



LEGISLATIVE COMMITTEE MEETING

December 18, 2023



Stacy M. Butterfield, CPA
POLK COUNTY
EXECUTIVE COUNCIL CHAIR

Tiffany Moore Russell, ESQ.
ORANGE COUNTY
VICE-CHAIR

Laura E. Roth, ESQ.
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LEGISLATIVE COMMITTEE MEETING

December 18, 2023

Meeting: 11:00 AM – 1:00 PM, Eastern

WebEx Link: <https://flclerks.webex.com/flclerks/j.php?MTID=m6267dff0ee5238f47ffd944d31c4ff59>

Meeting Number: 2317 785 5573; Password: Clerks2023

Conference Call: 1-866-469-3239; Access Code: 2317 785 5573

- 1) Call to Order and Approve Agenda.....Hon. Carolyn Timmann
- 2) Approve Minutes from 10/03/23 Meeting.....Griffin Kolchakian
- 3) Welcome and Comments from CCOC Executive Council Chair.....Hon. Stacy Butterfield
- 4) CCOC Legislative Agenda UpdateGriffin Kolchakian
- 5) New Judges Certification RequestGriffin Kolchakian
- 6) Other Business.....Hon. Carolyn Timmann
 - a) Legislative Session begins January 9, 2024
 - b) Staff Bill Analyses

Committee Members: Carolyn Timmann (Martin), Chair, Barry Baker (Suwannee), Jerald D. Bryant (Okeechobee), Doug Chorvat, Jr. (Hernando), Roger Eaton (Charlotte), Tara S. Green (Clay), Michelle R. Miller (St. Lucie), Victoria L. Rogers (Hardee), Rachel Sadoff (Brevard), Cindy Stuart (Hillsborough), Jason L. Welty (Jefferson)

Our Mission: As a governmental organization created by the Legislature, we evaluate Clerks' court-related budgetary needs, and recommend the fair and equitable allocation of resources needed to sustain court operations.

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Minutes of October 3, 2023, Legislative Committee Meeting

Committee Action: Review and approve with amendments, as necessary.

The Legislative Committee of the Clerks of Court Operations Corporation (CCOC) held a meeting via WebEx on October 3, 2023. An agenda and materials were distributed and posted on the CCOC website before the meeting. Provided below is a summary of staff notes from the meeting. These staff notes are designed to document committee action, not to be a complete record of committee discussions. All motions adopted by the committee are in **bold** text. All action items based on committee direction are in **red** and **bold** text.

Agenda Item 1 – Call to Order and Approve Agenda

Clerk Carolyn Timmann, Chair of the Legislative Committee, called the meeting to order at 11:00 AM. The meeting was turned over to Jason L. Welty, CCOC Deputy Executive Director, to conduct roll call. Mr. Welty called the roll.

Present via WebEx: Honorable Carolyn Timmann, Chair, Honorable Tara S. Green, Vice-Chair, Honorable Barry Baker, Honorable Doug Chorvat, Jr., Honorable Roger Eaton, Honorable Michelle R. Miller, Honorable Victoria L. Rogers, Honorable Cindy Stuart, Honorable Jerald D. Bryant, Honorable Rachel Sadoff

The agenda was approved by Chair Timmann.

Agenda Item 2 – Approve Minutes from 01/17/23 Meeting

The minutes from the 01/17/23 Legislative Committee meeting were presented. Chair Timmann stated that Agenda Item 2 approving the minutes of 01/17/23 should be revised to approve the minutes of 9/7/22.

A motion to approve the minutes with the revision was made by Clerk Baker and seconded by Clerk Eaton; the motion was adopted without objection.

Agenda Item 3 – CCOC Legislative Budget Request (LBR) Issue

Chair Timmann recognized Mr. Welty to present the CCOC LBR. Mr. Welty stated that each year the CCOC has provided the JAC with the number that each county has for Baker Act,

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Marchman Act, and Sexually Violent Predators petitions and orders. Mr. Welty stated that this builds into a budget request that provides \$40 for each one of these cases. Mr. Welty shared with the committee the narrative that was submitted for the LBR.

