



# The Florida Senate

Interim Project Report 2000-58

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Committee on Judiciary

Senator John Grant, Chairman

## EXAMINATION OF THE JURISDICTION OF FLORIDA TRIAL COURTS

### SUMMARY

All levels of Florida's state court system are experiencing significant increases in caseloads. In addition, procedural and jurisdictional requirements under federal, state and common law are impacting the complexity of cases, case handling and management, and the courts' operational costs. The trial courts use a variety of judicial resources to address the caseload demands and judicial process within constitutional and statutory jurisdictional constraints. This report examines the jurisdiction of Florida's two-tier trial court system to determine whether jurisdiction should be altered to improve the efficiency of the court's handling of cases and to ensure adequate access to the courts. Since the jurisdiction is in large part a function of the trial courts' structure, this report also examines the trial court system.

This report recommends that staff identify all court jurisdictional statutes and propose legislative changes to:

- Eliminate unnecessary references to historical courts, proceedings and judicial terminology,
- Clarify jurisdictional boundaries between the county and circuit courts,
- Expand the county court subject matter jurisdiction, and
- Increase the thresholds for the jurisdictional amounts in controversy.

### BACKGROUND

Since the St. John's Constitution was ratified in 1838, Florida has been divided into judicial circuits along county boundary lines. During Florida's history, the number of judicial circuits has ranged from four to 28. There are now 20 judicial circuits. *See* Art. V, s. 1, Fla. Const.; s. 23.021, F.S. Since 1969, when the Legislature created the last judicial circuit, Florida's population has grown from 6.8 million to 15.2 million.<sup>1</sup>

There are five single-county circuits (17th-Broward, 11th-Dade, 12th-Hillsborough, 16th-Monroe and 15th-Palm Beach) and 15 multi-county circuits.

In 1972, substantive changes to Article V of the Florida Constitution simplified the organization of the judiciary by reducing the number of courts to four levels: a supreme court, district courts of appeal, circuit courts and county courts.<sup>2</sup> Those constitutional changes created Florida's two-tier trial court system, requiring a circuit court in each judicial circuit and a county court in each county with at least one resident judge within the county. *See* Art. V, ss 5 and 6, Fla. Const.

The operational aspects of Florida's two-tier trial court system actually resemble those of a one-tier trial court system. That is, a chief judge is designated within each judicial circuit to be responsible for the assignment of all judges and for the administrative oversight of the circuit and county courts within the judicial circuit. *See* Fla. R. Jud. Admin. 2.050. There is also a clerk of the circuit court, who as an elected officer serves a four-year term and also serves as the clerk of the county. *See* Art. V, s. 16, Fla. Const.<sup>3</sup>

The Florida Constitution and the statutes set forth the trial courts' jurisdictions. When Article V was amended in 1972, transitional jurisdictional provisions remained in effect until changed by law consistent with the new constitutional amendments. Judicial powers are vested solely in the courts. *See* Art. V., s. 1, Fla. Const. However, quasi-judicial powers can be granted to commissions established by law, administrative officers and administrative bodies, provided the powers are related to "matters connected with the functions of their offices."

<sup>2</sup>The municipal court was not abolished until January 1, 1977.

<sup>3</sup>There may be a separate clerk of the county court if provided by general law.

<sup>1</sup>Office of Economic and Demographic Research, the Florida Legislature.

## METHODOLOGY

Staff reviewed judicial literature on state courts and numerous studies regarding Florida's court system and jurisdiction. The majority of those sources are cited within this report. Staff also researched applicable portions of the Florida Constitution, statutes, and court rules. The Florida Supreme Court's Office of State Courts Administrator provided valuable assistance in obtaining and examining court statistical and operational data. This report also incorporates information culled from the *1999 Judgeships Needs Applications* and information received from judicial circuits that responded to written requests sent to all circuits for comments regarding the project.

