

**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.)

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Prepared By: The Professional Staff of the Appropriations Subcommittee on Criminal and Civil Justice

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BILL: CS/SB 1510

INTRODUCER: Judiciary Committee and Senator Brandes

SUBJECT: Jurisdiction of Courts

DATE: February 12, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cibula	Cibula	JU	<b>Fav/CS</b>
2.	Dale	Jameson	ACJ	<b>Pre-meeting</b>
3.			AP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1510 transfers the jurisdiction of circuit courts to hear appeals of county court civil and criminal cases to the district courts of appeal. The bill is based on the recommendations of a recent report by the Supreme Court’s Judicial Management Council’s Workgroup on Appellate Review of County Court Decisions.

The bill has a fiscal impact. See Section V.

The effective date of the bill is January 1, 2021.

**II. Present Situation:**

The State Constitution establishes a four-level court system consisting of a Supreme Court, five district courts of appeal, 20 circuit courts, and 67 county courts. The circuit courts and county courts primarily serve as trial courts, but the circuit courts also hear appeals from county courts involving many different types of cases and appeals from administrative bodies.

The Constitution also permits the Legislature to substantially define the jurisdictions of the circuit courts and county courts by statute.<sup>1</sup> As defined by statute, the circuit courts have

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<sup>1</sup> Article V, s. 6(b) states that “[t]he county courts shall exercise the jurisdiction prescribed by general law.” Under Article V, s. 5(b), the jurisdiction the circuit courts includes “original jurisdiction not vested in the county courts, and jurisdiction of

exclusive jurisdiction over several case types, including felony cases and probate matters, but the primary distinction between the jurisdictions of the courts is a monetary threshold.<sup>2</sup>

### **Recent Legislative Changes to Trial Court Jurisdiction**

During the 2019 Legislative Session, the Legislature increased the monetary threshold in a way that expands the jurisdiction of the county courts. Since 1995, this threshold had been set at \$15,000.<sup>3</sup> Claims exceeding \$15,000 were to be filed in the circuit court, and county courts had jurisdiction to hear claims valued up to that amount. With the 2019 legislation, effective January 1, 2020, the threshold became \$30,000. The threshold increases again, effective January 1, 2023, to \$50,000.

Although the 2019 legislation increased the value of claims that could be litigated in a county court, the legislation did not similarly or contemporaneously increase the jurisdiction of circuit courts to hear appeals from county courts. “Appeals of county court orders or judgments where the amount in controversy is greater than \$15,000,” according to the 2019 legislation, will continue to be heard by a district court of appeal until January 1, 2023.<sup>4</sup> Appeals of county court orders or judgments involving amounts of \$15,000 or less will continue to be heard by a circuit court.

