

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

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

HB 1849, Engrossed 1

2004

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

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

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

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

52 WHEREAS, the failure of the court to establish the criteria
 53 for the Legislature to apply in order to determine whether a new
 54 district court should be created should not operate to prevent
 55 the Legislature from exercising its authority, NOW, THEREFORE,

56
 57 Be It Enacted by the Legislature of the State of Florida:
 58

HB 1849, Engrossed 1

2004

59 Section 1. Effective January 4, 2005, subsections (11),
 60 (13), (14), (17), (19), and (20) of section 26.031, Florida
 61 Statutes, are amended to read:

62 26.031 Judicial circuits; number of judges.--The number of
 63 circuit judges in each circuit shall be as follows:

JUDICIAL CIRCUIT	TOTAL
65 (11) Eleventh.....	<u>77</u>
66 74	
68 (13) Thirteenth.....	<u>40</u>
69 37	
70 (14) Fourteenth.....	<u>10</u> 9
71 (17) Seventeenth.....	<u>55</u>
72 53	
73 (19) Nineteenth.....	<u>18</u>
74 15	
75 (20) Twentieth.....	<u>25</u>
76 23	

77 Section 2. Effective April 1, 2005, subsections (1), (3),
 78 (4), (5), (6), (7), (8), (9), (10), and (15) of section 26.031,
 79 Florida Statutes, are amended to read:

80 26.031 Judicial circuits; number of judges.--The number of
 81 circuit judges in each circuit shall be as follows:

JUDICIAL CIRCUIT	TOTAL
83 (1) First	<u>22</u>
84 21	
86 (3) Third	<u>7</u> 6

HB 1849, Engrossed 1 2004

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

102 ~~34~~

103 Section 3. Effective January 4, 2005, subsections (3),

104 (5), (6), (11), (28), (42), (43), and (56) of section 34.022,

105 Florida Statutes, are amended to read:

106 34.022 Number of county court judges for each county.--The

107 number of county court judges in each county shall be as

108 follows:

	COUNTY		TOTAL
110	(3)	Bay	<u>4</u>
111	3		
112	(5)	Brevard	<u>9</u>
113	8		

	HB 1849, Engrossed 1	2004
115	(6) Broward	<u>27</u>
116	26	
117	(11) Collier	<u>4</u>
118	3	
119	(28) Hillsborough.....	<u>17</u>
120	15	
121	(42) Martin	<u>3</u>
122	2	
123	(43) Miami-Dade.....	<u>42</u>
124	41	
125	(56) St. Lucie.....	<u>4</u>
126	3	
127	Section 4. Effective April 1, 2005, subsections (12),	
128	(15), (41), (48), (50), (51), (52), and (64) of section 34.022,	
129	Florida Statutes, are amended to read:	
130	34.022 Number of county court judges for each county.--The	
131	number of county court judges in each county shall be as	
132	follows:	
133		
134	COUNTY	TOTAL
135	(12) Columbia.....	<u>2</u>
136	1	
137	(15) Duval	<u>16</u>
138	15	
139	(41) Marion	<u>4</u>
140	3	
141	(48) Orange	<u>16</u>
142	15	

HB 1849, Engrossed 1 2004

143	(50) Palm Beach.....	<u>19</u>
144	17	
145	(51) Pasco	<u>5</u>
146	4	
147	(52) Pinellas.....	<u>15</u>
148	14	
149	(64) Volusia	<u>10</u>
150	9	

151 Section 5. Section 35.01, Florida Statutes, is amended to
 152 read:

153 35.01 District courts of appeal; districts.--~~Six~~ Five
 154 district courts of appeal are created, and the state is divided
 155 into six ~~five~~ appellate districts of contiguous circuits.

156 Section 6. Effective April 1, 2005, section 35.03, Florida
 157 Statutes, is amended to read:

158 35.03 Second Appellate District.--The Second Appellate
 159 District is composed of the Fifth, ~~Sixth~~, Tenth, Twelfth,
 160 ~~Thirteenth~~, and Twentieth Judicial Circuits.

161 Section 7. Effective April 1, 2005, section 35.042,
 162 Florida Statutes, is amended to read:

163 35.042 Fourth Appellate District.--The Fourth Appellate
 164 District is composed of the Fifteenth and, ~~Seventeenth~~, ~~and~~
 165 ~~Nineteenth~~ Judicial Circuits.

166 Section 8. Effective April 1, 2005, section 35.043,
 167 Florida Statutes, is amended to read:

168 35.043 Fifth Appellate District.--The Fifth Appellate
 169 District is composed of the ~~Fifth~~, Seventh, Ninth, ~~and~~
 170 Eighteenth, and Nineteenth Judicial Circuits.

171 Section 9. Effective April 1, 2005, section 35.044,

HB 1849, Engrossed 1

2004

172 Florida Statutes, is created to read:

173 35.044 Sixth Appellate District.--The Sixth Appellate
 174 District is composed of the Sixth and Thirteenth Judicial
 175 Circuits.

176 Section 10. Effective April 1, 2005, subsection (1) of
 177 section 35.05, Florida Statutes, is amended to read:

178 35.05 Headquarters.--

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

189 Section 11. Effective April 1, 2005, section 35.06,
 190 Florida Statutes, is amended to read:

191 35.06 Organization of district courts of appeal.--A
 192 district court of appeal shall be organized in each of the six
 193 ~~five~~ appellate districts to be named District Court of Appeal,
 194 _____ District. The number of judges of each district court of
 195 appeal shall be as follows:

- 196 (1) In the first district there shall be 15 judges.
- 197 (2) In the second district there shall be 9 ~~14~~ judges.
- 198 (3) In the third district there shall be 11 judges.
- 199 (4) In the fourth district there shall be 11 ~~12~~ judges.
- 200 (5) In the fifth district there shall be 11 ~~10~~ judges.

201 (6) In the sixth district there shall be 9 judges.

202 Section 12. Effective April 1, 2005, the newly created
 203 sixth district shall be controlled by case law as established in
 204 rule of the Supreme Court.

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

207 43.291 Judicial nominating commissions.--

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

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

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

228 Section 14. Judges filling new offices created by this act
 229 shall be appointed by the Governor. In order to implement the

HB 1849, Engrossed 1

2004

230 requirements of s. 3(a), Art. V of the State Constitution that
231 each appellate district must have at least one justice appointed
232 who is a resident of the district at the time of appointment,
233 the Governor shall make appointments so as to bring the court
234 into compliance with the State Constitution at the earliest
235 opportunity.

236 Section 15. If any of the provisions of sections 5 through
237 13 of this act are held to be invalid or inoperative for any
238 reason, the remaining provisions of this act shall be deemed to
239 be void and of no effect, it being the legislative intent that
240 this act as a whole would not have been adopted had the
241 provisions of sections 5 through 13 not been included.

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