Agenda Item 4 – Justice Administrative Commission (JAC) Legislative Proposal

Mr. Welty stated that the JAC is the organization that does a lot of the administrative services for clerks' partners. Mr. Welty stated that the JAC would like the clerks to pick up some of their technical items leading up to the session. Mr. Welty noted that the JAC's Executive Director Rip Colvin, Jr. and Abram Dale were present on the meeting. Mr. Welty stated that the JAC legislative proposals were included in the packet.

Chair Timmann recognized Mr. Dale to present the JAC statutory changes. Mr. Dale stated that a lot of these items are technical; the only statutory change that may have some questions is the public records exemption. Mr. Dale stated that if anyone wants to discuss this item further to please contact him.

Chair Timmann asked Mr. Colvin if he was asking for the clerks' support or if they are bringing this forward as an informational piece. Mr. Colvin stated that he wanted to join the clerks on the legislative request. Clerk Green stated that this sounds like it would go over to FCCC from a legislative perspective. Mr. Welty stated that, during the previous two sessions, what the CCOC Legislative Committee deemed as a priority got kicked over to FCCC who then compiled these priorities from the CCOC legislative agenda into the FCCC legislative agenda. The JAC statutory changes can be included in this process this year. Mr. Welty stated that these legislative changes can be added to our bill because they are going to relate to the judicial system. Mr. Dale stated that, moving forward, the JAC will be at each committee meeting as we move through the process.

A motion to move the JAC Legislative Proposal forward to the FCCC was made by Clerk Green and seconded by Clerk Baker; the motion was adopted without objection.

Agenda Item 5 – CCOC Legislative Agenda

Mr. Welty stated that included in the packet are the two issues that the committee has discussed at length, the additional juror management funding and reimbursement for Baker Act, Marchman Act, and Sexual Violent Predator cases. Clerk Stuart asked Mr. Welty what the methodology for distribution for the LBR is if these funds were to be granted. Mr. Welty stated that the reimbursement is for the most recent fiscal year. Mr. Welty stated that the total cases multiplied by \$40 produced the \$2.7 million reimbursement amount. Clerk Green asked if Mr. Welty had the most recent jury expenses data to see the net difference that we will need to request. Mr. Welty answered that the most recently completed quarter was around \$3.9 million. Mr. Welty stated that we will move forward with an LBR request and then staff will look at what the number should be. Mr. Welty stated that the ask looks like \$16.5 million total. Clerk Green stated that she wants to bring a case study to the committee as it relates to the jury. Clerk Kinzel asked why 2021-22 data was used instead of 2022-23 data. Mr. Welty stated that 2021-22 data was used

because the LBR is due to the JAC in August, and it gets sent to the Governor's office by September 15. Mr. Welty mentioned that the Case Counting Review Workgroup also reviews them during the budget process every year to make sure those cases are being counted accurately.

A motion to move forward with the request for additional juror management funding was made by Clerk Miller and seconded by Clerk Sadoff; the motion was adopted without objection.

A motion to move forward with the request for Reimbursement for Baker Act, Marchman Act, and Sexual Violent Predators cases was made by Clerk Miller and seconded by Clerk Chorvat; the motion was adopted without objection.

Agenda Item 6 – Capturing Uniform Case Reporting (UCR) Costs

Clerk Chorvat stated that we have been working on UCR for years now. Clerk Chorvat asked Chair Timmann if that's how she wants to go about recording that data and who to report it to. Chair Timmann stated that we don't want to capture costs using a process that costs us a lot more time. Chair Timmann stated that her recommendation would be that clerks estimate their costs. Clerk Miller stated that she is having a lot of issues with Juvenile data. Clerk Miller stated that she has concerns about the amount of time it takes to complete this project. Chair Timmann asked the CCOC team to send out a survey to capture this information. Clerk Green stated that she's been tracking the impact at her office, and it is mostly in salary. Clerk Green stated that she does not believe that her office will meet that deadline. Clerk Stuart stated that she agreed with Clerk Miller on the deadline for this project and recommended that we ask in the survey if clerks can make that deadline.

