

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: SB 1510

INTRODUCER: Senator Brandes

SUBJECT: Jurisdiction of Courts

DATE: January 17, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cibula	Cibula	JU	Pre-meeting
2.			ACJ	
3.			AP	

I. Summary:

SB 1510 provides for the transfer of the appellate jurisdiction of circuit courts to the district courts of appeal. The bill is intended to be consistent with the recommendations of a recent report by the Judicial Management Council’s Workgroup on Appellate Review of County Court Decisions.

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.¹ 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.²

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

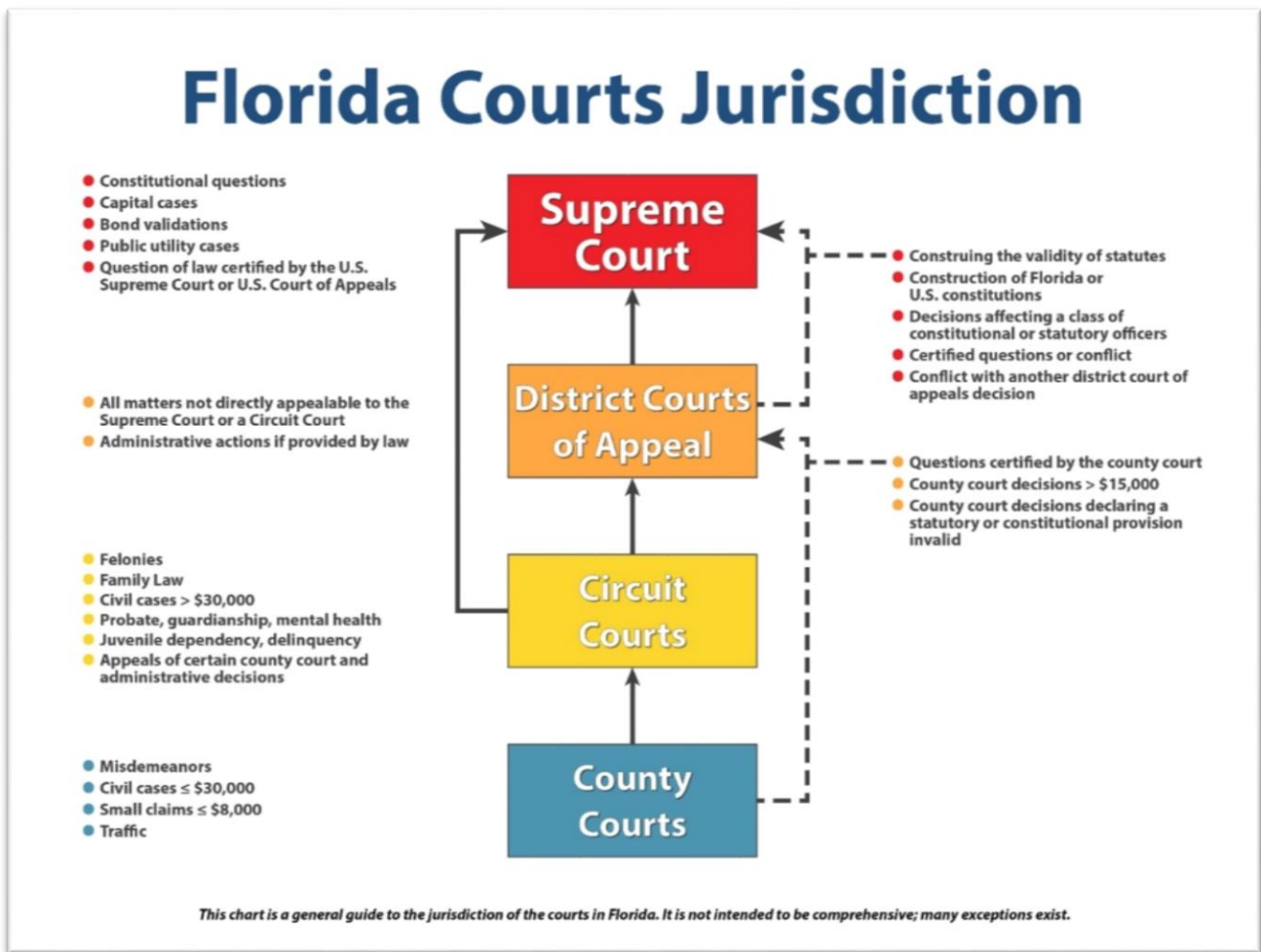
¹ Article V, s. 6(b) states that “[t]he county courts shall exercise the jurisdiction prescribed by general law.” Under Article V, s. 5(b), the jurisdiction the circuit courts includes “original jurisdiction not vested in the county courts, and jurisdiction of appeals when provided by general law.” Circuit courts also “shall have the power of direct review of administrative action prescribed by general law.” *Id.*

² 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).