## FINDINGS

### ■ Studies

In recent years, the state court system's burgeoning caseload, legislative enactments, and constitutional changes have prompted examination of the judiciary's organization, jurisdiction, performance and policies. The four most recent reports relevant to the study of the trial court system and its jurisdiction are summarized below and provide historical insight into the issues involved:

- In 1987, the Florida Supreme Court appointed the *Study Commission on the Florida Trial Court System* to examine Florida's trial court system and to study the feasibility of a single-tier trial court. The Commission concluded that Florida's two-tier trial court system already incorporated key operational elements of a single-tier trial court system including the chief judge's administrative flexibility to assign a county judge to circuit court duty. The Commission recommended making no changes to the organization, structure or jurisdiction of Florida's trial court system as it wanted to avoid the recreation of multi-court and jurisdictional problems reminiscent of the judiciary prior to the 1972 Article V changes. Additionally, the Commission recommended that the Legislature:
  1. Remove the term "temporary" from the constitutional and statutory provisions which constrain the exercise of judicial assignments.<sup>4</sup>

2. Phase-out non-lawyer judges after the 1992 elections.<sup>5</sup>
  3. Create constitutional and statutory authority to establish a civil traffic infraction hearing officer system.<sup>6</sup>
- In 1991, the Legislature reviewed the configuration of the Florida judicial circuits, and in light of pending legislation at that time, specifically examined proposals for realignment of the Second, Eighth, Ninth, and Eighteenth Judicial Circuits. *See A Report on the Judicial Circuits of Florida*, House Committee on Judiciary, 1991. A detailed review of the historical evolution of the judicial circuits and Florida's constitutions since 1838 revealed no clear or consistent underlying purpose for the past or present configuration of the judicial circuits. The report attributed circuit boundary designations more to the geographical development of the state from north to south and to patterns of population growth. The Committee recommended a thorough study before any reconfiguration of the judicial circuits.
  - The Legislature conducted another study of Florida's trial court system in 1994. *See Report on a Single-Tier Trial Court System*, by the Senate Committee on Judiciary, January 1994. The report detailed the jurisdictional changes for county and circuit courts as a result of the 1972 Article V changes. The report concluded that complex issues underlay adoption of a pure single-tier trial court system (e.g., appellate jurisdiction of circuit court cases, judicial support for the new system, the utilization of non-lawyer judges and hearing officers, and the retention of existing county judges). The report proposed further study. Given the labor-intensity of collecting data at that time, the Committee chose instead to re-recommend a 1987 Study Commission recommendation to remove the term "temporary" from the constitutional and statutory provisions regarding judicial assignments.
  - The most recent study on Florida's trial court system was conducted in 1997. *See Review of the Efficiency of the Two-Tiered Trial Court System and the Process for Certifying Judges*, Office of Program Policy Analysis and Government Accountability (OPPAGA), Report 97-36, January

<sup>5</sup>Subsequent 1988 legislation failed.

<sup>6</sup>A constitutional amendment (AM H.J.R.1608) was adopted in 1988. The Legislature subsequently enacted ss. 318.30-318.39, F.S. *See* ch. 89-337, L.O.F.

<sup>4</sup>Subsequent 1988 legislation failed.

1998. Pursuant to a legislative directive, OPPAGA reviewed the judicial certification process, and the operational efficiency of the two-tier trial court system. See ch. 97-257, L.O.F. First, OPPAGA contested the accuracy and uniformity of data collected through the Supreme Court’s Summary Reporting System for purposes of determining need for additional judges and supplemental resources.<sup>7</sup> Second, OPPAGA identified the constitutional constraint imposed upon chief judges in making “temporary” judicial assignments to address workload demand at the county and circuit court levels. OPPAGA recommended removing the term “temporary” from duty in the constitution and the statute.<sup>8</sup> It reasoned that the change would benefit administrative efficiency, judicial flexibility and cost-efficiency without causing the physical and political disruption engendered in restructuring Florida’s two-tier trial court system into a one-tier trial court system.

■ Trial Court System

State court systems operate under a variety of court structures. The following chart summarizes the major categories of court structures in the United States:

COURT STRUCTURE	
Levels of Court	Number of States/Territories
Court of last resort, intermediate appellate court, court of general jurisdiction and court of limited jurisdiction.	36
Court of last resort, intermediate appellate court and court of general jurisdiction	3 and Puerto Rico
Court of last resort, court of general jurisdiction and court of limited jurisdiction	10
Court of last resort and court of general jurisdiction	1 and District of Columbia

Source: Court Statistics Project, State Court Caseload Statistics, 1997, National Center for State Courts, 1998.<sup>9</sup>

Florida’s state court structure typifies the most common court structure prototype. It consists of four

<sup>7</sup>The Office of State Courts Administrator (OSCA) challenged and responded to many of OPPAGA’s findings and conclusions regarding the uniform case reporting system.

