

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: CS/CS/SB 328

INTRODUCER: Infrastructure and Security Committee, Judiciary Committee, and Senator Brandes

SUBJECT: Courts

DATE: April 10, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tulloch	Cibula	JU	Fav/CS
2.	Price	Miller	IS	Fav/CS
3.			ACJ	
4.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 328 amends or creates substantive provisions relating to the court system. The bill: (1) amends provisions affecting the jurisdiction of the county and circuit courts; (2) adjusts county and circuit court filing fees based on jurisdiction amounts; and (3) limits when the \$1 mediation/arbitration fee may be collected by the court clerks.

(1) *Jurisdiction*—The bill gradually raises the county courts’ maximum jurisdictional amount for civil cases demanding money as follows:

- For cases filed on or before June 30, 2019, \$15,000;
- For cases filed on or after July 1, 2019, \$30,000; and
- For cases filed on or after July 1, 2021, \$50,000.

The bill effectively raises the circuit courts’ original jurisdiction to amounts exceeding the county court’s new jurisdictional amounts. The bill also explicitly clarifies that the circuit courts have appellate jurisdiction over county court decisions involving the county court’s new jurisdictional amounts.

The amendments to the jurisdiction of a court made by the bill apply with respect to the date of filing the cause of action, regardless of when the cause of action accrued.

The bill also authorizes a defendant in any civil action in which the court’s jurisdiction is dependent on the amount in controversy to demand proof of the reasonableness of the amount in controversy within 30 days after the complaint is filed.

Additionally, the bill requires the State Courts Administrator to submit recommendations regarding the adjustment of county court jurisdiction resulting from the changes to the jurisdictional amounts by March 1, 2021. The report must include a review of fees to ensure that the court system is adequately funded, and a review of the appellate jurisdiction of the district courts and the circuit court.

(2) *Filing Fees*—The bill adjusts the filing fees in sections 28.241 and 34.041, F.S., to maintain the current applicable filing fees and their statutory distribution to various funds, based on the case’s monetary value. Specifically, effective July 1, 2019, although the county courts will now have jurisdiction over cases demanding between \$15,000 and \$30,000, the current circuit court level filing fee of \$395 will still apply based on the amount demanded. Likewise, although circuit courts will now have appellate jurisdiction over cases demanding between \$15,000 and \$30,000, the current district court of appeal level filing fee of \$400 will still apply based on the amount demanded.

(3) *Mediation/Arbitration Fee*—The bill provides that the \$1 filing fee levied on all county and civil court cases to fund mediation and arbitration may not be levied on appeals from the county to the circuit court for claims exceeding \$15,000.

The fiscal impact of the bill is indeterminate. See the Fiscal Impact Statement heading for additional information.

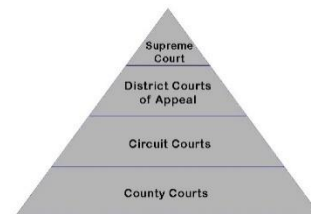
The bill takes effect July 1, 2019.

II. Present Situation:

Florida’s Court System

The Florida Constitution vests all judicial power in:

- The supreme court;
- The district courts of appeal;
- The circuit courts; and
- The county courts.¹



The Constitution provides that “[n]o other courts may be established by the state, any political subdivision or any municipality.”² Additionally, the Constitution vests the Florida Supreme Court with broad authority to administer the state courts system and establish court rules of procedure.³

¹ FLA. CONST. art. V., s. 1.

² *Id.* (although the Constitution permits the Legislature to establish quasi-judicial, administrative courts and a civil traffic infraction hearing officer system).

³ FLA. CONST. art. V, s. 2.

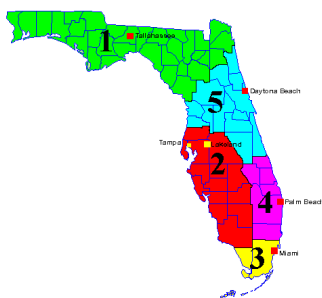
Legislative Powers Concerning Court Jurisdiction

The Constitution confers some authority over the jurisdiction of the courts to the Legislature. Although the territorial and subject matter jurisdiction of the Florida Supreme Court is primarily defined by the Constitution, the Legislature has constitutional authority to provide for the territorial jurisdiction and the subject matter jurisdiction of the courts.⁴