Agenda Item 7 – Other Business

a) Legislative Idea from Clerk Burke

Mr. Welty stated that Clerk Burke has a recommendation that the CCOC become in charge of estimating the revenue collected and not the Revenue Estimating Conference (REC). Chair Timmann stated that this would not be a voting action today. Chair Timmann recommended that Mr. Welty review this issue with legislative staff.

The meeting was adjourned at 12:01 PM.



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AGENDA ITEM 4

DATE: December 18, 2023
SUBJECT: CCOC Legislative Agenda Update
COMMITTEE ACTION: Information Only

OVERVIEW:

In October, the CCOC Legislative Committee established two funding requests for the upcoming Legislative Session which convenes January 9, 2024. These funding initiatives include additional juror management funding and funding for Baker Act, Marchman Act, and Sexual Violent Predators Act reimbursement.

The CCOC submitted a Legislative Budget Request (LBR) of \$2.7 million for reimbursement of Baker Act, Marchman Act, and Sexually Violent Predators petitions and orders. If the Legislature funds this issue, each county will receive the reimbursement of costs through a quarterly distribution of State General Revenue. The Legislature authorized the reimbursement of these case types in 2022.

For State Fiscal Year (SFY) 2023-24, the Legislature appropriated \$11.7 million of State General Revenue to the clerks for reimbursement of juror management costs. Based on recent quarterly actuals, clerks' total costs will exceed this appropriated amount in the current fiscal year as well as moving forward. Therefore, the CCOC is requesting to increase this recurring appropriation to fully cover these jury-related costs.

At the direction of the committee, the CCOC will work with the FCCC Legislative Team to help advocate and support the CCOC legislative agenda.

COMMITTEE ACTION: Information Only

LEAD STAFF: Griffin Kolchakian, Budget and Communications Director



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AGENDA ITEM 5

DATE: December 18, 2023
SUBJECT: New Judges Certification Request
COMMITTEE ACTION: Information Only

OVERVIEW:

Each year, the Florida Supreme Court has the opportunity to certify new judges throughout the state as they deem appropriate. Legislation signed into law during the 2022 Legislative Session amended s. 28.35(2)(c), F.S., to require the CCOC to “develop a formula to be used to estimate the total cost associated with clerk support for circuit and county judges statewide” and to “make a recommendation for consideration by the Legislature on any need for additional funding” using the established formula in the event that the number of judges is increased by the Legislature. Therefore, the Budget Committee created the New Judges Funding Workgroup chaired by Clerk Abruzzo to establish this calculation which was then approved by the Budget Committee and the Executive Council.

For each new judge certified by the Supreme Court, this formula provides one courtroom clerk and calculates the additional FTE needed to process the increased workload using the average case filings per judge over a three-year period and applies the available annual hours worked by an employee.

The funding amount methodology for each calculated FTE identifies a statewide salary and benefits average using the most recent Operational Budget data excluding the elected clerks. This request uses CFY 2022-23 data which calculates \$70,141 for each newly calculated FTE. The State’s Competitive Area Differential (CAD) salary additive will also be added for applicable counties. However, the CAD does not apply to these three counties.

The Supreme Court published their certification of need on November 30, 2023. Five county judges were certified (three in Orange County and two in Hillsborough County) and one circuit judge was certified in the Twentieth Judicial Circuit (Lee County). Therefore, the clerks’ calculated funding request is detailed below:

AGENDA ITEM 5 – NEW JUDGES CERTIFICATION REQUEST

County	New Judges	New FTE	Amount
Orange	3	14.21	\$996,700
Hillsborough	2	9.49	\$665,416
Lee	1	4.23	\$296,556
TOTAL	6	27.92	\$1,958,672

As a reminder, this calculation is used to request additional State funding from the Legislature. This request does not affect the allocation of the CCOC Revenue-Limited Budget.