<sup>8</sup>No legislation has been enacted to date.

<sup>9</sup>NCSC’s CSP is funded by the State Justice Institute and the Bureau of Justice Statistics which gather and provide comprehensive information on the work and organization of the state courts. An Updated publication providing comparative information and statistical data on state court structure, jurisdiction organization will be available in the 4th edition of *State Court Organization*, due in October 1999.

court levels which bifurcates its trial court jurisdiction into a court of general jurisdiction (circuit court) and court of limited jurisdiction (county court). The historical policy rationale in retaining a two-tier trial court system appears, in part, to have been to ensure the presence of a judge at all times in each county,<sup>10</sup> and to ensure public accountability by the judges, particularly in rural areas.

However, legislative enactments and most recently, constitutional amendments, continue to whittle away the distinctions between county and circuit court judges. First, county judges, like circuit court judges, now serve 6-years terms in lieu of 4-year terms. See Art. V, s.10, Fla. Const. Judges and justices are already subject to the same disciplinary standards, including impeachment, and to the jurisdiction of the Judicial Qualifications Commission. See Art. III, s.17 and Art. V, s.12, Fla. Const. Second, beginning in the 2000 general election, the local option for judicial selection of county and circuit court judges based on election or merit selection and retention will be placed on the ballot. Voters in counties and circuits may subsequently opt-out of the previously chosen judicial selection by placing the issue on the ballot by petition biennially. See Art. V, ss. 10-12, Fla. Const. and ch. 99-355, L.O.F. Only appellate judges and justices are currently selected and retained through the merit system. Circuit and county trial judges are currently elected except as may occur in vacancy or removal situations.

Some issues for consideration in the unification of county and circuit courts under a one-tier trial court system include, but are not limited to:

- The influx of former county court cases as circuit court cases would impact the workload of the District Courts of Appeal (DCAs).<sup>11</sup> The DCAs are

<sup>10</sup>A county court must be open at all times, Sundays excepted to receive voluntary pleas of guilty to render judgments and to pass sentences in all criminal cases pending in that court. §34.131, F.S. However, a circuit court judge must also be available "as nearly as possible at all times to hold and conduct hearings in chambers" and at least one judge must be available on weekends, holidays and after hours to hear motions for ex parte temporary injunctions in domestic violence cases. §26.20, F.S.

<sup>11</sup>The District Courts of Appeal (DCAs) were established in 1957 primarily to alleviate the Florida Supreme Court’s burgeoning docket. Three-judge panels of the DCAs have: 1) jurisdictional review of all appeals from final judgments or orders of the circuit courts and most all administrative agency actions orders, and appeals from certain non-final orders; 2) authority to issue extraordinary writs of certiorari, prohibition, mandamus, quo warranto, and habeas corpus, as well as other necessary writs, and 3) discretionary review of certified questions from county court. Florida is currently divided into 5 DCAs with headquarters located in Tallahassee, Lakeland, Miami, West Palm Beach, and Daytona Beach. In 1999, the Legislature approved 1 additional appellate judgeship to

experiencing their own caseload increases.<sup>12</sup> In 1998, over 21,000 cases were appealed. *See In Re Certification of the Need for Additional Judges*, No.94,890 (Fla. February 18,1999)

- There are attendant costs in the establishment of a one-tier trial court system, including, but not limited to, salary increases to elevate county court judgeships to circuit court judgeships.<sup>13</sup> In 1999, the Legislature approved 6 additional county court judges and 25 circuit court judges to bring the total to 269 county court judges and 493 circuit court judges. *See* ch. 99-151, L.O.F. In addition, there is the impact of lower county court filing fees and charges on case filings and collection, and the reallocation of secondary judicial resources for shifting some caseload responsibilities from county to circuit court.
- Competency varies among circuit and county court judges although the statutory qualifications are almost the same.<sup>14</sup> A minimum 5-year Florida Bar membership is required of county and circuit court judgeships with two exceptions. *See* Art. V, s.8, Fla. Const., and s.34.021, F.S. For county court judges residing in counties with a population of 40,000 or less (as measured from the last decennial census), membership in the Florida Bar is solely required. Additionally, there are still five non-lawyer county judges who qualify under s. 32.021(4), F.S. Judicial assignments of circuit and county court judges within geographic areas or circuit court divisions are based on a number of factors including seniority, background experience, expertise, and interest in handling circuit or county cases or even specific categories of cases.