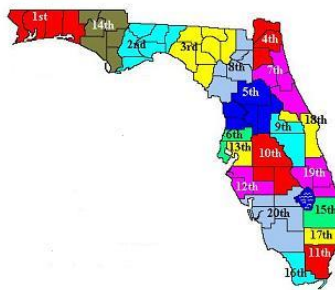
Territorial Jurisdiction

The Legislature is constitutionally required to establish the territorial or geographic jurisdiction of the appellate court districts and the judicial circuits “following county lines.”⁵ Currently, there are five district courts of appeal,⁶ 20 judicial circuits, and 67 county courts, one in each of Florida’s 67 counties⁷ as constitutionally required.⁸

The following maps illustrate the territorial jurisdictions of these courts:⁹



Five District Courts of Appeal



Twenty Judicial Circuits



Sixty-Seven Counties

Subject Matter Jurisdiction

The Legislature’s authority over the subject matter jurisdiction of the Florida Supreme Court and district courts of appeal is fairly limited. With a few exceptions,¹⁰ the Constitution sets out the subject matter jurisdiction of the Supreme Court and the appellate courts.

⁴ “Jurisdiction” is defined as “[a] government’s general power to exercise authority over all persons and things within its territory; esp., a state’s power to create interests that will be recognized under common-law principles as valid in other states <New Jersey’s jurisdiction>.” BLACK’S LAW DICTIONARY (10th ed. 2014). For courts, jurisdiction is defined as “[a] court’s power to decide a case or issue a decree <the constitutional grant of federal-question jurisdiction>.” *Id.* Additionally, jurisdiction is defined geographically: “A geographic area within which political or judicial authority may be exercised <the accused fled to another jurisdiction>.” *Id.*

⁵ FLA. CONST. art. V, s. 1.

⁶ Florida Courts, *Court System Organization & Structure*, <http://www.flcourts.org/florida-courts/> (last visited Jan. 29, 2019). The First District sits in Tallahassee; the Second District sits in Lakeland; the Third District sits in Miami; the Fourth District sits in West Palm Beach; and the Fifth District sits in Daytona Beach. Florida Courts, *District Courts of Appeal*, <https://www.flcourts.org/Florida-Courts/District-Courts-of-Appeal> (last visited Jan. 29, 2019).

⁷ Florida Courts, *Court System Organization & Structure*, <http://www.flcourts.org/florida-courts/> (last visited Jan. 29, 2019).

⁸ FLA. CONST. art. V, s. 6(a) (“There shall be a county court in each county.”).

⁹ Ron DeSantis, 46th Governor of Florida, Judicial and Judicial Nominating Commission Information, *The Florida Court System*, <https://www.flgov.com/judicial-and-judicial-nominating-commission-information/> (last visited Jan. 29, 2019).

¹⁰ See Art. V, s. 3(b)(2), FLA. CONST. (“When provided by *general law*, [the supreme court] shall hear appeals from final judgments entered in proceedings for the validation of bonds or certificates of indebtedness and shall review action of statewide agencies relating to rates or service of utilities providing electric, gas, or telephone service.”) (emphasis added);

On the other hand, under the Constitution, the Legislature is granted broad authority to define the jurisdiction¹¹ of the county courts: “The county courts shall exercise the jurisdiction *prescribed by general law*. Such jurisdiction shall be uniform throughout the state.”¹²

Because the jurisdiction of the circuit court is limited by the jurisdiction of the county courts under the Constitution, the Legislature’s authority to define the jurisdiction of the circuit courts is also fairly broad:

The circuit courts shall have original jurisdiction not vested in the county courts, and jurisdiction of appeals *when provided by general law*. They shall have the power to issue writs of mandamus, quo warranto, certiorari, prohibition and habeas corpus, and all writs necessary or proper to the complete exercise of their jurisdiction. Jurisdiction of the circuit court shall be uniform throughout the state. They shall have the power of direct review of administrative action *prescribed by general law*.¹³

County Court Jurisdiction

As provided by the Legislature in s. 34.01, F.S., the county court is a trial court that has jurisdiction over the following types of cases within its jurisdictional (monetary) amount of \$15,000:

- All criminal misdemeanor cases not cognizable by the circuit courts;
- All violations of municipal and county ordinances;
- All actions at law involving damages up to \$15,000, not including interest, costs, and attorney’s fees, unless the cause of action is within the exclusive jurisdiction of the circuit courts;
- Concurrent jurisdiction with the circuit courts over disputes between homeowners’ associations and parcel owners;
- Concurrent jurisdiction with circuit courts to hear uncontested dissolution of marriage petitions under the simplified dissolution procedures;
- Any subject matter jurisdiction previously exercised by the county courts prior to the adoption of the 1968 Constitution, including that of the small claims courts; and
- Any matter in equity (such as an eviction)¹⁴ that is within the jurisdictional amount of the county court.