COMMITTEE ACTION: Information Only

LEAD STAFF: Griffin Kolchakian, Budget and Communications Director

ATTACHMENTS:

1. Supreme Court's Certification of New Judges (11-30-23)
2. Clerks' Certification Request for New Judges (2024)
3. Clerks' New Judges Calculation (2024)

Supreme Court of Florida

No. SC2023-1586

IN RE: CERTIFICATION OF NEED FOR ADDITIONAL JUDGES.

November 30, 2023

PER CURIAM.

This opinion addresses the need to increase or decrease the number of judges in fiscal year 2024-25 and certifies our “findings and recommendations concerning such need” to the Florida Legislature.¹ Certification is “the sole mechanism established by

1. Article V, section 9 of the Florida Constitution provides in pertinent part:

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

our constitution for a systematic and uniform assessment of this need.” *In re Certification of Need for Additional Judges*, 889 So. 2d 734, 735 (Fla. 2004). A separate opinion, to be released on a future date, will address the Court’s findings as to whether there is a need to decrease the number of judicial circuits.²

In this opinion, we certify the need for one additional circuit court judgeship (in the Twentieth Judicial Circuit) and five additional county court judgeships (three in Orange County and two in Hillsborough County). We certify no need for additional district court of appeal judgeships. We certify the need to decrease two county court judgeships (one each in Alachua and Brevard Counties) and certify that there is no need to decrease the number of circuit court judgeships. Although we certify there is no need to decrease the number of district court of appeal judgeships, we

legislature, certify to the legislature its findings and recommendations concerning such need.

2. See *In re Judicial Circuit Assessment Committee*, Florida Administrative Order No. AOSC23-35 (June 30, 2023), which establishes a committee to study whether consolidation of the state’s existing judicial circuits is warranted. The committee’s findings and recommendations are due to the chief justice by December 1, 2023.

acknowledge excess judicial capacity in the First District Court of Appeal and the Second District Court of Appeal. As we explain, the Court recommends that the Legislature address this excess appellate judicial capacity over time by reducing the number of statutorily authorized judgeships based on attrition, without requiring a judge to vacate his or her position involuntarily.

Trial Courts

The Court continues to use a verified objective weighted caseload methodology as a primary basis for assessing judicial need for the trial courts.³ The case weighting system distinguishes the types of cases and addresses the differences in the amount of time that must be spent on cases of each type, producing a total judicial need for each circuit. Additionally, the methodology includes adjustments for differing jury trial rates, chief judge responsibilities, and canvassing boards in each circuit and county. The trial courts also submit judgeship needs applications that supplement the objective weighted caseload data, including descriptions of how

3. Our certification methodology relies primarily on case weights and calculations of available judge time to determine the need for additional trial court judges. See Fla. R. Gen. Prac. & Jud. Admin. 2.240.

secondary factors⁴ are affecting those courts. The secondary factors identified by each chief judge reflect local differences in support of their requests for more judgeships or in support of their requests for this Court not to certify the need to decrease judgeships in situations in which the objective case weights alone would indicate excess judicial capacity.

For more than two decades, Florida's trial courts have used a weighted caseload method to determine the need for judges in each of their circuit and county courts. The original recommendations of the 2000 *Florida Delphi-Based Weighted Caseload Project: Final Report*, and the subsequently modified Florida Rule of General Practice and Judicial Administration 2.240, call for the weighted caseload method to be updated every five years. Recommendations from the last formal judicial workload assessment were published in May 2016. Given the impacts of the Coronavirus Disease 2019

4. Other factors that may be utilized in the determination of judicial need are prescribed in Florida Rule of General Practice and Judicial Administration 2.240.

pandemic and recent jurisdictional threshold changes⁵ within the trial courts, that cyclical review was necessarily delayed. It is important for any new trial court case weights developed to be valid and reliable and have a “shelf-life” to substantiate determinations of judicial need until the next formal methodology review. The Court is mindful that we are now seven years removed from updating the case weights used to evaluate trial court judicial workload. The Court has determined it appropriate to take a cautious approach to certifying the need to decrease judgeships until the new weights become available in summer 2024.

