

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/HB 7057 PCB JDC 20-04 Appellate Courts Headquarters and Travel

SPONSOR(S): Appropriations Committee and Judiciary Committee, Fernandez-Barquin

TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 1392

FINAL HOUSE FLOOR ACTION: 118 Y's 0 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

CS/HB 7057 passed the House on March 11, 2020, as CS/CS/SB 1392. CS/CS/SB 1392 includes the substantive portions of CS/HB 7059.

The State Constitution establishes a four-level court system consisting of a supreme court, district courts of appeal (DCAs), circuit courts, and county courts. The circuit courts and county courts primarily serve as trial courts, but the circuit courts also hear appeals from county courts and administrative bodies. Circuit courts have appellate jurisdiction over cases appealed from county courts, except:

- Appeals where the amount in controversy is greater than \$15,000;
- Appeals of orders declaring invalid a statutory or constitutional provision; and
- Appeals of orders certified to be matters of great public importance.

Each of the five appellate districts has its own headquarters as provided by general law. In addition, a DCA may designate other locations within its district as branch headquarters for conducting court business. While current law provides an option for Supreme Court justices who live outside Leon County to have a personal headquarters, DCA judges do not have a similar option if they wish to maintain their residence at a location inconvenient for a daily commute to the appellate district headquarters or a branch headquarters.

The bill:

- Eliminates appellate jurisdiction of circuit courts for cases appealed from county courts, which, pursuant to the Florida Constitution, will cause the DCAs to have appellate jurisdiction over those appeals.
- Allows circuit courts to continue to exercise jurisdiction over:
 - Appeals from final administrative orders of local code enforcement boards; and
 - Reviews and appeals as otherwise provided by law.
- Clarifies the duties of the public defender with respect to handling criminal appeals.
- Provides that a DCA judge who lives more than 50 miles from his or her courthouse or branch location may have a personal headquarters within his or her county of residence.
- Provides specifications for reimbursement for meals, lodging, and travel expenses for Supreme Court justices and DCA judges.

The provisions of the bill relating to the designation of personal appellate court headquarters would have a recurring impact of \$125,000 on the State Courts System. Funding for the bill is included in HB 5001, the proposed General Appropriations Act for Fiscal Year 2020-2021. Other provisions of the bill will have an indeterminate fiscal impact on state and local governments.

The bill was approved by the Governor on June 20, 2020, ch 2020-61, L.O.F., and will become effective on July 1, 2020, except as otherwise expressly provided.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

Court Jurisdiction

The State Constitution establishes a four-level court system consisting of a supreme court, five district courts of appeal (DCAs), 20 circuit courts, and 67 county courts.¹ 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. After a case is decided by a circuit court sitting as a trial court, the losing party generally has the right to appeal to the appropriate DCA.²

The Constitution also permits the Legislature to substantially define the jurisdictions of the circuit courts and county courts by statute.³ As defined by statute, the circuit court has 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.⁴

During the 2019 Legislative Session, the Legislature increased the monetary threshold to expand the jurisdiction of the county courts. Since 1995, this threshold was \$15,000.⁵ Claims exceeding \$15,000 were filed in 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 automatically on January 1, 2023, to \$50,000.

Although the 2019 legislation increased the value of claims that could be litigated in county court, the legislation did not also 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 will continue to be heard by a DCA until January 1, 2023.⁶ Appeals of county court orders or judgments involving amounts of \$15,000 or less will continue to be heard in circuit court.

The Legislature has broad authority to define the jurisdiction of the circuit and county courts, but its authority to define the jurisdiction of the DCAs is more limited. The State Constitution gives the:

- Circuit courts "jurisdiction over appeals when provided by general law."⁷
- DCAs jurisdiction to hear appeals that may be taken as a matter of right from final judgments or orders of trial courts, which are not directly appealable to the Supreme Court or a circuit court.⁸

Taken together, these provisions mean that the Legislature has the authority to determine the appellate jurisdiction of the circuit court; and that anything not designated by the Legislature as being within the circuit courts' (or Supreme Court's) jurisdiction will be appealed to the DCA. In turn, if the Legislature removes a type of case from the appellate jurisdiction of a circuit court, the DCA will, by default, become the proper court to hear that type of appeal.