FLA. CONST. art. V, s. 4(b)(2) (“District courts of appeal shall have the power of direct review of administrative action, *as prescribed by general law*.”) (emphasis added).

¹¹See *Alexdex Corp. v. Nachon Enterprises, Inc.*, 641 So. 2d 858, 861 (Fla. 1994) (“The jurisdiction of the courts of the state is broadly defined by our State Constitution; however, the legislature may further define a court’s jurisdiction so long as the jurisdiction, as redefined, is not in conflict with the Constitution. . . . Absent a constitutional prohibition or restriction, the legislature is free to vest courts with exclusive, concurrent, original, appellate, or final jurisdiction.”) (citing *State v. Sullivan*, 95 Fla. 191, 116 So. 255 (1928)).

¹² FLA. CONST. art. V, s. 6(b) (emphasis added). Additionally, the Legislature establishes the number of judges to serve in each county. *Id.* at s. 6(a).

¹³ FLA. CONST. art. V, s. 5(b) (emphasis added).

¹⁴ Section 34.011, F.S. (providing that county and circuit courts generally have concurrent jurisdiction over landlord tenant cases, although county court will have exclusive jurisdiction over proceedings relating to the right of possession so long as matter is under \$15,000.).

The effective date of the last increase to the monetary limit on the jurisdiction of the county courts was July 1, 1992.¹⁵ If adjusted for inflation, the \$15,000 jurisdictional limit would be \$26,822.03 in today's dollars (as of December 2018).¹⁶

The county court is also the small claims court. Small claims courts are not separate, constitutionally recognized courts;¹⁷ rather, they are the county courts functioning under the Florida Small Claims Rules of procedure adopted by the Supreme Court.¹⁸ The goal of the Small Claims Rules is to “reach a ‘simple, speedy, and inexpensive’ resolution of [small claims] cases” in which the parties often represent themselves.¹⁹ The court rules apply to civil actions in county courts where money is demanded,²⁰ and set the jurisdictional limit of small claims demands at \$5,000,²¹ where it has remained since January 1, 1997.²² If adjusted for inflation to December 2018, the jurisdictional limit of the Small Claims Rules would be \$7,895.44.²³

Circuit Court Jurisdiction

Because the circuit courts have exclusive jurisdiction over “all actions at law not cognizable by the county courts,” the circuit court’s current jurisdictional amount is \$15,000 or above for cases demanding money judgments.²⁴

Additionally, with two exceptions, the circuit court has appellate jurisdiction over county court cases. Under the two exceptions, the district court of appeal has appellate jurisdiction when a county court either (1) declares a statute or constitutional provision invalid or (2) certifies a question of great public importance.²⁵ Additionally, if the law applied by the circuit court sitting in its appellate capacity is in question, a party may seek review by the appropriate district court of appeal by filing a petition for writ of certiorari.²⁶

¹⁵ Chapter 90-269, Laws of Fla.

¹⁶ The inflation adjusted figure was determined by the Bureau of Labor Statistics, United States Department of Labor, CPI Inflation Calculator, which is available at https://www.bls.gov/data/inflation_calculator.htm.

¹⁷ *LaSalla v. Pools by George of Pinellas County, Inc.*, 125 So. 3d 1016, 1016 (Fla. 2d DCA 2013) (“[F]or purposes of the concept of subject matter jurisdiction, a county court that applies the Florida Small Claims Rules in a particular proceeding is not a separate court from a county court that applies the Florida Rules of Civil Procedure. This is true even if a county court has elected to create a ‘small claims division’ to handle cases under the Florida Small Claims Rules. To the extent that *Tax Certificate Redemption’s, Inc. v. Meitz*, 705 So. 2d 64 (Fla. 4th DCA 1997), discusses the ‘jurisdiction’ of a small claims court as distinct from the jurisdiction of county court, we believe that discussion is incorrect.”).

¹⁸ *Id.* at 1017 (The Small Claims Rules “do not create a ‘small claims court.’ They simply create rules of procedure for use in county court when the amount in controversy is small.”). When the amount in controversy exceeds the jurisdictional limits of the Small Claims Rules, the more complex requirements of the Rules of Civil Procedure apply. *See Hilton v. Florio*, 317 So. 2d 83 (Fla. 3d DCA 1975).

¹⁹ *In re Amendments to Florida Small Claims Rule 7.090*, 64 So. 3d 1196 (Fla. 2011); Fla. Sm. Cl. R. 7.010(a).