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bring the total to 61 as follows: 1st DCA (15), 2nd DCA (14), 3rd DCA (11), 4th DCA (12), and 5th DCA (10).

<sup>12</sup>Appellate caseload pressures were the subject of a 1993 judicial study which explored options including the creation of a new DCA to hear exclusive subject matters, modification of geographical boundaries, and modification of court rules to facilitate the creation of subject matter divisions within the DCAs. *See A Report of the Judicial Council on District Courts of Appeal, Workload, Organization, Boundaries and Jurisdiction, October 22, 1993.* The 1998 statewide average for appellate court case filings per judge was 349. *See In Re Certification of the Need for Additional Judges*, No. 94,890 (Fla. February 18, 1999). The established threshold is 250 per judge. *See* Fla. R. Jud. Admin. 2.035(2)

<sup>13</sup>The salaries for county court judges and circuit court judges are legislatively set at \$104,018 and \$117,020, respectively. (Effective 10/99)

<sup>14</sup>The Judicial Nominating Commission's application process will play an increasingly important role in assessing a candidate's competency and qualification.

## ■ Specialized Courts or Divisions

Despite any initiative toward a simple court structure, most states' court systems gravitate toward the creation of specialized courts or divisions. Twenty-four of the 36 states (excluding Florida) operating under the Court Statistics Project court structure prototype formally divide their courts of general jurisdiction and limited jurisdiction further into specialized courts or divisions. The specialized courts or divisions vary in name (e.g., magistrate court, alderman's court, justice of the peace court, workers' compensation court, city court, probate court, and surrogate's court), in quantity, in jurisdictional amount and in subject matter jurisdiction.

In Florida, specialized courts are a misnomer. The Florida Constitution prohibits the establishment of any court other than the four courts named. *See* Art. V, s. 1, Fla. Const. However, Florida law allows all courts except for the Supreme Court, to establish specialized court "divisions" through local rule approved by the Florida Supreme Court. *See* Art.V, s. 7, Fla. Const.; s.43.30, F.S. These constitutional and legislative grants of authority have been used by county and circuit courts to channel their judicial resources to create divisions responsive to the caseload demands, community needs, and judicial agenda of the county or circuit. For example, most caseload activities are categorized under five primary circuit court divisions: criminal, civil, domestic relations, juvenile and probate. County courts in more populous areas are also divided into civil, criminal and traffic divisions.

Some of these court divisions have become institutionalized as "courts" within the formal framework of Florida's two-tier trial court system, oftentimes with their own set of Supreme Court adopted court rules. For example, in 1990, the Legislature established the "Commission on Family Courts" to develop specific guidelines for the implementation of a family law division within each judicial circuit. *See* ch. 90-273, L.O.F. Each judicial circuit, under Supreme Court directive, has been required to develop a local rule to establish a family law division in accordance with available local resources. *See In Re Report of Comm'n on Family Courts*, 633 So.2d 14 (Fla. 1994); *In re Report of the Comm'n on Family Courts*, 588 So.2d 586 (Fla. 1991). Most judicial circuits have formed some kind of a family law program or division.

At least 17 judicial circuits have also created sub-specialty court divisions or programs. *See 1999 Judgeship Needs Applications*, OSCA. In actuality, it

is a judicial and case management tool used by the courts to differentiate, streamline and process specific categories of cases. The division or program may be as formal as a circuit-wide court division or program, or as informal as a 2-hour monthly judicial assignment to hear a specific category of cases solely in one county. The circuits have differentiated sub-specialty cases most frequently into “drug courts” (14) and “domestic violence courts” (9). Other sub-specialty court divisions or programs created include “dependency court,” “collections court,” “felony compliance court,” “repeat offenders,” and “mental health court.”

