

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 Rules

BILL: HB 5301

INTRODUCER: Justice Appropriations Subcommittee and Representatives Yarborough and Beltran

SUBJECT: Judges

DATE: February 28, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Jameson	Phelps	RC	Favorable

I. Summary:

HB 5301 establishes six new county court judges (four in Hillsborough County, one in Lee County and one in Orange County), and four new circuit court judgeships (one in the First Judicial Circuit, two in the Ninth Judicial Circuit and one in the Fourteenth Judicial Circuit).

The bill has a fiscal impact and is funded in HB 5001, House General Appropriations Act, Fiscal Year 2020-2021. *See* Section V

The bill takes effect July 1, 2020.

II. Present Situation:

Article V, s. 9 of the Florida Constitution requires the Florida Supreme Court to submit recommendations to the Legislature when there is a need to increase or decrease the number of judges.¹ The constitutional provision further directs the Court to base its recommendations on uniform criteria adopted by court rule.

¹ Article V, section 9 of the Florida Constitution states:

Determination of number of judges.—The supreme court shall establish by rule uniform criteria for the determination of the need for additional judges except supreme court justices, the necessity for decreasing the number of judges and for increasing, decreasing or redefining appellate districts and judicial circuits. If the supreme court finds that a need exists for increasing or decreasing the number of judges or increasing, decreasing or redefining appellate districts and judicial circuits, it shall, prior to the next regular session of the legislature, certify to the legislature its findings and recommendations concerning such need. Upon receipt of such certificate, the legislature, at the next regular session, shall consider the findings and recommendations and may reject the recommendations or by law implement the recommendations in whole or in part; provided the legislature may create more judicial offices than are recommended by the supreme court or may decrease the number of judicial offices by a greater number than recommended by the court only upon a finding of two-thirds of the membership of both houses of the legislature, that such a need exists. A decrease in the number of judges shall be effective only after the expiration of a term. If the supreme court fails to make findings as provided above when need exists, the legislature may by concurrent resolution request the court to certify its findings and recommendations and upon the failure of the court to certify its findings for nine consecutive months, the legislature may, upon a finding of two-thirds of the membership of both houses of the legislature that a need exists, increase or decrease the number of judges or increase, decrease or redefine appellate districts and judicial circuits.

The Court's rule setting forth criteria for assessing judicial need at the trial court level is based primarily upon the application of case weights to circuit and county court caseload statistics.² These weights are a quantified measure of judicial time spent on case-related activity. The judicial workload is then based on judicial caseloads adjusted in the relative complexity of various case types.

In addition to the statistical information, the Court, in weighing the need for trial court judges, will also consider the factors below, which primarily relate to the resources available to a judicial circuit:

- The availability and use of county court judges in circuit court.
- The availability and use of senior judges to serve on a particular court.
- The availability and use of magistrates and hearing officers.
- The extent of use of alternative dispute resolution.
- The number of jury trials.
- Foreign language interpretations.
- The geographic size of a circuit, including travel times between courthouses in a particular jurisdiction.
- Law enforcement activities in the court's jurisdiction, including any substantial commitment of additional resources for state attorneys, public defenders, and local law enforcement.
- The availability and use of case-related support staff and case management policies and practices.
- Caseload trends.³

In addition to the weighted caseload statistics, the Court will also consider the time to perform other judicial activities, such as reviewing appellate decisions, reviewing petitions and motions for post-conviction relief, hearing and disposing of motions, and participating in meetings with those involved in the justice system.⁴ Finally, the Court will consider any request for an increase or decrease in the number of judges that the chief judge of the circuit "feels are required."⁵

Following its criteria for determining the need for judges, on November 27, 2019, the Florida Supreme Court issued an order certifying the need for additional judges for the 2020-2021 fiscal year.⁶

The Legislature may, after considering the Court's recommendations and findings, either implement or reject those findings. If the Legislature rejects the Court's findings and recommendations by legislation creating additional judgeships in jurisdictions not requested by the Court, the legislation must be approved by two-thirds of the membership of both houses.⁷

² Fla. R. Jud. Adm. 2.240(b)(1)(A).

