

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.)

Date: April 9, 1998 Revised: \_\_\_\_\_

Subject: Judiciary

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	Moody	Moody	JU	Favorable/CS
2.	_____	_____	WM	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

The bill creates a sixth appellate district composed of the Seventeenth and Twentieth Judicial Circuits. It provides that the Sixth Appellate District is to be headquartered in the Twentieth Judicial Circuit, Fort Lauderdale, Broward County, and provides that there are to be nine judges in the sixth district.

This bill substantially amends the following sections of the Florida Statutes: 35.05, 35.042, 35.05, and 35.06. It creates section 35.044 of the Florida Statutes.

**II. Present Situation:**

Currently, there are five district courts of appeal. s. 35.01, F.S. They are geographically composed as follows:

**First District** -- Circuits 1, 2, 3, 4, 8, and 14. s. 35.02, F.S.

- The 1st circuit is composed of Escambia, Okaloosa, Santa Rosa, and Walton Counties. s. 26.021(1), F.S.
- The 2nd circuit is composed of Leon, Gadsden, Jefferson, Wakulla, Liberty, and Franklin Counties. s. 26.021(2), F.S.
- The 3rd circuit is composed of Columbia, Dixie, Hamilton, Lafayette, Madison, Suwannee, and Taylor Counties. s. 26.021(3), F.S.
- The 4th circuit is composed of Clay, Duval, and Nassau Counties. s. 26.021(4), F.S.
- The 8th circuit is composed of Alachua, Baker, Bradford, Gilchrist, Levy, and Union Counties. s. 26.021(8), F.S.
- The 14th circuit is composed of Bay, Calhoun, Gulf, Holmes, Jackson, and Washington Counties. s. 26.021(14), F.S.

**Second District** -- Circuits 6, 10, 12, 13, and 20. s. 35.03, F.S.

- The 6th circuit is composed of Pasco and Pinellas Counties. s. 26.021(6), F.S.
- The 10th circuit is composed of Hardee, Highlands, and Polk Counties. s. 26.021(10), F.S.
- The 12th circuit is composed of Manatee, Sarasota, and DeSoto Counties. s. 26.021(12), F.S.
- The 13th circuit is composed of Hillsborough County. s. 26.021(13), F.S.
- The 20th circuit is composed of Charlotte, Collier, Glades, Hendry, and Lee Counties. s. 26.021(20), F.S.

**Third District** -- Circuits 11 and 16. s. 35.04, F.S.

- The 11th circuit is composed of Dade County. s. 26.021(11), F.S.
- The 16th circuit is composed of Monroe County. One judge in the circuit shall reside in the middle or upper Keys. There shall be no residency requirement for any other judge in the circuit. s. 26.021(16), F.S.

**Fourth District** -- Circuits 15, 17, and 19. s. 35.042, F.S.

- The 15th circuit is composed of Palm Beach County. s. 26.021(15), F.S.
- The 17th circuit is composed of Broward County. s. 26.021(17), F.S.
- The 19th circuit is composed of Indian River, Martin, Okeechobee, and St. Lucie Counties. s. 26.021(19), F.S.

**Fifth District** -- Circuits 5, 7, 9, and 18. s. 35.043, F.S.

- The 5th circuit is composed of Citrus, Hernando, Lake, Marion, and Sumter Counties. Two of the circuit judges authorized for the fifth circuit shall reside in either Citrus, Hernando, or Sumter County, but both of these judges shall not reside in the same county. s. 26.021(5), F.S.
- The 7th circuit is composed of Flagler, Putnam, St. Johns, and Volusia Counties. One judge shall reside in Flagler County; two judges shall reside in Putnam County; two judges shall reside in St. Johns County; and three judges shall reside in Volusia County. There shall be no residency requirement for any other judges in the circuit. s. 26.021(7), F.S.
- The 9th circuit is composed of Orange and Osceola Counties. s. 26.021(9), F.S.
- The 18th circuit is composed of Brevard and Seminole Counties. s. 26.021(18), F.S.

Section 35.05, F.S., provides for the headquarters of the district courts of appeal. The headquarters of the First Appellate District is in the Second Judicial Circuit, Tallahassee, Leon County; of the Second Appellate District in the Tenth Judicial Circuit, Lakeland, Polk County; of the Third Appellate District in the Eleventh Judicial Circuit, Dade County; of the Fourth Appellate District in the Fifteenth Judicial Circuit, Palm Beach County; and the Fifth Appellate District in the Seventh Judicial Circuit, Daytona Beach, Volusia County. *Id.* However, the Second District Court of Appeal may designate other locations within its district as branch headquarters for the conduct of the business of the court in special or regular term and as the official headquarters of its officers or employees pursuant to s. 112.061, F.S. *Id.*

Section 35.06, F.S., provides for the organization of district courts of appeal. A district court of appeal must be organized in each of the five appellate districts. *Id.* The court is to be named District Court of Appeal, \_\_\_\_\_ District. *Id.* The number of judges of each district court of appeal shall be as follows:

- In the first district, 15 judges.
- In the second district, 14 judges.
- In the third district, 11 judges.
- In the fourth district, 12 judges.
- In the fifth district, 9 judges.

