

By the Committee on Judiciary; and Senator Peaden

590-04427-09

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1 A bill to be entitled
2 An act relating to the jurisdiction of the circuit
3 court; creating s. 86.112, F.S.; providing that the
4 circuit court has jurisdiction to entertain an action
5 for declaratory judgment to provide relief when the
6 State Constitution is found unconstitutional under the
7 United States Constitution; providing venue and party
8 requirements; providing for the circuit court to issue
9 an order directing the Secretary of State to remove
10 unconstitutional provisions from the State
11 Constitution; providing for the circuit court to order
12 the removal of certain constitutional provisions if
13 there is a showing that voters were confused at the
14 adoption of the constitutional provision; authorizing
15 the circuit court to declare certain provisions of the
16 State Constitution redundant and to direct the
17 Secretary of State to remove the redundant provisions;
18 authorizing the circuit court to order the removal of
19 provisions from the State Constitution previously
20 deemed unconstitutional; providing for appellate
21 review; providing an effective date.

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23 Be It Enacted by the Legislature of the State of Florida:

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25 Section 1. Section 86.112, Florida Statutes, is created to
26 read:

27 86.112 Circuit court jurisdiction.—

28 (1) The circuit court has jurisdiction to entertain actions
29 for declaratory relief for cases brought to determine whether

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30 provisions of the State Constitution are unconstitutional under
31 the United States Constitution.

32 (a) Notwithstanding s. 86.091, any party seeking
33 declaratory relief under this section shall name the Secretary
34 of State as the proper defendant.

35 (b) An action for declaratory relief under this section
36 must be brought in Leon County.

37 (c) If a provision of the State Constitution is found to be
38 unconstitutional, the circuit court shall enter an order
39 directing the Secretary of State to remove that provision from
40 the State Constitution.

41 (d) If the circuit court concludes, based on a showing of
42 clear and convincing evidence, that there was voter confusion
43 when adopting the unconstitutional provision, the court may not
44 apply principles of severability and shall order that any other
45 provision adopted along with the unconstitutional provision be
46 removed from the State Constitution.

47 (2) If such a request is made a part of the declaratory
48 relief sought under subsection (1), the circuit court has the
49 jurisdiction to:

50 (a) Declare redundant any portion of the State Constitution
51 the sole purpose of which is to provide statutory language and,
52 on a finding of redundancy, enter an order directing the
53 Secretary of State to remove the redundant material; or

54 (b) Enter an order directing the Secretary of State to
55 remove from the State Constitution any provisions previously
56 deemed unconstitutional.

57 (3) An appeal from the circuit court's order under this
58 section may be taken by any adversely affected party pursuant to

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59 Florida Rule of Appellate Procedure 9.110.

60 Section 2. This act shall take effect upon becoming a law.