²⁰ *In re Amendments to Florida Small Claims Rules*, 123 So. 3d 41, 43 (Fla. 2013) (amending Fla. Sm. Cl. R. 7.010).

²¹ Fla. Sm. Cl. R. 7.010(b).

²² *In re Amendments to the Florida Small Claims Rules*, 682 So. 2d 1075, 1076 (Fla. 1996) (raising amount from \$2,500 to \$5,000).

²³ The inflation adjusted figure was determined by the Bureau of Labor Statistics, United States Department of Labor, CPI Inflation Calculator, which is available at https://www.bls.gov/data/inflation_calculator.htm.

²⁴ Section 26.012(2)(a), F.S.

²⁵ Section 26.012(1), F.S.

²⁶ FLA. CONST. art. V, s. 4(b)(3) (authorizing district courts of appeal to issue writs of certiorari among others). Philip J. Padovano, *Appellate Practice*, 2 Fla. Prac., § 30:5 (2017 ed.) (“A party may file a petition for writ of certiorari to review . . . an appellate decision of a lower court[.]”). On petition for writ of certiorari, the district court reviews for whether the circuit

Notably, foreclosure cases, which are cases in equity, are not one of the subject areas statutorily defined as being within the exclusive jurisdiction of the circuit court.²⁷ Rather, in resolving a conflict between the statutes setting forth the county court’s and the circuit court’s equity jurisdiction in foreclosure cases, the Florida Supreme court concluded in *Alexdex Corp. v. Nachon Enterprises, Inc.* that “the legislature intended to provide concurrent equity jurisdiction in circuit and county courts, except that equity cases filed in county courts must fall within the county court’s monetary jurisdiction, as set by statute.”²⁸

Jurisdictional Amount in Controversy/Transfer of Actions

The Florida rules of Civil Procedure currently provide for the transfer of actions that appear to be pending in the wrong court of any county. Rule 1.060, *Transfer of Actions*, provides “If it should appear at any time that an action is pending in the wrong court of any county, it may be transferred to the proper court within said county by the same method as provided in rule 1.170(j).”²⁹ The referenced method relates to the transfer of actions if the demand of any counterclaim or crossclaim exceeds the jurisdiction of the court in which the action is pending. This method is as follows:

- If the party asserting the demand exceeding the jurisdiction deposits with the court having jurisdiction the applicable clerk’s service charge³⁰ in the court to which the action is transferred, he court must order the transfer of the action, along with transmittal of all documents in it, to the proper court.
- The original documents and deposit must then be filed with a certified copy of the order to the transferee court, at which time such court “shall have full power and jurisdiction over the demands of all parties.”³¹

Filing Fees

Filing fees are constitutionally required to fund the clerks of the circuit and county courts,³² and vary depending on the court. In **county court**, the filing fee for civil actions at law demanding money judgments vary based on the amount:

- For all claims less than \$100..... \$50.
- For all claims of \$100 or more but not more than \$500..... \$75.
- For all claims of more than \$500 but not more than \$2,500..... \$170.
- For all claims of more than \$2,500..... \$295.³³

The clerk of court also collects an additional \$4 filing fee.³⁴

court departed from the essential requirements of the law; or, put another way, whether the circuit court “(1) afforded the parties due process of law[,] and (2) applied the correct law.” *Id.*

²⁷ Section 26.012(2), F.S.

²⁸ 641 So. 2d 858, 862 (Fla. 1994).

²⁹ See Florida Rules, available at <https://floridarules.net/civil-procedure/> (last viewed April 9, 2019).

³⁰ See ss. 28.231 and 28.24, F.S.

³¹ Fla.R.Civ.P. 1.170(j), *supra* note 29.

³² FLA. CONST. art. V, s. 14(b) (requiring that all funding for clerks of circuit and county courts come from adequate filing fees).

³³ Section 34.041(1)(a), F.S.

³⁴ Section 34.041(1)(b), F.S.