¹ See art. V, ss. 1 – 6, Fla. Const.

² See art. V, s. 4(b)(1), Fla. Const.

³ Article V, s. 6(b), Fla. Const. ("The county courts shall exercise the jurisdiction prescribed by general law"). Under Article V, s. 5(b), the jurisdiction of the circuit courts includes "original jurisdiction not vested in the county courts, and jurisdiction of appeals when provided by general law." Circuit courts also "have the power of direct review of administrative action prescribed by general law." *Id.*

⁴ S. 26.012, F.S. (defining the jurisdiction of the circuit courts); s. 34.01, F.S. (defining the jurisdiction of the county courts).

⁵ Ch. 2019-58, ss. 1 and 9, Laws of Fla.

⁶ Ch. 2019-58, s. 1., Laws of Fla. (providing that the 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).

⁷ Art. V, s. 5(b), Fla. Const.

⁸ Art. V, s. 4(b)(1), Fla. Const.

The DCAs also have the authority to:

- Hear appeals of certain interlocutory orders.
- Review administrative action as prescribed by general law.⁹

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 DCA.¹⁰ The order may be reviewed by a DCA only by a writ of certiorari, which means that the DCA has the discretion to hear the case.¹¹ A review by certiorari is much more limited in scope than a review by appeal.¹²

The certiorari jurisdiction of the DCAs is defined, not by statute, but by the Florida Rules of Civil Procedure.¹³ Similarly, the authority for a DCA to hear the appeal of an interlocutory order, which is a non-final order from a lower tribunal, is defined by court rules, not statutes. Because the Florida 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 DCAs while reducing the appellate jurisdiction of the circuit courts requires cooperation between the judiciary and the Legislature.¹⁴

Current law authorizes a county court to certify important questions to a DCA in a final judgment. The DCA has absolute discretion to answer the certified question or transfer the case back to the circuit court having appellate jurisdiction.¹⁵

Problem of Conflicting Circuit Court Appellate Decisions

Decisions of circuit courts in their appellate capacity are binding on all county courts within their circuit.¹⁶ However, circuit courts are not bound by decisions of other circuit courts within their circuits. As a result, conflicting appellate decisions within a circuit 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.¹⁷

When conflicting decisions are rendered by different panels of judges within the same DCA, the Florida Rules of Appellate Procedure permit the court to conduct an en banc proceeding,¹⁸ which allows the full court to reconcile its potentially conflicting decisions.¹⁹ In contrast, judicial circuits have no similar mechanism that enables them to reconcile their intra-circuit conflicting opinions. Moreover, a circuit court has no authorization to certify intra-circuit court conflicting opinions to a DCA for review.²⁰

⁹ Art. V, s. 4(b), Fla. Const.

¹⁰ *City of Deerfield Beach v. Valliant*, 419 So. 2d 624, 625 (Fla. 1982).

¹¹ *Id.*

¹² See *Haines City Cmty. Dev. v. Heggs*, 658 So. 2d 523, n.3 (Fla. 1995); *Broward County v. G.B.V. Int'l, Ltd.*, 787 So. 2d 838, 842 (Fla. 2001).

¹³ Fla. R. Civ. P. 9.030(b)(2).

¹⁴ For example, the Legislature, in many cases, can provide for the appeal of a final order of a county court to a DCA 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 DCA. 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.

¹⁵ See ss. 34.017 and 35.065, F.S.

¹⁶ See *Fieselman v. State*, 566 So. 2d 768, 770 (Fla. 1990).

¹⁷ See Sebastien Rogers, *The Chasm in Florida Appellate Law: Intra-Circuit Conflicting Appellate Decisions*, Vol. 92, No. 4 Fla. Bar J. 52 (Apr. 2008).

¹⁸ Fla. R. Civ. P. 9.331.

¹⁹ *Id.*

²⁰ Rogers, *supra* note 17.

