

FINAL BILL REPORT

SHJR 4221

Brief Description: Amending the Constitution to remove cases in equity from the exclusive original jurisdiction of the superior courts.

By House Committee on Judiciary (originally sponsored by Representative Appelwick).

House Committee on Judiciary
Senate Committee on Law & Justice

Background: A complex set of constitutional provisions and court decisions govern the question of jurisdiction in trial courts. The superior courts in this State are courts of general jurisdiction, which means that superior courts may hear any case the jurisdiction of which has not been conferred on some other court. District courts, on the other hand, are courts of limited jurisdiction, which means that as a rule they have jurisdiction only over matters specifically assigned to them by statute.

There are some matters over which the Legislature clearly may assign concurrent jurisdiction to both the superior and district courts. Based on somewhat ambiguous case law, however, it appears that other matters are in the exclusive jurisdiction of the superior courts. These matters over which the superior courts may have exclusive jurisdiction are identified in the state constitution. They include all cases involving felonies, the title or possession of real property, taxes, bankruptcy, nuisances, probate or divorce, and all cases in "equity."

Cases in equity cover a range of matters that courts of law historically could not handle. Equity cases include, among other things, actions for injunctions or restraining orders. The issuance of protective orders, such as those authorized in domestic violence and anti-harassment cases, is an exercise of equity jurisdiction. Some superior courts have been faced with increasingly large numbers of these protective order actions. Proposals have been made that would allow these cases to be heard in district court. However, because of the constitution, it is questionable whether jurisdiction over these kinds of cases may be given to district courts.

Summary: The constitution is amended to remove cases in equity from the designated original jurisdiction of the superior courts.

Votes on Final Passage:

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| House | 96 | 0 |
| Senate | 41 | 0 |

Effective: Upon approval by the voters at the next general election.