When the clerk of court collects the \$295 filing fee, the fee is allocated as follows:

- The first \$15 of the filing fee is deposited in the State Courts Revenue Trust Fund.
- \$3.50 is transferred to the Department of Revenue (DOR) for deposit in the Court Education Trust Fund.
- Another \$0.50 is transferred to the DOR for deposit into the Administrative Trust Fund within the Department of Financial Services to fund clerk education provided by the Florida Clerks of Court Operations Corporation.³⁵

Additionally, when any portion of the fees for court functions collected in the prior month exceeds one-twelfth of the clerk's total budget, the overage is transferred to the DOR for deposit into the Clerks of the Court Trust Fund.³⁶

In **circuit court**, the filing fee for civil actions at law demanding money judgments vary based on the type of action filed³⁷ and the number of defendants, but is generally \$395 for the first five defendants.³⁸ Additionally, there are graduated filing fees for real property and mortgage foreclosure cases which can reach as high as \$1,900 for claims valued at \$250,000 and higher.³⁹

The filing fee collected by the clerk of court is allocated as follows:

- Of the first \$200 in filing fees, \$195 must be remitted to the DOR for deposit into the State Courts Revenue Trust Fund.
- \$4 must be remitted to the DOR for deposit into the Administrative Trust Fund within the Department of Financial Services and used to fund the contract with the Florida Clerks of Court Operations Corporation.
- \$1 must be remitted to the DOR for deposit into the Administrative Trust Fund within the Department of Financial Services to fund audits of individual clerks' court-related expenditures conducted by the Department of Financial Services.⁴⁰

Additionally, as in county court, when any portion of the circuit court fees collected in the prior month exceeds one-twelfth of the clerk's total budget, the overage is transferred to the DOR for deposit into the Clerks of the Court Trust Fund.⁴¹

The clerk of court also collects an additional \$4 fee. Of that \$4 fee, \$3.50 is transferred to the DOR for deposit into the Court Education Trust Fund. The other \$0.50 is also transferred to the DOR for deposit into the Administrative Trust Fund within the Department of Financial Services to fund clerk education provided by the Florida Clerks of Court Operations Corporation.⁴²

³⁵ *Id.*

³⁶ *Id.*

³⁷ Section 28.241(1)(a)1.a., F.S. The filing fee is only \$295 for civil suits filed under chapters 39 (dependency), 61 (family law), 741 (domestic violence), 742 (determination of parentage), 747 (conservatorship), 752 (grandparental visitation rights), or 753 (supervised visitation). Section 28.241(1)(a)1.b., F.S. Additionally, there are graduated filing fees for real property and mortgage foreclosure cases which can reach as high as \$1,900 for claims valued at \$250,000 and higher. Section 28.241(1)(a)2, F.S.

³⁸ *Id.* It is \$2.50 per defendant in excess of five. *Id.*

³⁹ *Id.*

⁴⁰ Section 28.241(1)(a)1.a., F.S.

⁴¹ *Id.*

⁴² Section 28.241(1)(a)1.c., F.S.

Effective January 1, 2019, \$50 of the \$100 fee collected by the clerk of the circuit court from each attorney appearing *pro hac vice* (an attorney licensed in another state permitted to specially appear in a case by court order) will be deposited into the State Courts Revenue Trust Fund.⁴³

Additionally, the clerks of court collect a \$1 filing fee in all proceedings, whether filed in circuit or county court, to fund **mediation and arbitration services**. The fee is deposited in the State Courts Revenue Trust Fund⁴⁴ to be used to provide access to mediation and arbitration for all parties “regardless of financial status.”⁴⁵ This fee goes toward the state-funded mediation program, which is available to parties in county civil cases (under \$15,000) for free or reduced costs, but not in circuit civil cases.⁴⁶ This fee is not levied in appellate proceedings filed in the District Courts of Appeal or the Florida Supreme Court.

Currently, the per-person, per-scheduled session fee for court-ordered mediation services provided by a circuit-court’s mediation program is \$60 in county court cases.

For **appeals from the county to the circuit court**, the clerk of the circuit court may collect up to \$280.⁴⁷

For appeals to the **district court of appeal**, the circuit court charges a \$100 fee for filing a notice of appeal,⁴⁸ and the clerk of the district court of appeal collects a filing fee of \$300 for civil cases.⁴⁹ Of the district court filing fee, \$50 is deposited into the State Courts Revenue Trust Fund and the remainder is deposited into the State Treasury to be credited to the General Revenue Fund.⁵⁰

III. Effect of Proposed Changes:

Raised Jurisdictional Amounts of the County and Circuit Courts

Section 2 of the bill gradually raises the maximum jurisdictional amount of the county courts (except for those actions within the exclusive jurisdiction of the circuit courts). If an action is filed on or before June 30, 2019, the jurisdictional amount remains at \$15,000. Thereafter :

- For cases filed on or after July 1, 2019, \$30,000.
- For cases filed on or after July 1, 2021, \$50,000.

Section 7 provides that the amendments to the jurisdiction of a court made by the bill apply with respect to the date of filing the cause of action, regardless of when the cause of action accrued.

