase the monetary jurisdiction of the county court to: \$10,000 beginning July 1, 1990; and, \$15,000 beginning July 1, 1992.

Subsection (2), of s. 34.01, F.S., is amended to authorize county court judges to hear simplified divorce cases pursuant to Rule 1.611(c), Fla. R. Civ. P., and may issue final orders in uncontested divorce cases. Although, petitions for dissolution of marriage would still be filed in the circuit court, this change would allow the chief judge of the circuit to assign simplified or uncontested divorce cases to a county judge without the need to issue an order.

Subsection (4) of s. 34.01, F.S., is amended to empower county judges to hear all matters in equity involved in any case that is within the county court jurisdictional amount, unless otherwise restricted by the constitution or laws of Florida.

Section 2 amends s. 34.041, F.S., to specify that fees collected by the office of the clerk shall be retained as fee income of the office of the clerk of the court. The bill also increases the filing fee for a claim involving an amount greater than \$2,500 from \$35 to \$40.

Section 3 amends s. 86.011, F.S., relating to declaratory judgments, to conform this section with the provision in the bill that grants equity jurisdiction to the county court, (s. 34.01(4), F.S.).

Section 4 provides that the bill shall be effective on the later of July 1, 1990, or upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

Since the bill increases the jurisdictional amount of the county courts, there will be some shifting of workload from the circuit to the county court. Exact figures as to the number of cases that would be affected is not available at this time, however, an informal survey of six counties

conducted by the Conference of County Court Judges provides several conclusions: (1) "increasing amount in controversy jurisdictional ceiling of county courts to \$25,000 (the bill would increase the jurisdictional amount to only \$15,000) would result in an approximate 30% decrease in circuit court filings of money damages cases a state-wide and an approximate 10% decrease in circuit court civil filings overall; (2) county court civil (non-summary claims) filings would increase approximately 30% or approximately 15% of the total county court civil caseload." In addition, the survey indicated that circuit money damage filings under \$10,000 ranged from 17% (Dade county) to 42% (Broward county).

3. Long Run Effects Other Than Normal Growth:

None.

4. Appropriations Consequences:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

The bill increases slightly the filing fee for cases in county court involving amounts over \$2,500 from \$35 to \$40. Based upon figures for 1989 county court civil filings, this increase should generate slightly more than \$265,000 for clerks' offices statewide.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Arguably, small damage suits would move more quickly in the county court system resulting in time savings for the litigants. In addition, cases involving small amounts of damages that also involve equitable claims, defenses or remedies would now be able to remain in the county court rather than being transferred to circuit court which would appear to be a more efficient way to handle these cases.

3. Effects on Competition, Private Enterprise, and Employment

Markets:

None.

D. FISCAL COMMENTS:

III. LONG RANGE CONSEQUENCES:

This legislation does not directly affect the State Comprehensive Plan.

IV. COMMENTS:

There is a question as to whether granting jurisdiction to the county court to hear all matters in equity would require a constitutional amendment, however, the Florida Constitution provides that county courts "shall exercise jurisdiction as prescribed by general law...", (Art. V, s. 6., Fla. Const.), and that circuit courts "shall have original jurisdiction not vested in the county courts,..." (Art V, s. 5., Fla. Const.).

This legislation would seem to be consistent with the committee mission statement in that it tends to foster a judiciary more responsive to the needs of Florida's citizenry. The bill does not directly affect the House policy statement.

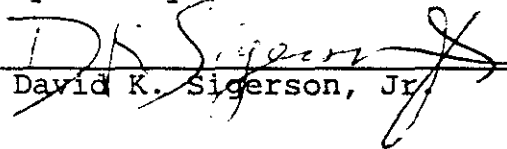
V. AMENDMENTS:

None.

VI. SIGNATURES:

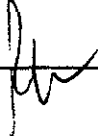
COMMITTEE ON JUDICIARY:

Prepared by:



David K. Sigerson, Jr.

Staff Director:

Richard Hixson 

SUBCOMMITTEE REPORT/INFORMATION RECORD
File with Parent Committee

House of Representatives

TO: Chairman, Committee on Judiciary

Subcommittee on Court Systems, Probate & Consumer Law

Date of Meeting 3/7/90

Time 1:00 p.m.

Place 413 C

BILL NO. HB 1061

FINAL ACTION: Favorable
 Favorable with Amendments
 Favorable with Proposed Substitute
 Unfavorable

VOTE:

YEA	MEMBER	NAY
	Albright	
x	Burke	
x	Davis	
x	De Grandy	
	Hanson	
x	Martinez	
x	Cosgrove (Chair)	

YEA	MEMBER	NAY

Total Yeas 5

Total Nays 0

IF PRESENT, MEMBER WOULD HAVE VOTED:

YEA	MEMBER	NAY

Robert D. Thammell
Subcommittee Chairman

APPEARANCE RECORD

The following persons (other than legislators) appeared before the subcommittee during the consideration of this bill:

Name	Representing	Address
Scott Manion	FL Legal Services	2121 Delta Way Tallahassee, FL

Note: Please indicate by an "X" any State employee appearing at the request of the Chairman.

Received by Parent Committee:

Date: _____

Received by: _____

COMMITTEE INFORMATION RECORD
House of Representatives

Committee on Judiciary

Date of Meeting 4/5/90

Time 3:30 p.m.

Place 413 C

Bill No.: HB 1061

FINAL ACTION:

- Favorable
 Favorable with Amendments
 Favorable with Substitute
 Unfavorable

VOTE:

YEA	MEMBER	NAY
x	Albright	
x	Burke	
	Canady	
x	Cosgrove	
	Crotty	
x	Davis	
x	De Grandy	
	Drage	
x	Frankel	
x	Geller	
x	Graham	
x	Hanson	
x	Harden	
x	Liberti	
x	Martinez	
x	McEwan	
x	Press	
x	Renke	
x	Roberts	

YEA	MEMBER	NAY
x	Rush	
x	Simon	
x	Wallace	
x	Trammell (Chair)	

Total Yeas 20

Total Nays 0

IF PRESENT, MEMBER WOULD HAVE VOTED:


Chairman

APPEARANCE RECORD

The following persons (other than legislators) appeared before the committee during the consideration of this bill:

<u>Name</u>	<u>Representing</u>	<u>Address</u>

Note: Please indicate by an "X" any State employee appearing at the request of the Chairman.

(FILE WITH THE CLERK AND ATTACH SUBCOMMITTEE REPORT IF APPLICABLE)