\$15,000.³ 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, 2023.⁴ Appeals of county court orders or judgments involving amounts of \$15,000 or less will continue to be heard by a circuit court.

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



³ Chapter 2019-58, ss. 1 and 9, Laws of Fla.

⁴ 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.

⁵ 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>.

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 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.⁶

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.⁷

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

⁶ 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>.

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

supports an effective date for the legislation that is no earlier than January 1, 2021, to allow adequate time for implementation.⁸

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 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.⁹ 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.¹⁰ Moreover, a review by certiorari is much more limited in scope than a review by appeal.¹¹

The certiorari jurisdiction of the district courts is defined, not by statute, but by the Florida Rules of Appellate Procedure.¹² 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

⁸ *Id.*

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

¹⁰ *Id.*

¹¹ 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).

¹² Fla. R. Civ. P. 9.030(b)(2).

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.¹³ This result would seem to be inefficient.

Problem of Conflicting Circuit Court Appellate Decisions

Decisions of circuit courts in their appellate capacity are binding on all county courts within their circuit.¹⁴ 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.¹⁵

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.¹⁶ These proceedings allow the full court to reconcile its potentially conflicting decisions.¹⁷ 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.¹⁸

III. Effect of Proposed Changes:

This bill provides for the transfer of the appellate jurisdiction of circuit courts to the district courts of appeal. The bill is intended to be consistent with the recommendations of a recent report by the Judicial Management 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. By operation of Article V, s. 4(b)(1) of the State Constitution, the district courts of appeal will have jurisdiction of appeals from final orders of county courts by default.

¹³ Similarly, the State Constitution does not allow the Legislature to authorize the Legislature to make 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)).

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

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

¹⁶ Fla. R. Civ. P. 9.331.

¹⁷ *Id.*

¹⁸ Rogers, *supra* n. 15.

Section 2. Temporary designation of a county court judge to preside over circuit court cases (s. 26.57, F.S.)

The changes made by section 2 delete a provision providing that a county court judge who is temporarily assigned to a circuit court may not hear an appeal from a county court.

Section 3. Filing fees for appellate proceedings (s. 28.241, F.S.)

This section deletes provisions specifying the filing fees for filing an appeal with the circuit court.¹⁹

Section 4. Certification of questions to district court of appeal (s. 34.017, F.S.)

This section repeals the authority of a county court to certify important questions of law to a district court of appeal. This authority is unnecessary once appellate jurisdiction of county court decisions is transferred from circuit courts to the district courts.

Section 5. Filing fees (s. 34.041, F.S.)

This section deletes provisions providing for filing fees for filing an appeal with the circuit court.

Section 6. Review of judgment or order certified by county court to be of great public importance (s. 35.065, F.S.)

This section repeals a statute authorizing a district court of appeal to review orders and judgments certified by a county court to be of great public importance. This authority is unnecessary once the appellate jurisdiction of circuit courts is transferred to the district court of appeal.

Section 7. Appeals (s. 162.11, F.S.)

This section changes references to “circuit court” to “district court of appeal” to transfer appellate jurisdiction of decisions of a code enforcement board to a district court of appeal.

Section 8. Appeal on annexation or contraction (s. 171.081, F.S.)

This section authorizes an affected party or municipality to file a petition for certiorari with a district court of appeal instead of a circuit court to review matters relating to annexation and contraction decisions.

¹⁹ Because the number and complexity of statutes potentially authorizing appeals to a circuit court and the potential that a statute might have been inadvertently omitted from the bill, the Legislature may wish to temporarily retain the filing fees specified in this section.

Section 9. Standing to enforce local comprehensive plans through development orders (s. 163.3215, F.S.)

This section allows an adversely affected party to a development order to challenge the order by an “appeal filed by a petition for writ of certiorari” in a district court of appeal instead of a circuit court.

Section 10. Elections (s. 189.041, F.S.)

This section allows a landowner or a qualified elector to contest the accuracy of certain urban area maps by petition to a district court of appeal instead of a circuit court.

Section 11. Termination, contraction, or expansion of district (s. 190.046, F.S.)

This section allows the board of supervisors of a community development district to challenge in a district court of appeal instead of a circuit court an ordinance of a local government transferring a service of the community development district to the local government.

Section 12. Local bids and contracts for public construction works (s. 255.20, F.S.)

This section provides that decisions made by a governmental entity in prequalifying contractors to construct or improve bridges, roads, and streets, highways or railroads may be challenged through a de novo review to a district court of appeal instead of a circuit court.

Section 13. Appeals; stay orders; procedures (s. 318.16, F.S.)