⁴³ Section 28.241(6), F.S. All \$100 was deposited into the general revenue fund prior to January 1, 2019. *Id.*

⁴⁴ Section 44.108(1), F.S.

⁴⁵ *Id.*; see also Fla. Att’y Gen. Op. 2002-09 (2002) (“Funds generated from filing fees designated solely for mediation or alternative dispute resolutions may be used only for those purposes”).

⁴⁶ Section 44.108(1), F.S.; Office of the State Courts Administrator, *Senate Bill 328 Judicial Impact Statement* (Jan. 31, 2019)(on filed with the Senate Judiciary Committee).

⁴⁷ Section 28.241(2), F.S.

⁴⁸ *Id.*

⁴⁹ Section 35.22(2)(a), F.S.

⁵⁰ Section 35.22(5), F.S. The clerk of the district court of appeal also collects \$295 for cross-appeals or additional parties, and this fee is remitted entirely to the DOR for deposit into the General Revenue fund. Section 35.255(2)(b), F.S.

Because the circuit courts have exclusive jurisdiction over “all actions at law not cognizable by the county courts,” the bill also effectively raises the jurisdictional amount of the circuit courts to cases demanding money judgments over \$50,000

The bill also directs the Office of State Court Administrator (OSCA) by March 1, 2021, to make recommendations regarding the adjustment of county court jurisdiction, including, but not limited to, an analysis of workflow, timely access to court by litigants, and any resulting fiscal impact to the state as a result of adjusted jurisdictional limits. The OSCA must also include a review of fees to ensure that the court system is adequately funded and a review of the appellate jurisdiction of the district courts and the circuit courts.

Jurisdictional Amount in Controversy/Transfer of Actions

Section 5 of the bill creates a new provision of law authorizing a defendant, as a matter of right in any civil action in which the court’s jurisdiction is dependent on the amount in controversy, to file within 30 days after the complaint is filed a demand for proof of the reasonableness of the amount in controversy. The bill deems such a demand to be a responsive pleading for the purposes of the rules of procedure and requires the following:

- The court must promptly hold a hearing to determine whether the amount in controversy as alleged in the complaint is reasonable.
- At the hearing, the plaintiff must demonstrate, by a preponderance of the evidence, a reasonable likelihood of recovering at least the amount alleged in the complaint.
- If the court finds that the plaintiff has not made the required demonstration, the court must transfer the matter to the appropriate court.

Filing Fees

Sections 1 and 3 of the bill adjust the filing fees based on the new jurisdictional amounts of the circuit and county courts in order to maintain the current level of funding for the courts system and the county clerks’ offices. Section 1 adjusts the appellate filing fees collected by the clerks’ offices and subsequently distributed to various funds based on the new jurisdiction of circuit courts over county court appeals valued over \$15,000 (until June 30, 2019; \$30,000 on or after July 1, 2019; and \$50,000 on or after July 1, 2021). The circuit court’s appellate filing fees for county court appeals over \$15,000 are now aligned with the district court of appeals’ fees and the statutory distribution of those fees.

Likewise, section 3 adjusts the case filing fees collected by the clerks’ offices and subsequently distributed to various funds based on the new jurisdiction of county courts over cases exceeding \$15,000 (until June 30, 2019; \$30,000 on or after July 1, 2019; and \$50,000 on or after July 1, 2021). The county court’s filing fees for cases valued over \$15,000 are now aligned with the circuit court fees and the statutory distribution of those fees.

Mediation and Arbitration Fee

Section 4 of the bill amends s. 44.108, F.S., to limit the \$1 filing fee levied and collected by the clerk of court in all county and civil proceedings. The bill provides that the \$1 filing fee will not be levied on appeals in cases involving \$15,000 or more from the county court to circuit court.

This limitation appears to make appellate filing fees in the circuit court consistent with those of the district courts of appeal and the Florida Supreme Court, neither of which levy the \$1 fee on appellate filings. This section of the bill also clarifies that the existing \$60 per person, per scheduled session fee for court-ordered mediation services provided by a circuit court's mediation program applies in county court cases *involving an amount in controversy not exceeding \$15,000*.