*Id.*

The successors of the original and additional judges of the district courts of appeal are to be elected at the general election next preceding the expiration of their respective terms of office to serve for full terms of 6 years. *Id.*

According to the Office of the State Courts Administrator, in 1996, the last full year for which verified data is currently available, the case filings in the current district courts of appeal were as follows:

- In the first district, 5,099 appellate filings.
- In the second district, 5,341 appellate filings.
- In the third district, 3,644 appellate filings.
- In the fourth district, 4,335 appellate filings.
- In the fifth district, 3,703 appellate filings.

These figures include appeal filings, certiorari filings, original writs, and reinstatements.

In 1988, the Court Restructure Committee of the Supreme Court reviewed the structure of the court system in Florida and made no recommendation to redraw the districts for the district courts of appeal. In 1997, an Appellate Jurisdiction and Workload subcommittee of the Judicial Management Council of the Supreme Court (JMC), also recommended no changes to the districts for the district courts of appeal. The JMC currently has a subcommittee looking specifically at the issue of whether or not a sixth district court of appeals should be created.

### **III. Effect of Proposed Changes:**

The bill creates s. 35.044, F.S., to create a sixth appellate district composed of the Seventeenth and Twentieth Judicial Circuits. It amends ss. 35.03 and 35.042, F.S., to conform. Finally, it amends s. 35.05, F.S., to provide that the Sixth Appellate District is to be headquartered in the Twentieth Judicial Circuit, Fort Lauderdale, Broward County, and amends s. 35.06, F.S., to provide that there are to be nine judges in the sixth district.

The bill takes effect July 1, 1998.

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**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. Other Constitutional Issues:**

The constitution provides that the Legislature shall, by general law, divide the state into appellate court districts following county lines. s. 1, Art. V, Fla. Const. The constitution provides that the Florida Supreme Court is to establish by rule uniform criteria for the determination of the need for increasing, decreasing, or redefining appellate districts. s. 9, Art. V, Fla. Const. If the Supreme Court finds that a need exists for increasing, decreasing, or redefining appellate districts, it is to, prior to the next regular session of the Legislature, certify to the Legislature its findings and recommendations concerning such need. *Id.* Upon receipt of such certificate, the Legislature, at the next regular session, must consider the findings and recommendations and may reject the recommendations, or by law, implement the recommendations in whole or in part. *Id.* If the Supreme Court fails to make findings as provided above when need exists, the Legislature may, by concurrent resolution, request the court to certify its findings and recommendations and upon the failure of the court to certify its findings for 9 consecutive months, the Legislature may, upon a finding of two-thirds of the membership of both houses of the Legislature that a need exists, increase, decrease, or redefine appellate districts and judicial circuits. *Id.*

The bill may be subject to challenge as violative of the procedure set forth in this section. According to the Office of the State Courts Administrator, the Florida Supreme Court does not currently have nor has it ever “establish[ed] by rule uniform criteria for the determination of the need for increasing, decreasing, or redefining appellate districts” as required under s. 9, Art. V, Fla. Const. However, when the last district court of appeal to be established was the fifth district court of appeal established in 1979, it was based upon the recommendation of the Florida Supreme Court. *In re Certification Under Article V, Section 9, Florida Constitution, to Redefine Appellate Districts and to Increase the Number of Judges on the District Courts of Appeal*, 370 So.2d 365 (Fla. 1979). In the absence of such a recommendation, and there has been no recommendation from the Supreme Court for the creation of a sixth district court of appeal, the Legislature may be restricted to the second

portion of the procedure set out in s. 1, Art. V, Fla. Const., and passage of a concurrent resolution requesting the court certify its findings and recommendations on the issue.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

The Office of the State Courts Administrator (OSCA) has estimated a non-recurring fiscal impact of \$993,925 for FY 1998-99 and \$15,000,000 for FY 1999-2000. Further, OSCA estimates a recurring fiscal impact of \$7,839,362 in FY 1998-99, \$21,666,155 in FY 1999-2000, and \$6,643,322 in FY 2000-01.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.