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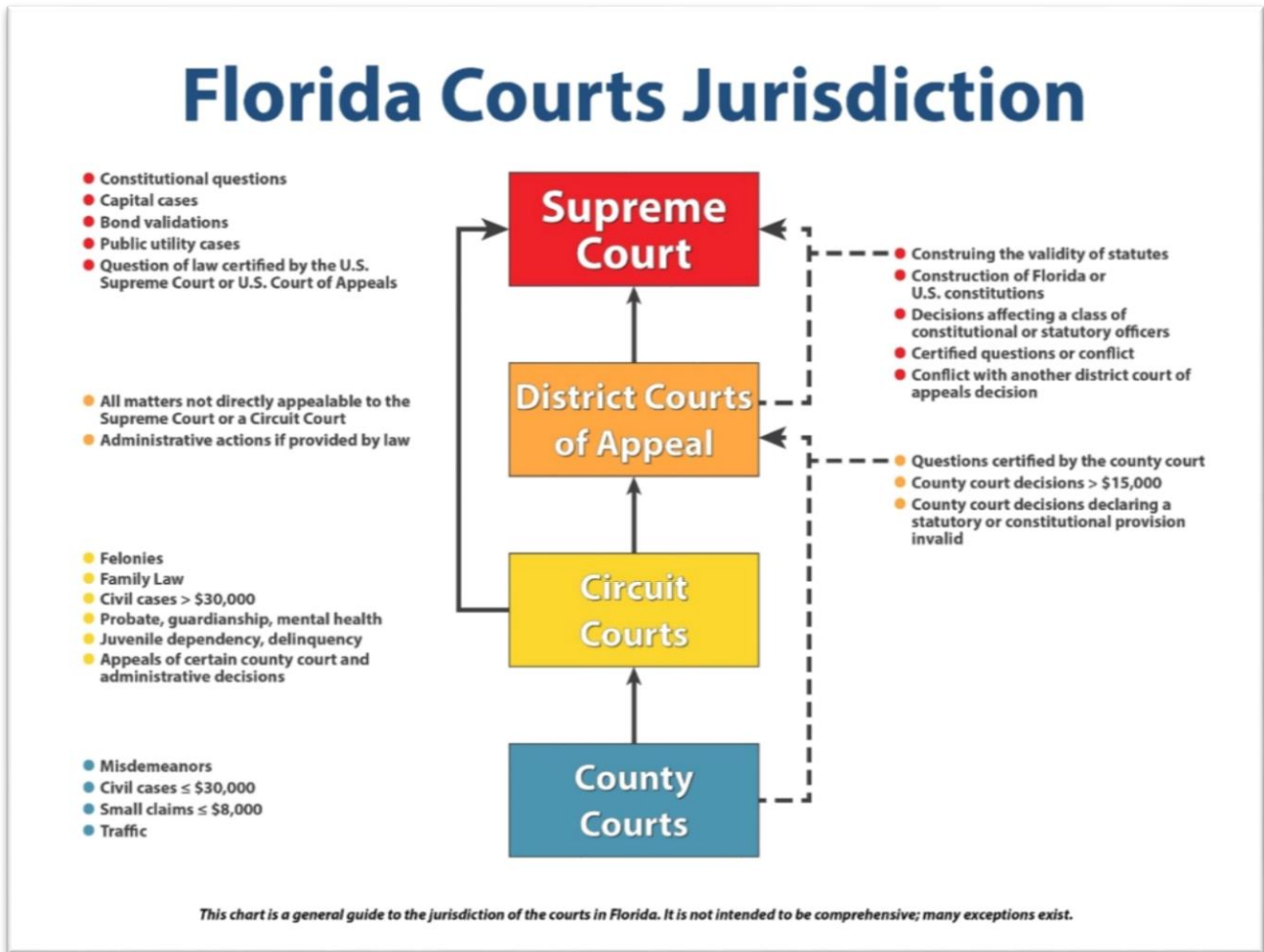
appeals when provided by general law.” Circuit courts also “shall have the power of direct review of administrative action prescribed by general law.” *Id.*

<sup>2</sup> Section 26.012, F.S. (defining the jurisdiction of the circuit courts) and s. 34.01, F.S. (defining the jurisdiction of the county courts).

<sup>3</sup> Chapter 2019-58, ss. 1 and 9, Laws of Fla.

<sup>4</sup> Chapter 2019-58, s. 1, Laws of Fla., amending s. 26.012(1), F.S., provides that limitation on the appellate jurisdiction of circuit courts to matters where the amount in controversy is \$15,000 or less is repealed on January 1, 2023.

The Florida Supreme Court has described the jurisdictions of Florida’s courts as shown.<sup>5</sup>



**Recommended Changes to Appellate Court Jurisdiction**

About the same time the 2019 legislation was filed increasing the monetary jurisdictional threshold, the Chief Justice of the Florida Supreme Court issued an administrative order directing the Workgroup on Appellate Review of County Court Decisions to:

1. Study whether the circuit courts should be uniformly required to hear appeals in panels and propose appropriate amendments to the Rules of Judicial Administration or the Rules of Appellate Procedure if the Workgroup determines that such amendments are necessary.
2. Review the following recommendation made by the Judicial Management Council’s Work Group on County Court Jurisdiction, and propose appropriate