Legal Representation

The Office of the Attorney General is responsible for representing the state in all suits or prosecutions, in which the state is a party or has an interest, in the Supreme Court and district courts of appeal.²¹ For circuit and county court cases in which the state is a party, the state attorney of the respective judicial circuit in which the case was filed is responsible for representing the state.²²

The public defender represents certain defendants determined to be indigent under s. 27.52, F.S.²³ The defense of an indigent person in a case appealed from a county or circuit court to a DCA is the responsibility of the public defender designated to handle appeals within the appropriate appellate district.²⁴ If a public defender determines during the representation of two or more defendants that he or she cannot provide legal counsel due to a conflict of interest, the Office of Criminal Conflict and Civil Regional Counsel of the appellate district may be appointed as counsel.²⁵

Appellate Court Filing Fees

When a party appeals a case from circuit court to a DCA, the filing fee is \$400.²⁶ That fee is allocated:

- \$50 to the State Courts Revenue Trust Fund;
- \$250 to the General Revenue Fund; and
- \$100 to the clerks of court.²⁷

When a party appeals a case from county court to circuit court, the filing fee is \$281.²⁸ That fee is allocated:

- \$1 to the State Courts Revenue Trust Fund;
- \$260 to the clerks of court; and
- \$20 to the General Revenue Fund.²⁹

Supreme Court's 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:

- Study whether the circuit courts should be uniformly required to hear appeals in panels and propose appropriate rule amendments, if necessary.
- Review a recommendation made by the Judicial Management Council's Workgroup on County Court Jurisdiction³⁰ and propose appropriate amendments to law or rule if necessary.
- Consider whether other changes to the process for appellate review of county court decisions would improve the administration of justice, in which case the Workgroup may propose any necessary revisions in the law and rules to implement the recommended changes.³¹

In October 2019, the Workgroup issued a report containing its recommendations. The Supreme Court agreed with the recommendation in part, indicating its support for legislation during the 2020 Regular

²¹ S. 16.01(4), F.S.

²² S. 27.02(1), F.S.

²³ S. 27.51(1), F.S.

²⁴ S. 27.51(4), F.S.

²⁵ S. 27.511(5), F.S.

²⁶ Ss. 28.241(2) and 35.22(2)(a), F.S.

²⁷ Ss. 28.241(2) and 35.22(5), F.S.

²⁸ Ss. 28.241(2) and 44.108, F.S.

²⁹ S. 28.241(2), F.S.

³⁰ The Workgroup's recommendation was that any modification to the county court jurisdictional amount should include a provision allowing conflicts in circuit court appellate decisions within the same district to be certified to the DCA.

³¹ 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> (last visited Mar. 12, 2020).

Session to transfer circuit court appellate and related extraordinary writ authority to the DCAs. The Court also expressed a desire for the legislation to become effective no earlier than January 1, 2021, to allow adequate time for implementation.³²

DCA Headquarters

Each DCA judge must live within the territorial jurisdiction of his or her DCA.³³ Each appellate district has its own headquarters as provided by general law, as follows:

- First DCA: Second Judicial Circuit, Tallahassee, Leon County.
- Second DCA: Tenth Judicial Circuit, Lakeland, Polk County.
- Third DCA: Eleventh Judicial Circuit, Miami-Dade County.
- Fourth DCA: Fifteenth Judicial Circuit, Palm Beach County.
- Fifth DCA: Seventh Judicial Circuit, Daytona Beach, Volusia County.³⁴

In addition, a DCA may designate another location within its district as a branch headquarters for the conduct of the business of the court and as the official headquarters of its officers or employees.³⁵

State Employee and Officer Reimbursement for Work-Related Travel

Section 112.061, F.S., is the main statute governing state employee and officer reimbursement for work-related travel. This section provides for reimbursement of travel and subsistence³⁶ in differing amounts based on several factors, including the duration and distance of a trip.

A DCA judge is currently entitled to reimbursement for expenses incurred in work-related trips away from his or her headquarters—which by default is each judge's DCA courthouse or a branch headquarters designated pursuant to s. 35.05(2), F.S.³⁷

Personal Headquarters for Supreme Court Justices

In 2019, the Legislature enacted s. 25.025, F.S., authorizing an alternate personal headquarters for justices who reside outside Leon County. Under this statute, a justice residing outside Leon County may:

- Request that a DCA courthouse, a county courthouse, or another appropriate facility in the justice's district be designated as his or her official headquarters and serve as his or her private chambers; and
- Be reimbursed for certain transportation expenses, not including incidental travel expenses, and subsistence while in Tallahassee to the extent funding is available, as determined by the Chief Justice.³⁸

Section 25.025, F.S., also provides that the Chief Justice must coordinate with the justice requesting a personal headquarters in his or her district and state and local officials, as necessary. The Supreme Court and a county courthouse may agree to establish private chambers at the county courthouse for a justice, but the courthouse is not obligated to provide space for the justice. The Supreme Court may not use state funds to lease space in a county courthouse for use as a private chamber.

