

By Senator Siplin

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1                   A bill to be entitled  
2           An act relating to the state judicial system; amending  
3           s. 2.01, F.S.; construing application of the common  
4           and statute laws of England to this state; amending s.  
5           25.382, F.S.; revising a definition; expanding the  
6           list of recipients required to be provided a certain  
7           annual report of the Florida Supreme Court; specifying  
8           a required use of such report; requiring the Supreme  
9           Court to develop a plan for certain civics promotion  
10          and judicial branch education purposes; requiring an  
11          annual plan implementation report; specifying report  
12          recipients and uses; requiring the Supreme Court to  
13          submit to certain recipients all final reports  
14          completed by certain committees; specifying uses of  
15          such reports; requiring the Auditor General and the  
16          Office of Program Policy Analysis and Government  
17          Accountability to conduct biennial full audit reviews  
18          and examinations of the state courts system; requiring  
19          reports; specifying recipients of the reports;  
20          amending s. 26.012, F.S.; specifying certain  
21          additional jurisdiction of circuit courts;  
22          establishing certain divisions within each judicial  
23          circuit for certain purposes; providing for  
24          administration of the divisions; amending s. 43.20,  
25          F.S.; correcting a cross-reference; increasing  
26          membership of the Judicial Qualifications Commission;  
27          revising expenses authorization for the commission;  
28          requiring the commission to hire staff for each  
29          commission panel; providing requirements for staff

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30 committees for commission panels; requiring reports of  
31 staff committees; specifying recipients of the reports  
32 for certain purposes; designating such reports as  
33 public records; requiring the commission to adopt  
34 rules; requiring the Auditor General and the Office of  
35 Program Policy Analysis and Government Accountability  
36 to conduct biennial full audit reviews and  
37 examinations of the commission; requiring reports;  
38 specifying recipients of the reports; specifying  
39 application of certain provisions; providing an  
40 effective date.

41  
42 Be It Enacted by the Legislature of the State of Florida:

43  
44 Section 1. Section 2.01, Florida Statutes, is amended to  
45 read:

46 2.01 Common law and certain statutes declared in force.—

47 (1) The common and statute laws of England which are of a  
48 general and not a local nature, with the exception hereinafter  
49 mentioned, down to the 4th day of July, 1776, are declared to be  
50 of force in this state to the extent such common and statute  
51 laws are; provided, the said statutes and common law be not  
52 inconsistent with the Constitution and laws of the United States  
53 and the acts of the Legislature of this state.

54 (2) Notwithstanding subsection (1), provisions including,  
55 but not limited to, the following are declared to be of force in  
56 this state:

57 (a) Those clearly expressed, or obviously and reasonably  
58 implied without clear expression, in the language and wording of

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59 the acts of the Legislature.

60 (b) Those that provide for rights and claims in tort  
61 liability for acts committed directly or indirectly involving  
62 judicial and administrative proceedings. In such cases,  
63 litigation privilege or judicial, qualified, or absolute  
64 immunity and similar privileges and immunities are not and may  
65 not be considered as viable or valid defenses.

66 (c) Those relating to claims for or defenses of abuse of  
67 process, malicious prosecution, and fraud upon the court, also  
68 known as extrinsic fraud, that must be strictly enforced. In  
69 such cases, litigation privilege or judicial, qualified, or  
70 absolute immunity and similar privileges and immunities are not  
71 and may not be considered as viable or valid defenses.

72 (d) Those relating to criminal offenses under 18 U.S.C. ss.  
73 241 and 242 and claims under 42 U.S.C. ss. 1983, 1985, 1986, and  
74 1988, as prescribed by federal statutes and the decisions of the  
75 federal courts.

76 Section 2. Subsections (1) and (4) of section 25.382,  
77 Florida Statutes, are amended, and subsections (5), (6), and (7)  
78 are added to that section, to read:

79 25.382 State courts system.—

80 (1) As used in this section, "state courts system" means  
81 all officers, employees, and divisions of the Supreme Court,  
82 district courts of appeal, circuit courts, and county courts,  
83 also known as the judicial branch of state government.