<sup>5</sup> The chart is a duplicate of Diagram of the State Courts System effective 1/1/2020 by the Supreme Court of Florida. The diagram is available on the Supreme Court’s website at <https://www.floridasupremecourt.org/content/download/543675/6126128/Florida-Courts-Jurisdiction-Chart-2020.pdf>.

amendments to law or rule if the Workgroup determines that such amendments are necessary:

2.3 The Work Group recommends that any modification to the [county court] jurisdictional amount include a provision allowing intra- and intercircuit conflicts in circuit court appellate decisions within the same district to be certified to the district court of appeal for that district.

3. Consider whether other changes to the process for appellate review of county court decisions would improve the administration of justice. If so, the Workgroup may propose any revisions in the law and rules necessary to implement such recommended changes.<sup>6</sup>

In October 2019, the Workgroup issued a report containing its recommendations. The Workgroup's primary recommendation was that the Supreme Court:

Approve the proposal of statutory amendments to transfer the circuit courts' appellate and related extraordinary writ authority to the DCAs in county civil cases, including non-criminal violations, county, criminal cases, and administrative cases. If the new law is adopted during the 2021 Regular Legislative Session, an effective date of January 1, 2022, is recommended to allow time to make operational changes for the court system and to adopt conforming amendments to the Florida Rules of Court.<sup>7</sup>

The Supreme Court agreed with the recommendation, but supported more expeditious changes:

The Supreme Court supports the Legislature's consideration of proposed legislation during the 2020 Regular Session to transfer the referenced circuit court appellate and related extraordinary writ authority to the DCAs. Further, the Supreme Court supports an effective date for the legislation that is no earlier than January 1, 2021, to allow adequate time for implementation.<sup>8</sup>

### **Authority to Define Appellate Court Jurisdiction**

Although the Legislature has broad authority to define the jurisdiction of the circuit and county courts, its authority to define the jurisdiction of the district courts of appeal is more limited. Under Article V, s. (4)(b)(1) and (2) of the State Constitution:

(1) District courts of appeal shall have jurisdiction to hear appeals, that may be taken as a matter of right, from final judgments or orders of trial courts, including

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<sup>6</sup> Supreme Court of Florida, In Re: Workgroup on Appellate Review of County Court Decisions, Administrative Order No. AOSC19-3, (Jan. 4, 2019), <https://www.floridasupremecourt.org/content/download/425765/4589231/AOSC19-3.pdf>.

<sup>7</sup> Supreme Court of Florida, Judicial Management Council, *Workgroup on Appellate Review of County Court Decisions: Final Report*, Oct. 10, 2019.

<sup>8</sup> *Id.*

those entered on review of administrative action, not directly appealable to the supreme court or a circuit court. They may review interlocutory orders in such cases to the extent provided by rules adopted by the supreme court.

(2) District courts of appeal shall have the power of direct review of administrative action, as prescribed by general law.

These provisions mean that a litigant has a right to only one appeal. As such, a litigant may appeal a final order of a county court or an administrative entity to a circuit court, but the litigant has no right to further appeal to a district court of appeal.<sup>9</sup> The order may be reviewed by a district court only by a writ of certiorari, which means that the district court has the discretion to hear the case.<sup>10</sup> Moreover, a review by certiorari is much more limited in scope than a review by appeal.<sup>11</sup>

The certiorari jurisdiction of the district courts is defined, not by statute, but by the Florida Rules of Appellate Procedure.<sup>12</sup> Similarly, the authority for a district court to hear the appeal of an interlocutory order, which is a non-final order from a lower tribunal, is defined by court rules and not by statutes.

Because the Constitution divides the authority to define the appellate jurisdiction of the courts between the Supreme Court and the Legislature, expanding the appellate jurisdiction of the district courts of appeal while reducing the appellate jurisdiction of the circuit courts requires cooperation between the judiciary and the Legislature. The Legislature must make some statutory changes, and the Supreme Court must make changes to the Florida Rules of Appellate Procedure.

