Florida Senate - 2009 Bill No. SB 1318

LEGISLATIVE ACTION

Senate	•	House
Comm: RCS	•	
04/06/2009		
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Senate Amendment (with title amendment)
Delete everything after the enacting clause
and insert:
Section 1. Section 86.112, Florida Statutes, is created to
read:
86.112 Circuit court jurisdiction
(1) The circuit court has jurisdiction to entertain actions
for declaratory relief for cases brought to determine whether
provisions of the State Constitution are unconstitutional under
the United States Constitution.
(a) Notwithstanding s. 86.091, any party seeking

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JU.JU.04404

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18unconstitutional, the circuit court shall enter an order19directing the Secretary of State to remove that provision from20the State Constitution.21(d) If the circuit court concludes, based on a showing o22clear and convincing evidence, that there was voter confusion23when adopting the unconstitutional provision, the court may n24apply principles of severability and shall order that any oth25provision adopted along with the unconstitutional provision b26removed from the State Constitution.27(2) If such a request is made a part of the declaratory28relief sought under subsection (1), the circuit court has the29jurisdiction to:30(a) Declare redundant any portion of the State Constitut31the sole purpose of which is to provide statutory language an32on a finding of redundancy, enter an order directing the33Secretary of State to remove the redundant material; or34(b) Enter an order directing the Secretary of State to35remove from the State Constitution any provisions previously36deemed unconstitutional.37(3) An appeal from the circuit court's order under this38section may be taken by any adversely affected party pursuant	13	declaratory relief under this section shall name the Secretary
Image of the state of the state constitution is found to1617181919191110111213141515161718191919111111121314151516161718181919191111121314151516161718181919191911111112131414151516171718181919191111121314151516161717181819191919191111121314151516161717	14	of State as the proper defendant.
17(c) If a provision of the State Constitution is found to18unconstitutional, the circuit court shall enter an order19directing the Secretary of State to remove that provision from20the State Constitution.21(d) If the circuit court concludes, based on a showing o22clear and convincing evidence, that there was voter confusion23when adopting the unconstitutional provision, the court may n24apply principles of severability and shall order that any oth25provision adopted along with the unconstitutional provision b26removed from the State Constitution.27(2) If such a request is made a part of the declaratory28relief sought under subsection (1), the circuit court has the29jurisdiction to:30(a) Declare redundant any portion of the State Constitut31the sole purpose of which is to provide statutory language an32on a finding of redundancy, enter an order directing the33Secretary of State to remove the redundant material; or34(b) Enter an order directing the Secretary of State to35remove from the State Constitution any provisions previously36deemed unconstitutional.37(3) An appeal from the circuit court's order under this38section may be taken by any adversely affected party pursuant	15	(b) An action for declaratory relief under this section
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37 <u>(3) An appeal from the circuit court's order under this</u> 38 section may be taken by any adversely affected party pursuant	35	remove from the State Constitution any provisions previously
38 section may be taken by any adversely affected party pursuant	36	deemed unconstitutional.
	37	(3) An appeal from the circuit court's order under this
	38	section may be taken by any adversely affected party pursuant to
<u>FIOTIDA RULE OF APPELLATE PROCEDURE 9.110.</u>	39	Florida Rule of Appellate Procedure 9.110.
40 Section 2. This act shall take effect upon becoming a la	40	Section 2. This act shall take effect upon becoming a law.
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44	And the title is amended as follows:
45	Delete everything before the enacting clause
46	and insert:
47	A bill to be entitled
48	An act relating to the jurisdiction of the circuit court;
49	creating s. 86.112, F.S.; providing that the circuit court has
50	jurisdiction to entertain an action for declaratory judgment to
51	provide relief when the State Constitution is found
52	unconstitutional under the United States Constitution; providing
53	venue and party requirements; providing for the circuit court to
54	issue an order directing the Secretary of State to remove
55	unconstitutional provisions from the State Constitution;
56	providing for the circuit court to order the removal of certain
57	constitutional provisions if there is a showing that voters were
58	confused at the adoption of the constitutional provision;
59	authorizing the circuit court to declare certain provisions of
60	the State Constitution redundant and to direct the Secretary of
61	State to remove the redundant provisions; authorizing the
62	circuit court to order the removal of provisions from the State
63	Constitution previously deemed unconstitutional; providing for
64	appellate review; providing an effective date.
65	