This section provides that a person found to have committed a traffic infraction by a hearing official may appeal that finding to a district court of appeal instead of a circuit court.

Section 14. Appeals (s. 318.33, F.S.)

This section provides that a person found to have committed a traffic infraction by a hearing official may appeal that finding to a district court of appeal instead of a circuit court.

Section 15. Mobile Home and Recreational Vehicle Protection Trust Fund (s. 320.781, F.S.)

This section provides that a person may seek the review of a decision of the Department of Highway Safety and Motor Vehicles relating to a claim for compensation in a district court of appeal instead of a circuit court.

Section 16. Florida Highway Patrol wrecker operator system (s. 321.051, F.S.)

This section allows a wrecker operator to seek the review of an order limiting its participation in the wrecker operator system by a writ of certiorari filed in a district court of appeal instead of a circuit court.

Section 17. Supersedeas (s. 322.727, F.S.)

This section provides that the filing of a petition for certiorari to a district court of appeal, instead of a circuit court, does not stay a decision of the Department of Highway Safety and Motor Vehicles relating to a driver license.

Section 18. Right of review (s. 322.31, F.S.)

This section provides that licensing decisions by the Department of Highway Safety and Motor Vehicles are reviewable only by a petition for a writ of certiorari by a district court of appeal instead of a circuit court.

Section 19. Holder of commercial driver license (s. 322.64, F.S.)

This section provides that a decision by the Department of Highway Safety and Motor Vehicles disqualifying a person from operating a commercial vehicle is reviewable only by a petition for a writ of certiorari by a district court of appeal instead of a circuit court.

Section 20. Noncriminal infractions (s. 327.73, F.S.)

This section provides for decisions of a hearing official finding a person to have committed a noncriminal infraction relating to vessel safety to be appealed to a district court of appeal instead of a circuit court.

Section 21. Judicial review (s. 333.11, F.S.)

This section authorizes a person who is substantially affected by an airport zoning decision to petition for a writ of certiorari to a district court of appeal instead of a circuit court.

Section 22. Counties; when competitive bidding required (s. 336.41, F.S.)

This section authorizes a person challenging decisions of a county relating to the prequalification of contractors for road and bridge construction to seek de novo review in a district court of appeal instead of a circuit court.

Section 23. Application for prequalification (s. 337.14)

This section authorizes a person challenging decisions of a transportation authority relating to the prequalification of contractors to seek de novo review in a district court of appeal instead of a circuit court.

Section 24. Removal or relocation of utility facilities (s. 337.404, F.S.)

This section allows the owner of a utility to seek the review of government decisions requiring the relocation of utility facilities such as power lines, sewer lines, or railways, in a district court of appeal instead of a circuit court.

Section 25. Operation of terminal facility (s. 376.065, F.S.)

This section allows a person found by a hearing official to have committed a noncriminal infraction relating to the operation of a terminal facility to appeal that finding to a district court of appeal instead of a circuit court.

Section 26. Regulatory powers of department (s. 376.07, F.S.)

This section allows a the owner or operator of a vessel who is found by a hearing official to have operated the vessel without adequate booming to appeal that finding to a district court of appeal instead of a circuit court.

Section 27. Discharge contingency plan for vessels (s. 376.071, F.S.)

This section allows the master of a vessel who is found by a hearing official to have committed a noncriminal infraction for operating a vessel without having an adequate discharge contingency plan to appeal that finding to a district court of appeal instead of a circuit court.

Section 28. Enforcement and penalties (s. 376.16, F.S.)

This section allows a person found to have committed a noncriminal infraction for a pollution discharge by a hearing official to appeal that finding to a district court of appeal instead of a circuit court.

Section 29. Penalties and violations (s. 379.401, F.S.)

This section allows a person who is found by a hearing official to have committed a violation of certain hunting regulations to appeal that finding to a district court of appeal instead of a circuit court.

Section 30. Nonnative captive wildlife penalties (s. 379.4015, F.S.)

This section allows a person who is found by a hearing official to have committed a violation of certain regulations relating to nonnative captive wildlife to appeal that finding to a district court of appeal instead of a circuit court.

Section 31. Penalties for feeding wildlife and freshwater fish (s. 379.412, F.S.)

This section allows a person is found by a county court to have violated regulations relating to feeding wildlife and freshwater fish to appeal that finding to a district court of appeal instead of a circuit court.

Section 32. Public Counsel (s. 408.40, F.S.)

This section allows the Public Counsel to challenge protective orders of the Agency for Health Care Administration by a summary procedure in an appellate court instead of a circuit court. The Legislature may wish to consider removing this section from the bill as only circuit courts have a summary procedure.

Section 33. Prohibitions; penalties (s. 489.127, F.S.)