For example, the Legislature, in many cases, can provide for the appeal of a final order of a county court to a district court of appeal by eliminating the statutory authority for the appeal to be heard by a circuit court. By default, the appeal would have to be heard by a district court of appeal. However, without changes to the court rules, interlocutory appeals from a county court case would continue to be heard by a circuit court that would not have jurisdiction to hear the appeal of a final order from the case.<sup>13</sup> This result would seem to be inefficient.

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<sup>9</sup> *City of Deerfield Beach v. Valliant*, 419 So. 2d 624, 625 (Fla. 1982).

<sup>10</sup> *Id.*

<sup>11</sup> When a matter is appealed “all errors below may be corrected: jurisdictional, procedural, and substantive.” *Haines City Cmty. Dev. v. Heggs*, 658 So. 2d 523, n.3. (Fla. 1995). In contrast, “[c]ertiorari review is ‘intended to fill the interstices between direct appeal and the other prerogative writs’ and allow a court to reach down and halt a miscarriage of justice where no other remedy exists; it ‘was never intended to redress mere legal error.’” *Broward County v. G.B.V. Int’l, Ltd.*, 787 So. 2d 838, 842 (Fla. 2001).

<sup>12</sup> Fla. R. Civ. P. 9.030(b)(2).

<sup>13</sup> Similarly, the State Constitution does not allow the Legislature to authorize a party to take an interlocutory appeal of an order of a circuit court to a district court of appeal.

Any statute purporting to grant the right to take an interlocutory appeal is merely a declaration of legislative policy and is ineffective to accomplish its purpose; only if the Florida Supreme Court incorporates the statutory language into the appellate rules can appellate jurisdiction be broadened.

*Osceola County v. Best Diversified, Inc.*, 830 So. 2d 139, 140-41 (Fla. 3d DCA 2002) (citing *State v. Gaines*, 770 So. 2d 1221 (Fla. 2000); *State v. Smith*, 260 So. 2d 489 (Fla. 1972)).

### **Problem of Conflicting Circuit Court Appellate Decisions**

Decisions of circuit courts in their appellate capacity are binding on all county courts within their circuit.<sup>14</sup> However, circuit courts are not bound by decisions of other courts within their circuits. As a result, conflicting appellate decisions within a circuit court create instability in the law. County court judges and non-parties to the prior litigation do not know how or which appellate decisions to follow.<sup>15</sup>

When conflicting decisions are rendered by different panels of judges within the same district court of appeal, the Florida Rules of Appellate Procedure permit the court to conduct an en banc proceeding.<sup>16</sup> These proceedings allow the full court to reconcile its potentially conflicting decisions.<sup>17</sup> In contrast, judicial circuits have no similar mechanism that enables them to reconcile their intra-circuit conflicting opinions. Moreover, a circuit court is not authorized to certify intra-circuit court conflicting opinions to a district court of appeal for review.<sup>18</sup>

### **Appellate Filing Fees**

For **appeals from the county to the circuit court**, the clerk of the circuit court may collect up to \$280 of which, \$260 is retained by the clerk of the court and \$20 is remitted to the Department of Revenue for deposit into the General Revenue Fund.<sup>19</sup>

For appeals to the **district court of appeal**, the circuit court charges a \$100 fee for filing a notice of appeal,<sup>20</sup> and the clerk of the district court of appeal collects a filing fee of \$300 for each case docketed.<sup>21</sup> Of the \$100 circuit court fee, \$80 is retained by the clerk and \$20 is deposited into the General Revenue Fund.<sup>22</sup> Of the district court filing fee, \$50 is deposited into the State Courts Revenue Trust Fund and the remaining \$250 is deposited into the State Treasury to be credited to the General Revenue Fund.<sup>23</sup>

### **III. Effect of Proposed Changes:**

This bill transfers to the district courts of appeal the jurisdiction to hear appeals of decisions of county courts in civil and criminal cases. Under current law, these appeals are heard by circuit courts. The bill is based on the recommendations of a recent report by the Judicial Management

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<sup>14</sup> See *Fieselman v. State*, 566 So. 2d 768, 770 (Fla. 1990).