In early 2023, the Office of the State Courts Administrator began the process of updating all trial court case weights. This is a statewide effort involving all circuit court judges, county court judges, senior judges, magistrates, child support enforcement hearing officers, and civil traffic infraction hearing officers. Total annual workload is calculated by multiplying the annual filings for each case type by the corresponding case weight, then summing the

5. Under chapter 2019-58, section 9, Laws of Florida, county court monetary jurisdiction increased to an upper limit of \$30,000 on January 1, 2020, and increased to \$50,000 on January 1, 2023.

workload across all case types. Each court's workload is then divided by a judge year value to determine the total number of full-time equivalent judges needed to handle the workload. This workload assessment is comprehensive and will be carefully validated. As with previous workload studies, the Legislature is apprised through communication of study status to the Office of Program Policy Analysis and Government Accountability. Oversight of this initiative is being conducted by a Judicial Needs Assessment Committee and the Commission on Trial Court Performance and Accountability.⁶ As with previous studies, we have contracted with the National Center for State Courts⁷ to conduct the study with assistance from the Office of the State Courts Administrator. The

6. *In re Commission on Trial Court Performance and Accountability*, Fla. Admin. Order No. AOSC22-36 (July 28, 2022).

7. Staff of the National Center for State Courts are subject matter experts in evaluating judicial workload and have conducted similar workload studies in more than 30 states throughout the country. *See Workload assessment*, Nat'l Ctr. for State Cts., <http://www.ncsc.org/workload-assessment> (last visited November 20, 2023).

study formally began in January 2023 and is expected to conclude by June 2024.

Based on the analysis under the weighted caseload methodology, and using the existing case weights pending completion of the updated study, we conclude that there is a demonstrable need for an additional circuit court judge in the Twentieth Judicial Circuit. Additionally, under this same methodology, we conclude there is a demonstrable need for three additional county court judges for Orange County and two additional county court judges for Hillsborough County.⁸ The two-step analysis and consideration of other factors suggested the need to decrease circuit court judgeships in the Eleventh Judicial Circuit and the need to decrease county court judgeships in Alachua County and Brevard County. However, the Court determines that other relevant circumstances further explained below, coupled with the secondary-factor analysis, militate against certifying the need to

8. Applying the weighted caseload methodology, Walton County would appear to be eligible for an additional county court judgeship. However, if the Court were to certify the need for that judgeship, the county would immediately fall below the workload threshold suggesting the need to decrease that same judgeship.

decrease all but two of those county court judgeships, one judgeship in Alachua County and one judgeship in Brevard County. We base this recommendation on a demonstrated, multi-year trend of excess judicial capacity in those two counties.

The judicial needs applications submitted by the chief judges noted some limitations of the existing case weights to capture a complete picture of case complexity addressed by trial court judges. Since the last case weight update in 2016, state laws have changed significantly, affecting the courts' work in interpreting and applying those laws. Court operations have also changed significantly as a result of the pandemic. Further, trial court jurisdictional thresholds⁹ have changed, affecting workload in the circuit and county courts.

The Court also considered other significant factors, including the anticipated cases resulting from recent hurricanes that have affected the state and judicial time related to the implementation of civil case management requirements.¹⁰ These factors contributed to

9. *See supra* note 5.

10. *See In re COVID-19 Health and Safety Protocols and Emergency Operational Measures for Florida Appellate and Trial*

the Court’s cautious approach to certifying the need to decrease trial court judgeships.