Effective Date: Section 7 provides the bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Under the 2018 amendment to the Florida Constitution, Article VII, Section 19 requires “a supermajority vote” of 2/3 of the membership of each house to pass legislation which will “raise” or increase a state tax or fee.⁵¹ A “fee” is defined as “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”⁵² The term “raise” means, in pertinent part, “[t]o increase or authorize an increase in the amount of a state tax or fee imposed on a flat or fixed amount basis[.]”⁵³

It does not appear that the adjustment to the court filing fees is a “raise” in these fees for purposes of requiring a supermajority vote. The adjustment to the fees is intended to maintain the status quo in terms of how those fees are distributed to fund the state courts system and the county clerks of court. The adjustment is a stop gap measure that pins the fees and statutory fee distribution to the monetary value of the case rather than to the court where it is filed. In other words, although the court with jurisdiction to hear a case worth over \$15,000 will change, the filing fee charged for cases worth over \$15,000 will remain the same, as will the current distribution of that fee to various funds.⁵⁴

⁵¹ FLA. CONST. art. VII, s. 19(b).

⁵² FLA. CONST. art. VII, s. 19(d)(1).

⁵³ FLA. CONST. art. VII, s. 19(d)(2)b.

⁵⁴ Email from Sarah Naf Biehl, Chief of Legislative Affairs, Office of the State Courts Administrator, on February 4, 2019 (“We took the approach of keeping the filing fees exactly as they are today, thereby avoiding any negative impact to the courts and others who are funded by a portion of the existing fees. The amendment would not raise fees - it would maintain the same filing fee amount for each case value as currently required. The only change would be by which judge affected cases are heard. However, the judicial branch has not taken an official position on this issue.”).

E. Other Constitutional Issues:

Jurisdictional Amount in Controversy/Transfer of Actions

Article V, section (2)(a) of the Florida Constitution provides:

The supreme court shall adopt rules for the practice and procedure in all courts including the time for seeking appellate review, the administrative supervision of all courts, *the transfer to the court having jurisdiction of any proceeding when the jurisdiction of another court has been improvidently invoked*, and a requirement that no cause shall be dismissed because an improper remedy has been sought. The supreme court shall adopt rules to allow the court and the district courts of appeal to submit questions relating to military law to the federal Court of Appeals for the Armed Forces for an advisory opinion. Rules of court may be repealed by general law enacted by two-thirds vote of the membership of each house of the legislature.⁵⁵

Section 5 of the bill creates a new provision of law authorizing a defendant, as a matter of right in any civil action in which the court's jurisdiction is dependent on the amount in controversy, to file within 30 days after the complaint is filed a demand for proof of the reasonableness of the amount in controversy. The plaintiff must demonstrate, by a preponderance of the evidence, a reasonable likelihood of recovering at least the amount alleged in the complaint. This section of the bill appears to contain both substantive and procedural elements.

“Florida law is well-settled [sic] that substantive statutes may permissibly include procedural elements without violating the separation of powers clause.”⁵⁶ However, whether this section of the bill is an impermissible inclusion of procedural elements in the granting of the substantive right of a defendant to make a demand for proof is unclear. This section of the bill may be subject to constitutional challenge on grounds that the statute, if enacted, unconstitutionally encroaches upon the Supreme Court's authority to adopt rules for court practice and procedure.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁵⁵ Emphasis added.

⁵⁶ See *State Farm Florida Ins. Co. v. Buitrago*, 100 So.3d 85 (Fla. 2d DCA 2012), citing *Morejon v. Am. Sec. Ins. Co.*, 829 F.Supp.2d 1258, 1260 (M.D.Fla. 2011).

B. Private Sector Impact:

Section 5 of the bill creates a new provision of law authorizing a defendant to file as a matter of right within 30 days after the complaint is filed a demand for proof of the reasonableness of the amount in controversy. Under the bill, the plaintiff is required to demonstrate a reasonable likelihood of recovering at least the amount alleged in the complaint. The process set out in the bill may increase expenses for plaintiffs, as the bill requires a hearing that may include the testimony of witnesses and introduction of other evidence on the part of the plaintiff.

The bill will likely result in an increase in the jurisdictional limit of the Small Claims Courts, which will permit more cases to be expeditiously resolved in the county courts under the simplified Small Claims Rules. Based on a similar proposed bill last session, the Florida Supreme Court formed the Work Group on County Court Jurisdiction and directed the Work Group to study and make recommendations on, among other issues, how the Small Claims jurisdictional amount should be adjusted.⁵⁷ The Work Group recommended that the jurisdiction of the Small Claims Court be raised from \$5,000 to \$8,000, assuming the jurisdiction of the county court was raised to \$25,000.⁵⁸