<sup>15</sup> See Sebastien Rogers, *The Chasm in Florida Appellate Law: Intra-Circuit Conflicting Appellate Decisions*, Vol. 92, No. 4 FLA. BAR J. 52 (Apr. 2008).

<sup>16</sup> Fla. R. Civ. P. 9.331.

<sup>17</sup> *Id.*

<sup>18</sup> Rogers, *supra* n. 15.

<sup>19</sup> Section 28.241(2), F.S.

<sup>20</sup> *Id.*

<sup>21</sup> Section 35.22(2)(a), F.S.

<sup>22</sup> Page 11 Lines 124-126 Court Clerks and Comptrollers 2019 Distribution Schedule

[https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/advisories/advisories\\_2019/19bull113\\_Attach\\_2\\_2019\\_Dist.pdf](https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/advisories/advisories_2019/19bull113_Attach_2_2019_Dist.pdf) (last visited February 6, 2020).

<sup>23</sup> 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.

Council's Workgroup on Appellate Review of County Court Decisions. The specific changes made by each section of the bill are described below.

**Section 1. Jurisdiction of the circuit court (s. 26.012, F.S.)**

The changes made by section 1 broadly eliminate the authority of the circuit courts to hear appeals from county courts in civil and criminal cases. Circuit courts, however, retain jurisdiction to hear appeals from final administrative orders of local code enforcement boards and to hear appeals and review other matters as expressly provided by law. By operation of Article V, s. 4(b)(1) of the State Constitution, the district courts of appeal will have jurisdiction on appeals from final orders of county courts in civil and criminal cases by default.

**Section 2. Certification of questions to district court of appeal (s. 34.017, F.S.)**

Currently s. 34.017, F.S., authorizes a county court to certify important questions to a district court of appeal in a final judgment. The district court has absolute discretion to answer the certified question or transfer the case back to the circuit court having appellate jurisdiction.

As amended by the bill, s. 34.017, F.S., a county court may certify important questions to a district court of appeal only in a final judgment that is appealable to a circuit court. This conforming change recognizes that there is no need for a county court to certify questions relating to matters that a litigant may appeal to a district court as a matter of right.

**Section 3. Review of judgment or order certified by county court to be of great public importance (s. 35.065, F.S.)**

Currently s. 35.065, F.S., allows a district court of appeal to review any order or judgment of a county court which is certified by the county court to be of great public importance.

As amended by the bill, s. 35.065, F.S., a district court of appeal may review an order or judgment of a county court that is certified to be of great public importance only in an order or judgment that is appealable to a circuit court. This conforming change recognizes that there is no need for a county court to certify questions relating to matters that a litigant may appeal to a district court as a matter of right.

**Section 4. Courts of appeal (s. 924.08, F.S.)**

This section repeals a statute that gives jurisdiction to circuit courts to hear appeals of judgments in misdemeanor cases.

**Effective Date**

The bill takes effect January 1, 2021.

**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:

None.

## E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

This bill may affect the private sector to the extent that it will necessitate changes in the filing fees for appeals.

## C. Government Sector Impact:

**Revenue / Fee Impact**

The revenue impact to various funds based on the differences in the appellate filing fees described in the “Present Situation” are expected to result in a negative revenue impact to the Clerks of Court Trust Fund and a positive impact to the State Courts Revenue Trust Fund and the General Revenue Fund.<sup>24</sup>

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<sup>24</sup> Office of State Courts Administrator, *2020 Judicial Impact Statement for CS/SB 1510* (Feb. 6, 2020) (on file with the Senate Appropriations Subcommittee on Criminal and Civil Justice).