District Courts of Appeal

In furtherance of our constitutional obligation to determine the State’s need for additional judges in fiscal year 2024-25,¹¹ this opinion certifies the need for no additional district court judgeships.

At our direction,¹² and pursuant to rule 2.240, the Commission on District Court of Appeal Performance and Accountability reviewed the workload trends of the district courts of appeal and considered adjustments in the relative case weights. As in other district court workload assessments, the Commission conducted a review of the existing case types, identified the median case by which all other cases would be measured, and administered

Courts, Florida Administrative Order No. AOSC21-17, Amendment 3 (Jan. 8, 2022), which requires presiding judges to actively manage civil cases, including issuing case management orders that address deadlines for serving complaints and extensions, adding new parties, completing discovery, resolving objections to pleadings, and resolving pretrial motions.

11. *See supra* note 1.

12. *See In re Commission on District Court of Appeal Performance and Accountability*, Fla. Admin. Order No. AOSC20-55 (June 24, 2020).

a survey to district court judges to gather data on the workload associated with disposing cases by type. Case weights were then developed and applied to each court's dispositions on the merits to determine the weighted caseload value. The weighted caseload model is a more accurate representation of judicial workload in that it addresses differences in the amount of judicial time that must be spent on each type of case. The Court approved the updated weights in June 2023, and this certification opinion is based on those new case weights.

The Court also recently directed¹³ the Commission on District Court of Appeal Performance and Accountability to examine the factors used to determine the need to certify increasing or decreasing the number of judges on a district court, the language regarding a presumption of need for an additional judgeship, and a means for evaluating if a district court has surplus judicial capacity. Given this ongoing review, the recent adjustment in district court case weights, and the excess district court of appeal

13. See *In re Commission on District Court of Appeal Performance and Accountability*, Fla. Admin. Order No. AOSC22-24 (July 12, 2022).

capacity discussed below, the Court determined it would not be appropriate to certify the need for additional district court judgeships at this time.

As addressed in previous certifications of need for additional judges,¹⁴ the Court recognizes excess judicial capacity in the First District and the Second District based on the addition of a sixth district, corresponding jurisdictional boundary changes in three existing districts, and the policy decision not to require judges to relocate. However, the Court continues to recommend that this excess capacity be addressed over time through attrition and therefore is not certifying the need to decrease any district court judgeships.

Based on a current workload analysis,¹⁵ and as was noted in last year's judicial certification opinion, we have determined that

14. See *In re Redefinition of App. Dists. & Certif. of Need for Addt'l App. Judges*, 345 So. 3d 703, 706 (Fla. 2021); *In re Certif. of Need for Addt'l Judges*, 353 So. 3d 565, 568 (Fla. 2022).

15. Cases disposed on the merits by the district courts of appeal were historically realigned, based on the current six district boundary lines, for the purpose of the workload calculations. Six months of actual data were available for use for the new Sixth District Court of Appeal, and that data was combined with the

there is estimated excess judicial capacity in the First District and Second District. To address this situation, this Court recommends that during the 2024 Regular Session the Legislature consider enacting legislation that provides for reduction in the number of statutorily authorized district court judgeships based on attrition and without requiring a judge to vacate his or her position involuntarily. Such legislation could specify that, upon each occurrence of an event that otherwise would have resulted in a vacancy in the office of judge of the First District or Second District, the number of authorized judges shall be reduced by one, until a specified number of judges remain on each court. We recommend that eventually, after attrition, there be 12 judges authorized for each of those courts.¹⁶ The goal of the Court's recommended approach, consistent with last year's opinion, is to address excess district court judicial capacity without prematurely ending an existing judge's judicial career.

historical re-creation of that district court's caseload for purposes of analysis.

