

HOUSE BILL REPORT

HJR 4201

As Reported By House Committee On:
Judiciary

Brief Description: Amending the Constitution to provide that superior courts and district courts have concurrent jurisdiction in cases in equity.

Sponsors: Representatives Ludwig, Padden, Appelwick, Foreman and Johanson.

Brief History:

Reported by House Committee on:
Judiciary, January 29, 1993, DP.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 15 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Forner; Johanson; Long; Mastin; H. Myers; Riley; Scott; Tate; and Wineberry.

Staff: Bill Perry (786-7123).

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 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 may be in the exclusive jurisdiction of the superior courts. Some of these matters over which the superior courts arguably 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."

There is no precise modern definition of cases in "equity." Courts of equity arose hundreds of years ago in England to handle cases in which the powers of courts of "law" were inadequate. Traditional remedies such as awarding money damages to an injured party were the stock and trade of courts of law. Courts of equity fashioned innovative remedies. Typical equitable remedies include, among other things, the issuance of injunctions or restraining orders. In modern times, much of the distinction between "equity" and "law" has been lost. In this country there are no separate courts of equity.

However, because of the state constitution's provision on "cases in equity," there is some uncertainty about the ability of the Legislature to assign certain kinds of cases to district courts. For instance, the issuance of protective orders, such as those authorized in domestic violence and antiharassment cases, is arguably an exercise of equity jurisdiction. Because some superior courts have been faced with increasingly large numbers of these protective order actions, legislation was passed to have these cases heard in district court. However, some doubt remains as to whether this assignment of jurisdiction is allowable.

Summary of Bill: The state constitution is amended to give superior courts and district courts explicit concurrent jurisdiction in cases in equity.

Fiscal Note: Not requested.

Effective Date: Upon voter approval at the next general election.

Testimony For: This constitutional amendment will remove any doubt, however small it may be, that district courts can issue protective orders.

Testimony Against: None.

Witnesses: Judge Kip Stilz, District and Municipal Court Judges Association (pro).