There is also legislative support for sub-specialty court divisions or programs. Every county has the option to establish a civil traffic infraction hearing officer program.<sup>15</sup> See ch. 89-337, and ch. 90-330, L.O.F.; see also Art. 5, s. 1, Fla. Const. The Florida Supreme Court adopted traffic court rules and procedures for the program. See Fla. R. Traf. Ct. 6.010-6.630. The civil traffic hearing officer shares concurrent jurisdiction with the county court judges to hear specific civil traffic infraction cases. Although civil traffic infraction programs alleviate some of the caseload burden, only 9 of the judicial circuits employ civil traffic infraction hearing officers to date. A primary constraint to statewide implementation has been local funding.<sup>16</sup> This issue should be addressed in the legislative review of Article V costs.

The creation of specialized court divisions of limited jurisdiction has also extended into the executive branch. The most common types of quasi-judicial forums function under ch. 120, F.S., and typically involve a state agency or commission taking action pursuant to a statute or administrative rule. However, the legislatively created Division of Workers Compensation Claims, within the Department of Labor and Employment Security under chapter 440, F.S., functions almost as a specialty court division: 1) the “judges” must be 5-year members of the Florida Bar preceding appointment and must abide by a judicial

<sup>15</sup>Four of the seven eligible counties participated in the original pilot program. (Broward, Dade, Hillsborough, Palm Beach, and Pinellas). See *A Feasibility Study of the Civil Traffic Infraction Hearing Officer Pilot Program* by the Office of the State Courts Administrator, February 14, 1991. The report recommended continuation of the program on a local county option basis, the expansion of jurisdiction into civil traffic infractions involving personal injury or property damages and criminal offenses, the revision of qualification requirements for hearing officers, and the removal of the salary caps. Subsequent legislation was enacted which allowed a local option to establish a civil traffic infraction hearing program, and raised the salary cap from \$20 to \$50 per hour. See ss. 318.30-318.39, F.S.

<sup>16</sup>Although the Legislature provides in-kind matching funds for civil traffic hearing officers, the primary funding responsibility still lies with the counties.

code of conduct; 2) the chief judge heads the Division and may order mediation; and 3) the “judges” rule exclusively on worker’s compensation cases which are directly appealable to the First District Court of Appeal. The Division also uses its own rules of court. See Fla. R. Work Comp. P. 4.010-4.916.

Whether specialized court divisions or sub-specialty “courts” actually improve efficiency in the courts, relieve court backlog and ensure adequate public access to the courts or not, their creation has been one of the trial courts’ responses to the caseload pressures and case management needs. See e.g., *An Overview of Florida Criminal Justice Specialized Courts*, Interim Project Report 97-P21, Committee on Criminal Justice, October 1997. Their creation may also reflect the trend toward specialization among legal practitioners based on the increasing complexity of the law. The Florida Bar currently offers board certification in 17 areas: Admiralty & Maritime Law, Appellate Practice, Aviation Law, Business Litigation, City, County & Local Government, Civil Trial, Criminal Appellate, Criminal Trial, Elder Law, Health Law, Immigration & Nationality, International Law, Marital & Family Law, Real Estate, Tax Law, Wills, Trusts & Estates, and Workers' Compensation.

#### ■ Trial Court Jurisdiction

Circuit courts have general trial court jurisdiction over matters not assigned by statute to the county courts, and appellate jurisdiction over county court cases. See Art. V, s.5, Fla. Const., and ch. 26, F.S. County courts are courts of limited jurisdiction based on an amount in controversy and subject matter. See Art. V, s. 6, and ch. 34, F.S. The monetary threshold for county versus circuit court jurisdiction was last revised in 1990. It was set at \$15,000 or less, exclusive of interest, costs, and attorney’s fees for all actions on or after July 1, 1992. See 34.01, F.S, See ch. 90-269, L.O.F. Additionally, county court jurisdiction was expanded to include:

- simplified or uncontested dissolutions of marriage proceedings.
- equity cases within the court’s jurisdictional amount except as prohibited by other Florida law.
- declaratory judgments on matters within the court’s jurisdictional amounts.

A case may be transferred to the court of appropriate jurisdiction only if the demand of a counterclaim or cross-claim exceeds the jurisdictional amount of the court in which the case is pending. See Fla.R.Civ.P. 1.170(j) and Fla. Small Claims R. 7.100(d).