16. See Fla. SB 490 (2024) (proposed amendment to § 35.06, Fla. Stat.); Fla. HB 457 (2024) (same).

The Court continues to use a verified objective weighted caseload methodology as a primary basis for assessing judicial need in the district courts of appeal,¹⁷ as well as considering qualitative factors and other factors analogous to those it considers in assessing trial court workload. Based on that analysis, the Court does not certify the need to increase or decrease judgeships in the district courts of appeal at this time. As the Court noted in its previous certification opinions, it will take some time to fully assess the effect of the jurisdictional boundary changes on workload and judicial need for any given district court and statewide.

Conclusion

We have conducted a quantitative and a qualitative assessment of trial court and appellate court judicial workload. Using the case-weighted methodology and the application of other factors identified in Florida Rule of General Practice and Judicial Administration 2.240, we certify the need for one additional circuit court judgeship in the Twentieth Judicial Circuit, three additional

17. Our certification methodology relies primarily on the relative weight of cases disposed on the merits to determine the need for additional district court judges. See Fla. R. Gen. Prac. & Jud. Admin. 2.240.

county court judges for Orange County, and two additional county court judges for Hillsborough County. We recommend no decrease in circuit court judgeships, a decrease of one county court judgeship in Alachua County, and a decrease of one county court judgeship in Brevard County. We certify no need for additional judgeships in the district courts of appeal. Finally, we recommend legislation to reduce the number of statutorily authorized judgeships in the First District and the Second District based on attrition and without requiring a judge to vacate his or her position involuntarily, as noted in this certification.

It is so ordered.

MUÑIZ, C.J., and CANADY, COURIEL, and FRANCIS, JJ., concur. LABARGA, J., concurs in part and dissents in part with an opinion. SASSO, J., concurs in part and dissents in part with an opinion, in which GROSSHANS, J., concurs.

LABARGA, J., concurring in part and dissenting in part.

For the reasons expressed in Justice Sasso's concurring in part and dissenting in part opinion, I dissent from the majority's opinion to the extent it decertifies judgeships in Alachua and Brevard counties.

However, I concur with the majority in all other respects, including its decision to decline to certify the need for an additional judge in the Sixth District Court of Appeal.

SASSO, J., concurring in part and dissenting in part.

I agree with the majority's decision to certify the need for additional judgeships in the Twentieth Judicial Circuit and in Orange and Hillsborough Counties. For the reasons I will explain though, I disagree with both the decision to certify a decreased need in Alachua and Brevard Counties and the decision not to certify the need for an additional judgeship in the Sixth District.

Trial Courts

Florida Rule of General Practice and Judicial Administration 2.240 guides our determination of the need for additional judges and provides that we may consider two categories of data. The first and primary category is the quantitative data, based chiefly upon a workload measurement derived from the application of case weights to circuit and county court caseload statistics. See Fla. R. Gen. Prac. & Jud. Admin. 2.240(b)(1)(A). The second is the qualitative data, which includes several factors that, while more difficult to quantify, help fully measure judicial workload. See Fla. R. Gen.

Prac. & Jud. Admin. 2.240(b)(1)(B), (c). To assess the qualitative factors, we largely rely on the annual reports and requests provided by the chief judge of each circuit.

This year, there is a considerable disconnect between the determination that flows from application of the quantitative measurement (the weighted caseload methodology) and the determination that flows from consideration of the chief judges' reports and requests. For example, the weighted caseload methodology results in the determination that only one circuit, the Twentieth Circuit, has the need for an additional circuit judge. But eleven out of the state's twenty circuits have requested at least one additional circuit judge, with some circuits requesting up to four additional judges. Similarly, the weighted caseload methodology results in the conclusion that eighteen county courts should have judicial positions decertified. But the chief judges do not agree, citing inter alia population growth, the increased request for interpreters, the number of county court judges performing circuit court work, and the substantial resources county court judges commit to community endeavors.