³ Fla. R. Jud. Admin. 2.240(b)(1)(B).

⁴ Fla. R. Jud. Admin. 2.240(c).

⁵ Fla. R. Jud. Admin. 2.240(d).

⁶ *In Re: Certification of Need for Additional Judges*, S. Ct. No. SC19-1907.

<https://www.floridasupremecourt.org/content/download/543926/6129104/file/sc19-1907.pdf>

⁷ *In re Advisory Opinion to the Governor Request of June 29, 1979*, 374 So. 2d 959 (Fla. 1979); See also Article V, s. 9 of the Florida Constitution *supra* at 1.

The Supreme Court consists of seven justices, pursuant to Article V, section 3. Currently, the statewide aggregated number of judges in each level of court below the Supreme Court are as follows:

- 64 judges in the 5 District Courts of Appeal⁸
- 601 judges in the 20 judicial circuits⁹
- 324 judges in the 67 counties¹⁰

Article V, s. 11(b) of the Florida Constitution provides:

The governor shall fill each vacancy on a circuit court or on a county court, wherein the judges are elected by a majority vote of the electors, by appointing for a term ending on the first Tuesday after the first Monday in January of the year following the next primary and general election occurring at least one year after the date of appointment, one of not fewer than three persons nor more than six persons nominated by the appropriate judicial nominating commission. An election shall be held to fill that judicial office for the term of the office beginning at the end of the appointed term.

III. Effect of Proposed Changes:

This bill amends s. 26.031, F.S., to establish four new circuit judgeships (one each in the First and Fourteenth Judicial Circuits, and two in the Ninth Judicial Circuit)¹¹ and six county judgeships (one in Lee County, one in Orange County and four in Hillsborough County, effective July 1, 2020).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁸ <https://www.flcourts.org/content/download/528017/5866210/20190627-dca-judges-as-of-june-2019-20190627mk.pdf> (last visited January 28, 2020).

⁹ <https://www.flcourts.org/content/download/528021/5866240/20190627-circuit-judges-with-dates-as-of-june-2019-20190627mk.pdf> (last visited January 28, 2020).

¹⁰ <https://www.flcourts.org/content/download/528020/5866234/20190627-county-judges-with-dates-as-of-june-2019-20190627-mk.pdf> (last visited January 28, 2020).

¹¹ The First Judicial Circuit includes Escambia, Okaloosa, Santa Rosa and Walton counties. The Fourteenth Judicial Circuit includes Bay, Calhoun, Gulf, Holmes, Jackson, and Washington counties. The Ninth Judicial Circuit includes Orange and Osceola counties. Section 26.021 (1),(4) and (9), F.S.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill will result in a cost for FY 2020-2021 of \$3,418,513 and 21 full-time equivalent positions (ten judges, ten judicial assistants and one law clerk), with an annual recurring cost of \$3,368,134. Funding and positions to implement the bill are included in the HB 5001, House General Appropriations Act, Fiscal Year 2020-2021:

The cost to fund four circuit court judgeships, four judicial assistants, and one law clerk is:

\$1,404,305	salaries and benefits (recurring)
\$ 29,640	expense (recurring) (this includes human resources)
<u>\$ 21,591</u>	expense (non-recurring)
\$1,455,536	Total all funds

The cost to fund six county court judgeships and six judicial assistants is:

\$1,885,589	salaries and benefits (recurring)
\$ 41,520	expense (recurring) (this includes human resources)
<u>\$ 28,788</u>	expense (non-recurring)
\$1,955,897	Total all funds

Article V, s. 14(c) of the Florida Constitution and s. 29.008, F.S., require counties to provide the court system, including the state attorney and the public defender, with facilities, security, and communication services, including information technology. Under the bill, the counties would incur an indeterminate amount of costs associated with providing those services to the new judges and judicial staff.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 26.031 and 34.022 of the Florida Statutes.

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.