The Florida Supreme Court supports the Work Group's recommendation.⁵⁹

C. Government Sector Impact:

County and Circuit Court Jurisdictional Adjustments

Work Group on County Court Jurisdiction Recommendations and Reports—Based on proposed legislation in 2018,⁶⁰ the Florida Supreme Court created the Work Group on County Court Jurisdiction to evaluate the impact of raising the jurisdictional amount of the county courts.⁶¹ The full impacts could not be determined but the Work Group noted that the distribution of filing fees could result in a loss of funding for the judiciary, while positively impacting the clerk's offices.⁶²

In one of the Work Group's preliminary reports explaining its recommendation that the county courts' jurisdiction should increase to \$25,000, the Work Group noted that county courts are not as well equipped currently as the circuit courts to carry out long, complex trials. The Work Group noted that certain types of complex cases which frequently go to

⁵⁷ *In re: Work Group on County Court Jurisdiction*, Fla. Admin. Order No. AOSC18-39 (Aug. 1, 2018), available at <https://www.floridasupremecourt.org/content/download/421915/4558246/AOSC18-39.pdf>. See also *In re: Certification of Need for Additional Judges*, 44 Fla. L. Weekly S53 (Fla. Dec. 28, 2018) (noting Legislature's interest in increasing county court jurisdiction may be a factor in determining the need for additional judges)(citing AOSC18-39). , 44 Fla. L. Weekly S53 (Fla. Dec. 28, 2018).

⁵⁸ Florida Supreme Court, *Recommendations from the Judicial Management Council's Work Group on County Court Jurisdictions*, pp. 4-6, 18-21 (Interim Report)(Nov. 30, 2019) (updated to reflect Supreme Court actions in December 2018)(on file with the Senate Judiciary Committee).

⁵⁹ *Id.*

⁶⁰ See SB 1384, SB 1396.

⁶¹ See n. 71, *supra*.

⁶² See n. 72, *supra*.

trial, such as insurance cases (especially those with water damage claims), should not exceed \$25,000 so as to minimize the impact on county court resources.⁶³

Section 5 of the bill creates a new provision of law authorizing a defendant to file as a matter of right within 30 days after the complaint is filed a demand for proof of the reasonableness of the amount in controversy. Under the bill, the plaintiff is required to demonstrate a reasonable likelihood of recovering at least the amount alleged in the complaint. The process set out in the bill may increase expenses for courts, as the bill requires a hearing that may include the testimony of witnesses and introduction of other evidence on the part of the plaintiff.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The OSCA indicates that the July 1, 2019, effective date does not allow sufficient time for administrative changes necessary to implement the bill's provisions.⁶⁴

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 28.241, 34.01, 34.041, and 44.108.

The bill creates section 45.21, Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Infrastructure and Security on April 9, 2019:

The Committee Substitute removes from the bill provisions:

- Allowing Supreme Court justices to have a remote headquarters.
- Revising the appellate jurisdiction of the circuit courts related to insurance cases carved out of county court jurisdiction.
- Relating to courthouse security.
- Allowing refunds of qualifying fees for candidates for circuit or county court judge who run unopposed.

The Committee Substitute also:

- Revises the phase-in of the increase of the county court monetary jurisdiction.

⁶³ Florida Courts, Trial Court Budget Commission, *Agenda Item 1: Work Group on County Court Jurisdiction- Provision of Comments*, p. 5, *Types of Cases Impacted* (Nov. 15, 2018), available at <https://www.flcourts.org/content/download/411958/3703779/11.15.18-tcbc-final-meeting-packet.pdf>.

⁶⁴ See email to committee staff dated April 9, 2019 (on file in the Infrastructure and Security Committee).

- Adds to the reporting requirements for the OSCA to include a review of fees to ensure that the court system is adequately funded, and a review of the appellate jurisdiction of the district courts and the circuit court.
- Authorizes a defendant to dispute the reasonableness of the amounts in controversy for the purpose of the court determining whether a case was filed in the proper court.
- Further revises filing fees for higher value cases in the county courts to maintain the current applicable filing fees based on the case's monetary value.

CS by Judiciary on February 4, 2019:

The Committee Substitute:

- Corrects a technical problem in the new jurisdictional language in 34.01, F.S.
- Further amends the new jurisdictional language of section 34.01, F.S., to provide for a two-step increase in the county courts' jurisdictional amount (to only \$30,000 by 2020; then to \$50,000 by 2022).
- Adds two additional sections to the bill, sections 6 and 7, amending sections 28.241 and 34.041, F.S. to adjust the case filing fee amounts and the statutory distribution of those fees to align with the current fee structure for cases worth more than \$15,000.

B. Amendments:

None.