³² See Florida Bar News, *Justices Support Having DCAs Handle County Court Appeals*, <https://www.floridabar.org/the-florida-bar-news/justices-support-having-dcas-handle-county-court-appeals/> (last visited Mar. 12, 2020).

³³ Art. V, s. 8, Fla. Const.

³⁴ Ss. 35.01 – 35.05, F.S.

³⁵ S. 35.05(2), F.S.

³⁶ "Subsistence," for purposes of the bill, refers to the costs of lodging and meals. See ss. 25.025 and 112.061(6)(b), F.S.

³⁷ See s. 112.061(4), F.S.

³⁸ S. 25.025, F.S.

While current law provides an option for Supreme Court justices who live outside Leon County to have a personal headquarters, DCA judges do not have a similar option if they want to live farther away from the main DCA building or a branch headquarters.

Effect of the Bill

Judicial Administration

DCA Judges

The bill provides that a DCA judge who lives more than 50 miles from his or her DCA courthouse or designated branch DCA location is eligible to have a personal headquarters and to be reimbursed for trips between these locations in a manner similar to Supreme Court justices.

The personal headquarters, which may serve only as judicial chambers and must be used for official judicial business, may be in any appropriate facility, including a county courthouse. However, no county is required to provide space to a DCA judge for his or her personal headquarters. The DCA may agree with a county regarding the use of courthouse space, but the bill prohibits state funds being used to lease the space.

A DCA judge approved for a personal headquarters is eligible for reimbursement of travel expenses, including incidental travel expenses, and lodging and meals necessitated by his or her travel to the main DCA courthouse or branch headquarters. The DCA judge must obtain the approval of the chief judge of the DCA for the reimbursement of subsistence. With the authorization of the Chief Justice, a DCA judge may choose between reimbursement for meals and lodging at the rates set forth in the main state employee reimbursement statute or at a fixed rate prescribed by the Chief Justice.

Supreme Court Justices

The bill changes the language in s. 25.025, F.S., to clarify that a Supreme Court justice residing outside Leon County is eligible for the designation of a personal headquarters, instead of stating that a justice "shall" have a personal headquarters designated if he or she so requests. The bill also provides for reimbursement of incidental travel expenses incurred on work-related trips for Supreme Court justices, including taxi fares, toll fees, and parking fees, which are not currently included as authorized travel reimbursements. This gives each Supreme Court justice the same benefit of reimbursements as the bill gives each DCA judge.

Also, with the authorization of the Chief Justice, a justice may choose between reimbursement for meals and lodging at the rates set forth in the main state employee reimbursement statute or at a fixed rate prescribed by the Chief Justice.

General Provisions

The bill states that the Chief Justice:

- Must coordinate with each affected DCA judge and other state and local officials, as necessary.
- May establish parameters governing the provisions of the bill as applied to DCA judges, including:
 - Specifying minimum operational requirements of a personal headquarters.
 - Limiting the number of days for which travel and subsistence reimbursements are permitted.
 - Prescribing activities qualifying as the conduct of court business.

The bill also provides that if any provision within the bill conflicts with the provisions of s. 112.061, F.S., the bill's provisions control to the extent of the conflict.

Appellate Court Jurisdiction and Structure

The bill transfers from the circuit courts to the DCAs the jurisdiction to hear appeals of decisions of county courts in civil and criminal cases. This portion of the bill is based on the recommendations of a recent report by the Judicial Management Council's Workgroup on Appellate Review of County Court Decisions.

Jurisdiction of the Circuit Court

The bill eliminates the authority of the circuit courts to hear appeals from county courts in:

- Criminal cases, by repealing s. 924.08, F.S., which provides that misdemeanor appeals from the county court are taken to the circuit court.
- Civil cases, by removing from s. 26.012, F.S., provisions stating that appeals of civil cases are to the circuit courts.

