

STORAGE NAME: h0503a.jo.doc
DATE: January 9, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
JUDICIAL OVERSIGHT
ANALYSIS**

BILL #: HB 503
RELATING TO: Trial Courts
SPONSOR(S): Representative Simmons
TIED BILL(S): none

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) JUDICIAL OVERSIGHT YEAS 6 NAYS 3
 - (2) CRIMINAL JUSTICE APPROPRIATIONS
 - (3) COUNCIL FOR SMARTER GOVERNMENT
 - (4)
 - (5)
-

I. SUMMARY:

The state has a two-tiered trial court system, consisting of county courts and circuit courts. Every county has at least one sitting judge; and the state is split into twenty judicial circuits. As to criminal cases, circuit courts have jurisdiction over felonies, and county courts have jurisdiction over misdemeanors.

This bill provides that jurisdiction over certain felonies is vested in the county courts. Those enumerated felonies are, in general, certain traffic and bad check offenses.

This bill also requires that clerks of court create a system for electronic filing, retention, and retrieval of court records by no later than January 1, 2003.

The Committee on Judicial Oversight adopted an amendment deleting Section 3 from this bill, which section may constitute a mandate.

As amended, this bill appears to have an unknown positive fiscal impact on state government, and does not appear to have a fiscal impact on local government.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Article V, s. 6, Fla.Const., provides that the county courts exercise the jurisdiction prescribed by general law. Article V, s. 5, Fla.Const., provides that the circuit courts shall have original jurisdiction not vested in the county courts.

Section 26.012, F.S., provides that circuit courts have exclusive original jurisdiction of all felonies and of all misdemeanors arising out of the same circumstances as a felony which is also charged. Section 34.01(1), F.S., provides that county courts have original jurisdiction in all misdemeanor cases not cognizable by the circuit courts.

Appeals from the county courts are heard by the circuit court, and appeals from the circuit courts are heard by the district courts of appeal. Thus, misdemeanor appeals are heard in the circuit courts, and felony appeals are heard in the district courts of appeal.

A clerk of court is required to accept for filing pleadings and other documents properly submitted to the clerk in paper form. Section 28.30, F.S., allows a clerk to accept electronic filings, and authorizes a clerk to maintain records in electronic form. Clerks are not required to accept or maintain court records in electronic form.

C. EFFECT OF PROPOSED CHANGES:

This bill amends s. 26.012, F.S., to provide for county court jurisdiction over certain specified felony offenses, namely:

- | | |
|------------------------|---|
| s. 316.193(2)(b), F.S. | Driving under the influence, fourth or subsequent offense. |
| s. 316.1935(2), F.S. | Fleeing or attempting to elude law enforcement officer resulting in high-speed pursuit. |
| s. 316.1935(3), F.S. | Aggravated fleeing or eluding. |
| s. 322.212(1), F.S. | Possession of forged, stolen, counterfeit, or unlawfully issued driver's license; possession of simulated identification. |

- s. 322.212(4), F.S. Supply or aid in supplying unauthorized driver's license or identification card.
- s. 322.212(5)(a), F.S. False application for driver's license or identification card.
- s. 322.34(2)(c), F.S. Driving while license suspended or revoked, third or subsequent offense.
- s. 327.35(2)(b), F.S. Operating vessel under the influence, 4th or subsequent offense.
- s. 817.52(1), F.S. Obtaining vehicle with intent to defraud.
- s. 817.52(2), F.S. Hiring motor vehicle with intent to defraud.
- s. 817.52(3), F.S. Failure to return rented vehicle.
- s. 832.05(2)(b), F.S. Presentation of a worthless check, draft, or debit card order valued in excess of \$150 and in exchange for something of value.
- s. 832.05(4)(b), F.S. Obtaining property or services in return for worthless check, draft, or debit card order, of a value in excess of \$150.
- s. 843.18, F.S. Fleeing by boat.

This bill further provides that jurisdiction of an appeal of any such felony offense is in the district court of appeal.

This bill amends s. 28.30, F.S., to require that, no later than January 1, 2003, the clerk of the circuit court in each county shall create an operational and secure method for electronic filing, retention, and retrieval of county court and circuit court records. The method selected by the clerk of the circuit court must be approved by the "Information Technology Commission" of the Florida Supreme Court before it is implemented.

D. SECTION-BY-SECTION ANALYSIS:

See "Present Situation" and "Effect of Proposed Changes".