COUNTY COURT JURISDICTION		
<i>Original/Exclusive Jurisdiction</i>	<i>Concurrent Jurisdiction</i>	<i>Appellate Jurisdiction</i>
<ul style="list-style-type: none"> <li>All misdemeanor cases not cognizable by the circuit courts <b>s. 34.01(a)</b></li> <li>All violations of municipal and county ordinances <b>s.34.01(b)</b></li> <li>All causes of actions accruing <b>s.34.01(c)d.</b></li> <li>All matters in equity in cases within jurisdictional amount <b>s.34.01(4)</b></li> <li>All proceedings relating to the right of possession of real property and to the forcible or unlawful detention of lands and tenements except jurisdiction is concurrent with circuit court when the amount in controversy exceeds jurisdictional amount. <b>s. 34.011(2)</b></li> </ul>	<ul style="list-style-type: none"> <li>Landlord and tenant cases involving claims within jurisdictional amounts. <b>s.34.011(1)</b></li> <li>Simplified or uncontested dissolution of marriage proceedings <b>s.34.011(2)</b></li> <li>Emergency Hospitalizations (Baker Act) per part I of chapter 394 in the absence of a circuit court judge in the county (and all injunctive relief or orders necessary to complete exercise of such jurisdiction per discretion of chief judge <b>s.26.012(4)</b></li> <li>Declaratory judgment for cases within jurisdictional amount. <b>s.86.011</b></li> </ul>	
CIRCUIT COURT JURISDICTION		
<i>Original/Exclusive Jurisdiction</i>	<i>Concurrent Jurisdiction</i>	<i>Appellate Jurisdiction</i>
<ul style="list-style-type: none"> <li>All actions not cognizable by the county courts <b>s.26.012(2)(a)</b></li> <li>All proceedings relating to probate matters and minors, granting of letters testamentary, guardianship, involuntary hospitalization, the determination of incompetency, and other jurisdiction usually pertaining to courts of probate <b>s.26.012(2)(b)</b></li> <li>All cases in equity including cases relating to juveniles except traffic offenses as provided in chapters 39 and 316, F.S. <b>s. 26.012(2)(c)</b></li> <li>All felonies and all misdemeanors arising out of the same circumstances as a felony <b>s.26.012(2)(d)</b></li> <li>All cases involving legality of any tax assessment or toll or denial of refund, except as provided in s. 72.011, F.S. (wherein action originally initiated under ch. 120) <b>s.26.012(2)(e)</b></li> <li>All actions of ejectment <b>s.26.012(2)(f)</b></li> <li>All actions involving title and boundaries of real property <b>s.26.012(2)(g)</b></li> <li>residual jurisdiction pending actions in abolished courts, <b>s. 26.56,</b></li> <li>Transferred cases pursuant to Rule 1.170(j), Fla. R. Civ.P. (relating to counter- and cross-claims), and 7.100(d), Fla. Small Claims Rules (relating to counter-claims, cross-claims and set-offs) <b>s. 34.011(2)</b></li> </ul>	<ul style="list-style-type: none"> <li>Landlord and tenant cases involving claims within jurisdictional amounts. <b>s.34.011(1)</b></li> <li>All proceedings relating to the right of possession of real property and to the forcible or unlawful detention of lands and tenements in which the amount in controversy exceeds jurisdictional amount by county court <b>s. 34.011(2)</b></li> </ul>	<ul style="list-style-type: none"> <li>Appeal of final judgments and orders from the county courts except those involving the validity or interpretation of a statute or constitutional provision <b>s.34.017</b></li> <li>Appeals of final administration orders of local government code enforcement boards <b>s.26.012(1)</b></li> <li>Appeal of non-final orders pursuant to Fla.R.App.9.130, limiting issues of appeal under these cases Fla. R. App.9.030(c)</li> <li>Appeal of administrative action if provided by general law. Art. V, s.5</li> <li>Appeals of judgments from county court which are certified as questions of great public importance or affecting the uniform administration of justice but which were rejected by the DCA. <b>s. 26.012(1) and s. 34.017</b></li> </ul>

In addition to the key jurisdictional statutes, the Florida statutes contain numerous provisions conferring exclusive jurisdiction of specific types of actions upon the circuit or county courts. For example, statutes expressly confer exclusive jurisdiction upon circuit courts in s. 61.13(2)(c), F.S., (child support and custody), s. 68.083, F.S. (Florida False Claims Act), and s. 153.59, F.S., (establishment of county water and sewer districts).

