

A bill to be entitled

An act relating to judicial matters; amending s. 26.031, F.S.; increasing the number of judges in specified judicial circuits; amending s. 34.022, F.S.; increasing the number of county court judges in specified counties; amending ss. 35.01, 35.03, 35.042, and 35.043, F.S.; revising the composition of the district courts of appeal; revising the judicial circuit composition of the appellate districts; creating s. 35.044, F.S.; creating the Sixth Appellate District; specifying the judicial circuit composition of the district; amending s. 35.05, F.S.; revising the organization of the headquarters of the appellate districts; amending s. 35.06, F.S.; specifying the judicial organization of the Sixth Appellate District; specifying governance of the sixth district by case law as established by rule of the Supreme Court; specifying the effective date of newly created seats for judges; amending s. 43.291, F.S.; revising organization and membership of judicial nominating commissions to conform; providing for appointment of new judges by the Governor; requiring the Governor to make appointments in compliance with the State Constitution; providing that the provisions of the act are not severable; providing effective dates.

WHEREAS, since 1972, the Florida Constitution has directed the Florida Supreme Court to adopt rules establishing uniform criteria for determining the necessity of increasing, decreasing, or redefining appellate districts and judicial circuits, and

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30 WHEREAS, the court has failed to establish any criteria for
 31 such a determination, and

32 WHEREAS, even though the court has neglected to adopt a
 33 rule on the issue, the Court's Judicial Management Council
 34 issued a report in December of 1998 by the Committee to Study
 35 the Need for Additional District Courts of Appeal that addresses
 36 criteria for determining the need for creating new district
 37 courts of appeal, and

38 WHEREAS, the committee report recommends, among other
 39 criteria, that the district courts be limited to 10 judges, with
 40 room for growth to 12 judges in order to optimize collegiality
 41 and therefore more consistent opinions and less conflict in law,
 42 and

43 WHEREAS, the court's current certification order, if it is
 44 adopted, would result in three of the five judicial districts
 45 having more than 12 judges, and

46 WHEREAS, the failure of the court to establish a rule
 47 establishing criteria for determining the necessity of
 48 increasing, decreasing, or redefining appellate districts has
 49 constrained the Florida Legislature from exercising its
 50 authority under Section 9 of Article V of the Florida
 51 Constitution because the Legislature is unable to determine
 52 whether the Supreme Court has failed "to make findings as
 53 provided . . . when need exists," and

54 WHEREAS, the failure of the court to establish the criteria
 55 for the Legislature to apply in order to determine whether a new
 56 district court should be created should not operate to prevent
 57 the Legislature from exercising its authority, NOW, THEREFORE,
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59 Be It Enacted by the Legislature of the State of Florida:

60

61 Section 1. Effective January 4, 2005, subsections (11),
 62 (13), (14), (17), (19), and (20) of section 26.031, Florida
 63 Statutes, are amended to read:

64 26.031 Judicial circuits; number of judges.--The number of
 65 circuit judges in each circuit shall be as follows:

66

JUDICIAL CIRCUIT	TOTAL
(11) Eleventh.....	<u>77</u>
74	
(13) Thirteenth.....	<u>40</u>
37	
(14) Fourteenth.....	<u>10</u> 9
(17) Seventeenth.....	<u>55</u>
53	
(19) Nineteenth.....	<u>18</u>
15	
(20) Twentieth.....	<u>25</u>
23	

79 Section 2. Effective April 1, 2005, subsections (1), (3),
 80 (4), (5), (6), (7), (8), (9), (10), and (15) of section 26.031,
 81 Florida Statutes, are amended to read:

82 26.031 Judicial circuits; number of judges.--The number of
 83 circuit judges in each circuit shall be as follows:

84

JUDICIAL CIRCUIT	TOTAL
(1) First	<u>22</u>
21	

88	HB 1849	(3) Third	<u>7</u> 6	2004
89		(4) Fourth	<u>32</u>	
90	31			
91		(5) Fifth	<u>28</u>	
92	25			
93		(6) Sixth	<u>43</u>	
94	41			
95		(7) Seventh	<u>25</u>	
96	24			
97		(8) Eighth	<u>13</u>	
98	12			
99		(9) Ninth	<u>41</u>	
100	38			
101		(10) Tenth	<u>23</u>	
102	22			
103		(15) Fifteenth.....	<u>35</u>	
104	34			

105 Section 3. Effective January 4, 2005, subsections (3),
 106 (5), (6), (11), (28), (42), (43), and (56) of section 34.022,
 107 Florida Statutes, are amended to read:

108 34.022 Number of county court judges for each county.--The
 109 number of county court judges in each county shall be as
 110 follows:

112	COUNTY	TOTAL
113	(3) Bay	<u>4</u>
114	3	
115	(5) Brevard	<u>9</u>
116	8	

117	HB 1849	(6) Broward	2004 <u>27</u>
118	26		
119		(11) Collier	<u>4</u>
120	3		
121		(28) Hillsborough.....	<u>17</u>
122	15		
123		(42) Martin	<u>3</u>
124	2		
125		(43) Miami-Dade.....	<u>42</u>
126	41		
127		(56) St. Lucie.....	<u>4</u>
128	3		
129	Section 4. Effective April 1, 2005, subsections (12),		
130	(15), (41), (48), (50), (51), (52), and (64) of section 34.022,		
131	Florida Statutes, are amended to read:		
132	34.022 Number of county court judges for each county.--The		
133	number of county court judges in each county shall be as		
134	follows:		
135			
136		COUNTY	TOTAL
137		(12) Columbia.....	<u>2</u>
138	1		
139		(15) Duval	<u>16</u>
140	15		
141		(41) Marion	<u>4</u>
142	3		
143		(48) Orange	<u>16</u>
144	15		

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145 (50) Palm Beach..... 19

146 ~~17~~

147 (51) Pasco 5

148 4

149 (52) Pinellas..... 15

150 ~~14~~

151 (64) Volusia 10

152 9

153 Section 5. Section 35.01, Florida Statutes, is amended to
154 read:

155 35.01 District courts of appeal; districts.--~~Six~~ Five
156 district courts of appeal are created, and the state is divided
157 into six ~~five~~ appellate districts of contiguous circuits.