These modifications to ss. 924.08 and 26.012, F.S., will, by operation of the State Constitution, leave with the DCAs all jurisdiction of appeals from final orders of county courts in civil and criminal cases.³⁹ Circuit courts, however, will 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.

The bill specifies that the public defender designated to handle appeals within an appellate district must also handle county court appeals, if requested by an appropriate public defender or the Office of Criminal Conflict and Civil Regional Counsel.

Certification of Questions of Importance

The bill provides that a county court may certify important questions to a DCA only in a final judgment that is appealable to a circuit court. This change recognizes that there is no need for a county court to certify questions relating to a matter that a litigant may appeal to a DCA as a matter of right.

The bill provides an effective date of:

- July 1, 2020, for the provisions of the bill relating to court headquarters, travel reimbursement, subsistence, and other court administration issues.
- January 1, 2021, for the provisions of the bill relating to court jurisdiction and duties of the public defenders.

³⁹ See art. V, s. 4(b)(1), Fla. Const.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference determined the bill would increase appellate filing fee revenue for the state by a significant amount. The bill alters the appellate jurisdiction structure within the state court system. Based on the assumption that approximately 95 percent of the appellate cases would move from the circuit court to the DCA, the shift of appellate case filings would result in additional revenue from appellate filing fees in the amounts of approximately \$0.4 M remitted to the General Revenue Fund, and \$0.1 M remitted to the State Courts Revenue Trust Fund.⁴⁰

2. Expenditures:

The bill provides that a DCA judge who lives more than 50 miles from his or her appellate district headquarters is eligible for a personal headquarters and for travel reimbursement for trips between his or her personal headquarters and the courthouse. HB 5001, the proposed General Appropriations Act for Fiscal Year 2020-2021, includes a recurring appropriation of \$125,000 of trust fund authority for appellate judicial travel. The bill also allows certain Supreme Court justices to be reimbursed for incidental travel expenses, which they currently do not receive; it is anticipated that these expenditures can be absorbed within the Supreme Court's existing resources.

The Office of the State Courts Administrator (OSCA) estimates the bill would increase DCA workload as a result of additional appellate filings, creating the need for \$209,929 in recurring funds for an additional six OPS staff for six months in Fiscal Year 2020-2021.⁴¹ Additional recurring funds in the amount of \$208,710 will be needed to annualize the funding in Fiscal Year 2021-2022.

Shifting appeals originating in county courts from the circuit courts to the DCA would increase appellate workload on the Department of Legal Affairs by an indeterminate amount. State Attorney offices may have a reduction in workload related to appeals as a result of the jurisdictional shift.

The bill may result in a shift of indigent defense appellate workload from the public defender's office in a judicial circuit to the designated appellate public defender's office of the corresponding district, to the extent that indigent defendants appeal county court cases to the DCA, that under current law would be appealed to the circuit court.

The total fiscal impact of the appellate court jurisdiction portions of the bill is indeterminate due to lack of data to fully quantify the changes in judicial workload and other potential impacts of the bill on court operations.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference determined the bill would decrease appellate filing fee revenue for the clerks of court by a significant amount.

The bill alters the appellate jurisdiction structure within the state court system. Based on the assumption that approximately 95 percent of the appellate cases would move from the circuit court

⁴⁰ Revenue Estimating Conference, *Impact Conference: HB 7059 Appellate Filing Fees* (Feb. 14, 2020).

⁴¹ *Id.*

to the DCA, the shift of appellate case filings would result in a reduction of \$0.3 M of revenue from appellate filing fees remitted to the Clerk of Court Fine and Forfeiture Trust Fund.⁴²

2. Expenditures:

The bill would reduce appellate case filings for the clerks of court, and would reduce associated workload by an indeterminate amount.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may necessitate changes in filing fees for certain appeals, which may have an indeterminate fiscal impact on the private sector.

D. FISCAL COMMENTS:

The bill would result in increased filing fees for a party filing a notice of appeal from county court. Under current law, a party filing a notice of appeal from a county court to a circuit court is required to pay a total of \$281 in filing fees. The appellate jurisdiction shift from the circuit court to the DCA would result in \$400 in filing fees for a notice of appeal from a county court.

⁴² *Id.*