Other statutory provisions confer jurisdiction upon historical courts or proceedings, or generically, to a “court of competent jurisdiction” without expressing jurisdictional delineation between county and circuit courts. *See e.g.*, s. 47.071, F.S., (matters arising in navigable waters); ch. 61, F.S., (chancery matters); s. 71.041, F.S., (re-establishment of land title destroyed by fire); ss.112.3187-112.31895, F.S., (the Whistleblower Act); and s.191.011, F.S., (ad valorem

assessment in independent special fire control districts).

It is indeterminate at this time what percentage of cases would be diverted from circuit to county court if the jurisdictional amount or subject matters were adjusted between the trial courts. Aggregate data on case breakdown according to specific subject matter is currently unavailable or inaccessible. Since a jurisdictional amount is initially pled as a baseline for actual damages, an increase in the jurisdictional threshold would have to be such that the amount would provide parties more of an option to file in county versus circuit court. Preliminary review of the jurisdictional threshold amounts of a few states with the most similar court structure affords limited guidance as to an appropriate threshold amount:

AMOUNT IN CONTROVERSY IN COURTS OF LIMITED JURISDICTION	
States	Maximum Amount
Kansas	\$4,000
Idaho, North Carolina	\$10,000
Florida, Virginia	\$15,000
Hawaii	\$20,000
California, Missouri	\$25,000
Alaska	\$50,000

Source: State Court Caseload Statistics, 1997, National Center for State Courts.

Clarification of the county and circuit courts’ existing jurisdictions, expansion of county court subject matter jurisdiction or an increase in the jurisdictional threshold amount are unlikely to affect overall the public’s access to the court or decrease caseload burdens. However, it may shift some caseload responsibility and provide a more equitable distribution of caseloads between the trial courts for most of the judicial circuits. Additionally, it may help to reduce the administrative paperwork and time currently expended by those county court judges who are already hearing many subject matters outside their jurisdiction due to their temporary judicial assignment to circuit court duties.

■ Caseload

The trial courts’ caseloads have steadily increased. The 1999 projected case filings total 864,320 for circuit courts (up from 807,696 actual case filings in 1996) and total 1,106,535 for county courts (up from 1,065,992 in 1996).<sup>17</sup> Caseloads among Florida’s judicial circuits and between counties within the same circuit vary based on factors unique to each county or circuit. In response, each circuit under jurisdictional constraints, uses a variety of resources to handle the caseloads, including requests for additional judgeships. *See Utilization of Judicial Resources, Interim Project Report, 98-36, Committee on Judiciary, September 1998.* Since the adoption of Article V in 1972, the Florida Supreme Court has annually certified to the Legislature its need for additional judges to handle caseload increases based on those circuit requests. In 1983, uniform criteria were formally adopted based upon criteria historically used in the certification process. *See Fla. R. Jud. Admin. 2.035.*

The primary criterion used is the threshold number of case filings per trial court judge. The threshold of 1,865 case filings per circuit court judge was developed in 1986 based on a two-year study conducted by the Supreme Court’s Court Statistics and Workload Committee and OSCA. *See Judicial Workload and Resource Study, White Paper, 1993.* The threshold of 6,114 case filings per county court judge has been used since 1992 (an increase from 3,700 case filings established in 1988). Fla.R.Jud.Admin. 2.035(b)(1)(B). Secondary factors are considered such as availability of county court judges to serve in circuit court, geographic size of circuits, case management policies and practices, nature and complexity of cases in the jurisdiction, and caseload trends.

■ Judicial Assignments

Judicial circuits increasingly rely on assignments of county court judges to circuit court duties. Through delegation of power by the Chief Justice of the Supreme Court, chief judges may assign county court judges to temporary circuit court duty and vice versa as needed. *See Art. V, s. 2, Fla. Const. and Fla. R. Jud. Admin. 2.050(b)(4).* In counties where there are no resident circuit court judges, a chief judge may temporarily assign a qualified county court judge to preside over all county and circuit court cases. *See s. 26.57, F.S.* According to OSCA, 168 county court judges performed a total of 28,778.25 circuit court hours in 1998. Thus, county court judges averaged over a month of circuit court duty per year.