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

To the extent that the portions of this bill move jurisdiction over certain felonies from overburdened circuit courts to underutilized county courts, this bill may reduce trial court expenditures. The amount of this savings is currently unknown.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

In 1998, the Office of Program Policy Analysis And Government Accountability (OPPAGA) issued a report entitled "Review of the Efficiency of the Two-Tiered Trial Court System and the Process for Certifying Judges".¹ In part, this report examined the efficiency of the current jurisdictional split between circuit courts and county courts. That report found:

Thirty-five county judges preside in single-judge counties. Using the threshold criteria, in calendar year 1996 the combined caseload of these 35 judges translated into the equivalent caseload of 12 judges. At \$166,630 each, the state cost of this "excess" capacity of 23 judges, including their judicial assistants and fringe benefits, was \$3.8 million.

That report also found that, in 1996, county judges in 35 counties did not have a full-time workload, as follows:

<u>Circuit</u>	<u>County</u>	<u>Full-Time Equivalents Needed Based on Threshold Filings</u>
1st	Walton	0.52
2nd	Franklin	0.20
	Gadsden	0.69
	Jefferson	0.22
	Liberty	0.06
	Wakulla	0.22
3rd	Columbia	0.87
	Dixie	0.13
	Hamilton	0.13
	Lafayette	0.04
	Madison	0.27
	Suwannee	0.36
	Taylor	0.18
4th	Nassau	0.56
5th	Citrus	0.66
	Hernando	0.82
	Sumter	0.31
7th	Flagler	0.41
	Putnam	0.93
8th	Baker	0.24

¹ OPPAGA Report 97-36, January, 1998.

	Bradford	0.36
	Gilchrist	0.10
	Levy	0.44
	Union	0.08
10th	Hardee	0.41
	Highlands	0.72
12th	DeSoto	0.23
14th	Calhoun	0.10
	Gulf	0.14
	Holmes	0.15
	Jackson	0.46
	Washington	0.19
19th	Okeechobee	0.34
20th	Glades	0.11
	Hendry	0.48
Total	35	12.09

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

Section 3 of this bill appears to require counties to spend funds or to take an action requiring the expenditure of funds. Specifically, each clerk of the court will be required to create a system for electronic filing and retrieval of court records. The cost of compliance is unknown.

The other sections of this bill do not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

The bill sponsor suggested to the Committee on Judicial Oversight that there are two independent reasons for passage of this bill, as amended:

1. As to all of the counties of the state, the enumerated felony cases are more suited to county court practice rather than to circuit court practice.
2. As to the smaller counties in the state, this bill will provide for better utilization of county court judicial resources.

It may be suggested that individual judicial circuits be granted the flexibility to determine whether enumerated felony offenses should be moved to county court jurisdiction within their circuit or perhaps even on a county-by-county basis. Art. V, s. 6, Fla.Const., provides that the county courts exercise the jurisdiction prescribed by general law, and that “[s]uch jurisdiction shall be uniform throughout the state.” Accordingly, it is possible that any provision giving a local option may perhaps provide for non-uniform jurisdiction of county courts, thereby rendering the statute unconstitutional.

The provision regarding electronic filing, retention, and retention of court records may conflict with legislative planning required by the 1998 Revision 7 to the Florida Constitution. That amendment provides that “[n]o county or municipality . . . shall be required to provide any funding for the . . . offices of the clerks of the circuit and county courts performing court-related functions.” This bill requires the 67 clerks to pay for the development of electronic filing systems, systems that the state apparently will have to assume the continuing operational cost of no more than 18 months later.

It appears that the reference in Section 3 of the bill to the “Information Technology Commission of the Florida Supreme Court” perhaps intends to refer to the “Florida Courts Technology Commission”, created by the Chief Justice in 1995 and staffed by the Office of the State Courts Administrator.²

The references to ss. 832.05(2)(b) and 832.05(4)(b), F.S., should perhaps be to ss. 832.05(2) and 832.05(4), F.S., respectively.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On January 8, 2002, the Committee on Judicial Oversight adopted one amendment to the bill, which amendment removes Section 3 from the bill. Section 3 is the section amending s. 28.30, F.S., to require the clerks of court to develop an electronic filing system. The bill was then reported favorably as amended.

VII. SIGNATURES:

COMMITTEE ON JUDICIAL OVERSIGHT:

Prepared by:

Staff Director:

Nathan L. Bond, J.D.

Nathan L. Bond, J.D.

² Administrative Order AOSC01-29, dated June 18, 2001, extended the authority of the Florida Courts Technology Commission through July 31, 2003.