158 Section 6. Section 35.03, Florida Statutes, is amended to
159 read:

160 35.03 Second Appellate District.--The Second Appellate
161 District is composed of the Fifth, Sixth, and Tenth, ~~Twelfth~~,
162 ~~Thirteenth, and Twentieth~~ Judicial Circuits.

163 Section 7. Section 35.042, Florida Statutes, is amended to
164 read:

165 35.042 Fourth Appellate District.--The Fourth Appellate
166 District is composed of the Fifteenth and, Seventeenth, ~~and~~
167 ~~Nineteenth~~ Judicial Circuits.

168 Section 8. Section 35.043, Florida Statutes, is amended to
169 read:

170 35.043 Fifth Appellate District.--The Fifth Appellate
171 District is composed of the ~~Fifth~~, Seventh, Ninth, and
172 Eighteenth, and Nineteenth Judicial Circuits.

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173 Section 9. Section 35.044, Florida Statutes, is created to
 174 read:

175 35.044 Sixth Appellate District.--The Sixth Appellate
 176 District is composed of the Tenth, Twelfth, and Twentieth
 177 Judicial Circuits.

178 Section 10. Subsection (1) of section 35.05, Florida
 179 Statutes, is amended to read:

180 35.05 Headquarters.--

181 (1) The headquarters of the First Appellate District shall
 182 be in the Second Judicial Circuit, Tallahassee, Leon County; of
 183 the Second Appellate District in the Thirteenth ~~Tenth~~ Judicial
 184 Circuit, Hillsborough ~~Lakeland, Polk~~ County; of the Third
 185 Appellate District in the Eleventh Judicial Circuit, Dade
 186 County; of the Fourth Appellate District in the Fifteenth
 187 Judicial Circuit, Palm Beach County; of and ~~and~~ the Fifth Appellate
 188 District in the Seventh Judicial Circuit, Daytona Beach, Volusia
 189 County; and of the Sixth Appellate District in the Tenth
 190 Judicial Circuit, Lakeland, Polk County.

191 Section 11. Effective January 4, 2005, section 35.06,
 192 Florida Statutes, is amended to read:

193 35.06 Organization of district courts of appeal.--A
 194 district court of appeal shall be organized in each of the six
 195 ~~five~~ appellate districts to be named District Court of Appeal,
 196 _____ District. The number of judges of each district court of
 197 appeal shall be as follows:

- 198 (1) In the first district there shall be 15 judges.
- 199 (2) In the second district there shall be 11 ~~14~~ judges.
- 200 (3) In the third district there shall be 11 judges.
- 201 (4) In the fourth district there shall be 11 ~~12~~ judges.

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202 (5) In the fifth district there shall be 11 ~~10~~ judges.

203 (6) In the sixth district there shall be 7 judges.

204 Section 12. The newly created sixth district shall be
 205 controlled by case law as established in rule of the Supreme
 206 Court.

207 Section 13. Subsection (8) is added to section 43.291,
 208 Florida Statutes, to read:

209 43.291 Judicial nominating commissions.--

210 (8) The following procedures shall apply in order to
 211 effectuate the changes in judicial nominating commissions
 212 necessitated by the creation of the Sixth District Court of
 213 Appeal:

214 (a) Each current member of the second, fourth, and fifth
 215 district judicial nominating commissions shall continue to serve
 216 the same term of office but the member's seat is transferred to
 217 the nominating commission for the district in which he or she
 218 resides. Therefore, the officers holding seats 1, 4, 7, and 9 on
 219 the Second Appellate District Judicial Nominating Commission are
 220 transferred to the Sixth Appellate District Judicial Nominating
 221 Commission. The officer holding seat 9 on the Fourth Appellate
 222 District Judicial Nominating Commission is transferred to the
 223 Fifth Appellate District Judicial Nominating Commission. The
 224 officer holding seat 4 on the Fifth Appellate District Judicial
 225 Nominating Commission is transferred to the Second Appellate
 226 District Judicial Nominating Commission.

227 (b) Each expired term or vacancy shall be filled by
 228 appointment in the same manner as the vacancy of the member
 229 whose position is being filled.

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230 Section 14. Judges filling new offices created by this act
231 shall be appointed by the Governor. In order to implement the
232 requirements of s. 3(a), Art. V of the State Constitution that
233 each appellate district must have at least one justice appointed
234 who is a resident of the district at the time of appointment,
235 the Governor shall make appointments so as to bring the court
236 into compliance with the State Constitution at the earliest
237 opportunity.

238 Section 15. If any of the provisions of sections 5 through
239 13 of this act are held to be invalid or inoperative for any
240 reason, the remaining provisions of this act shall be deemed to
241 be void and of no effect, it being the legislative intent that
242 this act as a whole would not have been adopted had the
243 provisions of sections 5 through 13 not been included.

244 Section 16. Except as otherwise provided herein, this act
245 shall take effect July 1, 2004.