84 (4) The Supreme Court shall ensure that clearly written  
85 policies, procedures, and goals for the recruitment, selection,  
86 promotion, and retention of minorities, including minority  
87 women, are established throughout all levels of the judicial

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88 system. An annual report ~~shall be submitted to the Chief Justice~~  
89 ~~outlining progress, problems, and corrective actions relating to~~  
90 ~~the implementation of this plan shall be submitted to the Chief~~  
91 ~~Justice, the Governor, the President of the Senate, and the~~  
92 ~~Speaker of the House of Representatives. Three copies of the~~  
93 ~~report shall be submitted to each legislative substantive and~~  
94 ~~appropriations committee having jurisdiction over state courts~~  
95 ~~or judicial matters. The report shall be used for legislative~~  
96 ~~interim projects.~~

97 (5) The Supreme Court shall ensure that clearly written  
98 policies, procedures, and goals are developed into a plan for  
99 promoting civics for residents of this state, together with  
100 education concerning the judicial branch in order to develop  
101 trust and confidence in the state's judicial system. An annual  
102 report outlining progress, problems, and corrective actions  
103 relating to the implementation of this plan shall be submitted  
104 to the Chief Justice, the Governor, the Cabinet, the President  
105 of the Senate, and the Speaker of the House of Representatives.  
106 Three copies of the report shall be submitted to each  
107 legislative substantive and appropriations committee having  
108 jurisdiction over state courts or judicial matters. The report  
109 shall be used for legislative interim projects.

110 (6) The Supreme Court shall submit all final reports  
111 completed by assigned court committees, whether by rule or  
112 order, dating from 2000 and thereafter, as follows: one copy  
113 each to the Governor, the Cabinet, the President of the Senate,  
114 and the Speaker of the House of Representatives and three copies  
115 to each legislative substantive and appropriations committee  
116 having jurisdiction over state courts or judicial matters. The

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117 reports may be used for legislative interim projects.

118 (7) Pursuant to ss. 11.45(2)(a), 11.51(1), and 11.513(5),  
119 the Auditor General and the Office of Program Policy Analysis  
120 and Government Accountability shall conduct a full audit review  
121 and examination of the state courts system and prepare a report  
122 containing appropriate recommendations. The audit must be  
123 conducted every 2 years beginning July 1, 2011, in accordance  
124 with the full authority and responsibilities conferred upon the  
125 Auditor General and the Office of Program Policy Analysis and  
126 Government Accountability by general law. The report and  
127 recommendations must be submitted within 1 year after the audit  
128 to the chair and vice chair of the Legislative Budget  
129 Commission, the chair and vice chair of the Legislative Auditing  
130 Committee, the Governor, and the Chief Justice of the Supreme  
131 Court.

132 Section 3. Subsection (1) of section 26.012, Florida  
133 Statutes, is amended, and subsection (6) is added to that  
134 section, to read:

135 26.012 Jurisdiction of circuit court.—

136 (1) Circuit courts shall have jurisdiction of appeals from  
137 county courts except appeals of county court orders or judgments  
138 declaring invalid a state statute or a provision of the State  
139 Constitution and except orders or judgments of a county court  
140 which are certified by the county court to the district court of  
141 appeal to be of great public importance and which are accepted  
142 by the district court of appeal for review. Circuit courts shall  
143 have jurisdiction of interlocutory appeals from orders on  
144 motions to dismiss, for final dismissal, and for summary  
145 judgment rendered in cases in which a circuit court has

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146 exclusive original jurisdiction. Circuit courts shall have  
147 jurisdiction of appeals from final administrative orders of  
148 local government code enforcement boards.