This section allows an aggrieved party to appeal a final order of a code enforcement board or special magistrate to a district court of appeal instead of a circuit court.

Section 34. Prohibitions; penalties (s. 489.531, F.S.)

This section allows an aggrieved party to appeal a decision by a code enforcement officer relating to electrical contracting or alarm system contracting to a district court of appeal instead of a circuit court.

Section 35. Violations (s. 556.107, F.S.)

This section allows a person found to have committed a noncriminal infraction relating to excavation or demolition activities to appeal that finding to a district court of appeal instead of a circuit court.

Section 36. Operating without a retail tobacco products dealer permit (s. 569.005, F.S.)

This section allows a person who is found by a county court to have committed a noncriminal infraction for failure to have a retail tobacco products dealer permit to appeal that finding to a district court of appeal instead of a circuit court.

Section 37. Judicial review of denial of reinstatement (s. 605.0716, F.S.)

This section allows a limited liability company to appeal the denial of its application for reinstatement after administrative dissolution to the First District Court of Appeal instead of the Circuit Court of Leon County.

Section 38. Judicial review of denial of reinstatement (s. 605.09091, F.S.)

This section allows a foreign limited liability company to appeal the denial of its application for reinstatement after administrative dissolution to the First District Court of Appeal instead of the Circuit Court of Leon County.

Section 39. Appeal from department's refusal to file document (s. 607.0126, F.S.)

This section allows a person to petition the Florida First District Court of Appeal, instead of the Circuit Court in Leon County, to compel the Department of State to file a document.

Section 40. Judicial review of denial of reinstatement (s. 607.1423, F.S.)

This section allows a corporation to appeal the denial of its application for reinstatement after administrative dissolution to the First District Court of Appeal instead of the Circuit Court of Leon County.

Section 41. Judicial review of denial of reinstatement (s. 607.1523, F.S.)

This section allows a foreign corporation to appeal the denial of its application for reinstatement after administrative dissolution to the First District Court of Appeal instead of the Circuit Court of Leon County.

Section 42. Appeal from denial of reinstatement (s. 620.1811, F.S.)

This section allows a limited partnership to appeal the denial of its application for reinstatement after administrative dissolution to the First District Court of Appeal instead of the Circuit Court of Leon County.

Section 43. Reinstatement of jurisdiction of the circuit court sitting in probate and the department (s. 717.1242, F.S.)

This section conforms a cross-reference to changes made by the bill.

Section 44. Change in use (s. 723.0612, F.S.)

This section provides that certain actions of the Florida Mobile Home Relocation Corporation may be reviewed by petition for certiorari to a district court of appeal instead of a circuit court.

Section 45. Classification of dogs as dangerous (s. 767.12, F.S.)

This section provides that the owner of a dog that has been declared dangerous may appeal that finding and any associated fine to a district court of appeal instead of a circuit court.

Section 46. 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:

According to the Office of the Office of State Courts Administrator, “the overall workload impact of the transfer of the circuit courts’ appellate and related extraordinary writ authority to the DCAs . . . is indeterminate.”²⁰ OSCA does not have complete and reliable data identifying the total number of appeals and petitions for writs that are filed in the circuit courts.

The jurisdictional changes in the bill will result in increased workloads for the DCAs requiring an increase in court staff. However, the bill will also lead to a decrease in the workloads of circuit courts. Ultimately, the changes by the bill will be reflected in the Supreme Court’s annual certification of need for additional judges.

The provisions of the bill will also require the changes to many different court rules.

Filing fees paid to file an appeal with a DCA are distributed differently than those for filing an appeal with a circuit court. The changes in fee distribution will cause the clerks of court to experience a negative fiscal impact, but the changes will result in a positive fiscal impact to the State Courts Revenue Trust Fund and the General Revenue Fund.

OSCA’s judicial impact statement for the bill describes the known and potential fiscal impacts of the bill in more detail.

VI. Technical Deficiencies:

None.

²⁰ Office of State Courts Administrator, *2020 Judicial Impact Statement for SB 1510* (Jan. 16, 2020) (on file with the Senate Committee on Judiciary).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 26.012, 26.57, 28.241, 34.041, 162.11, 171.081, 163.3215, 189.041, 190.046, 255.20, 318.16, 318.33, 320.781, 321.051, 322.272, 322.31, 322.64, 327.73, 333.11, 336.41, 337.14, 337.404, 376.065, 376.07, 376.071, 376.16, 379.401, 379.4015, 379.412, 408.40, 489.127, 489.531, 556.107, 569.005, 605.0716, 605.09091, 607.0126, 607.1423, 607.1532, 620.1811, 717.1242, 723.0612, 767.12,

This bill creates the following sections of the Florida Statutes: 34.017, 35.065, and 924.08.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.