**Estimated Impact in Filing Fee Revenue Generated by  
Changing the County Court Appellate Process**

	Fee Distribution	Revenue Impact Based on 1,836 Appellate Cases
<b>Revenue Generating Appellate Cases Filed in District Court of Appeal</b>		
Clerks of Court	\$80.00	\$146,896
State Courts Revenue Trust Fund	\$50.00	\$91,810
General Revenue	\$270.00	\$495,775
<b>Total</b>	<b>\$400.00</b>	<b>\$734,482</b>
<b>Revenue Generating Appellate Cases Filed in Circuit Court</b>		
Clerks of Court	\$260.00	\$477,413
State Courts Revenue Trust Fund	\$1.00	\$1,836
General Revenue	\$20.00	\$36,724
<b>Total</b>	<b>\$281.00</b>	<b>\$515,973</b>
<b>Difference</b>		
Clerks of Court		<b>-\$330,517</b>
State Courts Revenue Trust Fund		\$89,974
General Revenue		\$459,051
<b>Total</b>		<b>\$218,508</b>

These estimates were derived based on the following FY 2018-19 eligible filings currently appealed to a circuit court. This is likely a worse-case estimate. Also, as more issues become settled in the district courts, the number of appeals are expected to trend downward.

<b>FY 2018-2019 Eligible Filings Appealed to a Circuit Court</b>			
Threshold	Criminal (501 cases less 27.48% of cases filed by an indigent person)	Civil (1,609 cases less 8.46% of cases filed by an indigent person)	Criminal and Civil Appeals FY 2019-19
County Civil and Criminal Cases Up to \$15,000 (current law in FY 2018-19)	363	1,473	1,836

**Workload Impact**

*Courts*

The jurisdictional changes in the bill will result in some level of increased workload for the DCAs. Assuming the number of appeals remains the same, at least in the beginning of the jurisdictional change, the courts indicated a need for Other Personal Services (OPS) staff as follows:

**12-Month Funding Need**

Six OPS Positions (five appellate staff attorneys and one deputy clerk III)  
Salaries & Benefits: \$417,421  
HR Services: \$1,218  
Total: \$418,639 (recurring)

However, the bill will also lead to a decrease in the workloads of the circuit courts. Additionally, conforming amendments to the Florida Rules of Civil Procedure, Appellate Procedure, Judicial Administration, and other rules of court would be required upon passage.

***Public Defenders***

The public defenders do not anticipate the need for additional resources at this time. A realignment of resources may be required at a later date between the trial and appellate entities. See Section VI. Technical Deficiencies for public defender concerns.

***State Attorneys and the Department of Legal Affairs***

The state attorneys are responsible for handling appeals of county court decisions in criminal cases to circuit courts. Pursuant to Section 16.01(4), Fla. Stat. the Criminal Appeals Division of the Office of the Attorney General is the sole government entity that handles all criminal appeals arising from judgments and sentences entered by the state trial courts. Because the bill provides for the appeals from county courts to bypass circuit courts, the bill will increase the appellate workload of the Department of Legal Affairs (DLA). The DLA believes that their Criminal Appeals Division could initially absorb a yearly increase of 500 cases generated from the changes to the appellate court jurisdictions. However, if the numbers of appeals increase based on more recent data and additions to the types of cases or increases in certified cases to the district courts caseloads, reconsideration of personnel needs could be required. To minimize this workload shift, the Legislature may wish to consider whether state attorneys should remain responsible for some or all of the appeals originating from county courts.

**VI. Technical Deficiencies:**

The public defenders have indicated that an amendment to the bill may be required to conform s. 27.51, F.S. to allow for the public defender appellate entities to have proper jurisdiction for the cases that will now bypass the circuit courts.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 26.012, 34.017, and 35.065.

This bill repeals section 924.08 of the 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 Judiciary on January 21, 2020:**

The committee substitute is narrower in scope than the underlying bill. The underlying bill would have given district courts of appeal jurisdiction to hear appeals of decisions of county courts in criminal and civil cases and to hear appeals relating to a variety of administrative decisions and noncriminal infractions. The committee substitute does not transfer to the district courts of appeal the appellate jurisdiction of circuit courts to hear administrative decisions and appeals relating to noncriminal infractions.

- B. **Amendments:**

None.