149 (6) The following special divisions of judicial circuits  
150 are created:

151 (a) Unified family courts.—A unified family division is  
152 established in each judicial circuit for the purpose of  
153 consolidating cases and integrating subject matter pertaining to  
154 children and their families who are parties or persons of  
155 interest in proceedings or matters under chapters 39, 61, and  
156 63, s. 68.07, and chapters 88, 741, 742, 743, 984, 985, and  
157 1003. Each judicial circuit shall administer the division as  
158 prescribed by general law or s. 43.30 for the resolution of  
159 disputes involving children and families through a fully  
160 integrated, comprehensive approach that includes coordinated  
161 case management; the concept of "one family, one judge";  
162 collaboration with the community for referral to needed  
163 services; and methods of alternative dispute resolution.

164 (b) Teen courts.—A teen division is established in each  
165 judicial circuit for the purpose of administering teen courts as  
166 provided by s. 938.19. Each judicial circuit shall administer  
167 the division as prescribed by general law or s. 43.30.

168 (c) Drug and mental health courts.—A drug and mental health  
169 division is established in each judicial circuit for the purpose  
170 of administering the programs under ss. 394.656, 394.658, and  
171 397.334. Each judicial circuit shall administer the division as  
172 prescribed by general law or s. 43.30.

173 Section 4. Subsections (1), (2), and (5) of section 43.20,  
174 Florida Statutes, are amended, and subsections (6) and (7) are

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175 added to that section, to read:

176 43.20 Judicial Qualifications Commission.—

177 (1) PURPOSE.—The purpose of this section is to implement s.  
178 12(a) ~~(b)~~, Art. V of the State Constitution which provides for a  
179 Judicial Qualifications Commission.

180 (2) MEMBERSHIP; TERMS.—The commission shall consist of 15  
181 ~~13~~ members. The members of the commission shall serve for terms  
182 of 6 years.

183 (5) EXPENSES.—The compensation of members and their staff  
184 and referees shall be the travel expense or transportation and  
185 per diem allowance provided by s. 112.061. Other administrative  
186 costs and expenses shall be appropriated under the state courts  
187 system.

188 (6) COMMISSION STAFF.—The commission shall hire separate  
189 staff for each commission panel, which staff may be compensated  
190 or may be provided by volunteer services.

191 (a) Staff for each commission panel must consist of at  
192 least one designated staff committee of five common citizen  
193 electors to assist and engage in the deliberations for each  
194 panel of members of the commission in carrying out its powers  
195 and duties. Such designated staff committee must consist of  
196 persons who are not considered to be officers of the court. The  
197 designated staff committee shall prepare a report of suggestions  
198 or comments.

199 (b) The designated staff committee shall provide a copy of  
200 the report of its suggestions or comments to:

201 1. The hearing panel upon submission of formal charges by  
202 the commission's investigative panel to assist the hearing panel  
203 in its pending proceedings and final recommendations.

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204       2. The Supreme Court, together with the recommendations of  
205 the commission's hearing panel, to assist the Supreme Court in  
206 its final determination.

207       (c) The reports of the suggestions or comments of the  
208 designated staff committee shall be public records and available  
209 upon the final determination of any case rendered by any  
210 commission panel.

211       (d) The commission shall adopt rules to implement this  
212 subsection.

213       (7) COMMISSION ACCOUNTABILITY AND EFFICIENCY.—Pursuant to  
214 ss. 11.45(2)(a), 11.51(1), and 11.513(5), the Auditor General  
215 and the Office of Program Policy Analysis and Government  
216 Accountability shall conduct a full audit review and examination  
217 of the commission and prepare a report containing appropriate  
218 recommendations. The audit must be conducted every 2 years  
219 commencing July 1, 2011, in accordance with the full authority  
220 and responsibilities conferred upon the Auditor General and the  
221 Office of Program Policy Analysis and Government Accountability  
222 by general law. The report and recommendations shall be  
223 submitted within 1 year after the audit to the chair and vice  
224 chair of the Legislative Budget Commission, the chair and vice  
225 chair of the Legislative Auditing Committee, the Governor, and  
226 the Chief Justice of the Supreme Court.

227       Section 5. The amendment to section 2.01, Florida Statutes,  
228 made by this act applies retroactively and prospectively.

229       Section 6. This act shall take effect July 1, 2010.