However, there have been several constitutional challenges to what constitutes “temporary duty” and how the assignments may create de facto circuit court judgeships in contravention of the constitutional requirement to have a county judge in each county. In 1985, the Florida Supreme Court<sup>18</sup> suggested a 60-day cap for exclusive circuit court duty by a county judge, and a 6-month cap for all other non-exclusive assignments to circuit court duty. *See Crusoe v. Rowls, 472 So.2d 11 (Fla. 1985)* The Court revisited the issue again in 1986 when it found a county court judge’s 5-year assignment to exclusive circuit court duty in a specially created district was to be a de facto permanent assignment. *See Payret v. Adams, 600 So.2d 136 (Fla. 1986).* The Court clarified that such judicial assignments should be,

<sup>17</sup>Based on data compiled from the Florida Supreme Court’s Summary Reporting System.

<sup>18</sup>The Florida Supreme Court has exclusive jurisdiction to review judicial assignments. *See Art. V, §3(b)(4), Fla. Const.*

“...on a temporary, regular basis, provided [it] is directed to a specified, limited class of cases, is used to maximize the efficient administration of justice, and requires the county judges to supplement and aid the circuit judges rather than to replace them. . . [this] applies equally to the assignment of circuit judges to handle county court matters.”

The recent case trend has been to grant the chief judge increasing flexibility in judicial assignments as necessary for the administration of the court, to assess trial court needs and to allocate resources. *See Rivkind v. Patterson*, 672 So.2d 819 (Fla. 1996)(upheld the exclusive and perpetual monthly assignment lasting several years of county court judges to hear domestic violence injunctions).

All the judicial circuits cross-assign judges, primarily county court judges to circuit court duties. *See 1999 Judgeship Needs Applications*. Although removal of the term “temporary” would provide chief judges with greater flexibility to optimize primary judicial resources, the overall impact on caseloads might be nominal. Some circuits already maximize the use of judicial assignments or are unable to use county judges due to county court caseload pressures. Such assignments are generally viewed as a short-term solution to the circuit court caseload burden and detrimental to case handling in county courts. A 1998 constitutional proposal to allow unlimited cross-assignment of judges failed to pass the 1997-1998 Constitution Revision Commission. *See CRC Proposal 60, CRC Journal*, January 13, 1998.

#### ■ Ongoing Reviews and Studies

Comprehensive reviews of Florida’s court system’s organization, jurisdiction, performance and policies are already underway. The Florida Supreme Court has established a number of committees to examine specific court issues. For example, the Judicial Management Council’s Committees on Trial Court and District Courts of Appeal Performance and Accountability are responding in part to the legislative directive for the state court system to submit

performance-based budgeting programs by January 15, 2000, and measures and standards by September 1, 2000. *See ch. 94-249, L.O.F.* The work of the Supreme Court’s Article V Funding Steering Committee will dovetail in part with the Legislature’s full review of the courts for purposes of implementing 1998 Article V changes to shift incrementally major operational costs of Florida’s judicial system from the counties to the state. The phase-in schedule of Article V costs must be completed by July 1, 2004. *See Art. XII, s. 25, Fla. Const.* Additionally, in response to a 1998 legislative appropriation based on an OPPAGA report recommendation (Report 97-67), the Florida Supreme Court’s Delphi Policy Committee is developing a caseload weighting system to determine judicial workload, establish recommended caseloads, and assess the need for judges. *See ch. 98-422, L.O.F.*

## RECOMMENDATIONS

It is not recommended nor does there appear to be a need to restructure Florida’s trial court system into a one-tier trial court system at this time. It is indeterminate whether a one-tier trial court system would improve the court’s efficiency in handling caseload demands and do a better job of ensuring adequate access to the courts. Any consideration or proposal for restructuring Florida’s current court structure would benefit first from the data collection and the reports following the completion of studies conducted by the Florida Supreme Court, OPPAGA, and the Legislature.

It is recommended that staff identify all jurisdictional statutes and propose legislative changes to:

- Eliminate unnecessary references to historical courts, proceedings and judicial terminology,
- Clarify the jurisdictional boundaries between the county and circuit courts,
- Expand county court subject matter jurisdiction, and
- Increase the thresholds for the jurisdictional amounts in controversy.

#### COMMITTEE(S) INVOLVED IN REPORT (*Contact first committee for more information.*)

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#### MEMBER OVERSIGHT

Senators Campbell and Laurent