The cause for the disconnect is somewhat speculative, but there are a few things we know for sure. As the majority notes, the metrics underlying the weighted caseload methodology have not been evaluated since 2016, despite our determination that they should be reevaluated every five years. And as the majority notes, there is a good and valid explanation for that delay, but the fact remains that it has not been done. We also know that Florida's court system has undergone considerable changes since 2016, including subject matter jurisdiction changes, a reconfiguration of the district courts, and lasting operational modifications resulting from the global pandemic.

Given the clear disconnect between the quantitative and qualitative data, and what is likely an outdated mode of producing quantitative results, I agree with the majority's cautious approach. However, in my view, it is not cautious enough. Until we have the benefit of a refined weighted caseload methodology, I believe we should maintain the status quo except where the formula results in a recommendation for additional judgeships. This approach better reflects the reports from the chief judges, which I find more persuasive than the results produced by applying the case weight

methodology. For that reason, I respectfully dissent from the majority's opinion to the extent that it certifies a decreased need for judgeships in Brevard and Alachua Counties.

District Courts

Only one district court, the newly created Sixth District, has requested an additional judge. This request would bring the number of judges serving the Sixth District to ten, which is the number of judges that this Court initially determined would accurately reflect the needs of the district. *See In re Redefinition of App. Dists. & Certif. of Need for Addt'l App. Judges*, 345 So. 3d 703, 706 (Fla. 2021). And while the Sixth District only has about a year of experience on which it can draw, the judges of that district have provided a thoughtful analysis outlining the inherent limitations of the current methodology's ability to produce an accurate picture of the Sixth District's needs. To fill the gap, the Sixth District draws on existing data to provide a more representative view of the district's current and future needs. In doing so, the Sixth District makes a strong case for why this Court's initial assessment was correct. For that reason, I would certify the need for an additional

judge in the Sixth District, and I respectfully dissent from the portion of the majority's opinion declining to do so.

GROSSHANS, J., concurs.

Original Proceeding – Certification of Need for Additional Judges



MEMO

DATE: December 13, 2023
TO: President Kathleen Passidomo, Speaker Paul Renner, Senator Doug Broxson, Representative Tom Leek, Mr. Tim Sadberry, Mr. Eric Pridgeon
FROM: Clerk Stacy M. Butterfield, CCOC Executive Council Chair, and John Dew, CCOC Executive Director
SUBJECT: Clerks' Certification Request for New Judges Funding

The Florida Clerks of Court Operations Corporation (CCOC) is the legislatively created entity that approves the proposed court-related budgets for the sixty-seven elected clerks pursuant to s. 28.35, F.S. Chapter 2022-201, L.O.F., amended s. 28.35(2)(c), F.S., to require the CCOC to “develop a formula to be used to estimate the total cost associated with clerk support for circuit and county judges statewide” and to “make a recommendation for consideration by the Legislature on any need for additional funding” using the established formula if the number of judges is increased by the Legislature. Therefore, the CCOC Budget Committee created the New Judges Funding Workgroup to establish this formula which was then approved by the CCOC Budget Committee and the CCOC Executive Council.

For each new judge certified by the Supreme Court, this formula calculates the additional FTE needed to process the increased workload using the average case filings per judge over three years and the annual hours worked by an employee. The funding amount methodology for each calculated FTE uses a statewide salary and benefits average (excluding the elected clerk).

The Supreme Court published its Certification of Need for Additional Judges on November 30, 2023. Five county judges were certified (three in Orange County and two in Hillsborough County) and one circuit judge was certified in the Twentieth Judicial Circuit (Lee County). Therefore, the clerks' calculated funding request is detailed below:

County	New Judges	New FTE	Amount
Orange	3	14.21	\$996,700
Hillsborough	2	9.49	\$665,416
Lee	1	4.23	\$296,556
TOTAL	6	27.92	\$1,958,672

The clerks are requesting 27.92 additional FTE and the related \$1,958,672 of recurring funding needed to process the increased workload associated with the certification of new judges.

New Judges Funding Workgroup - Proposed Calculation

					SRS Data - Court Filings (excluding Civil Traffic) (Oct.-Sept.)					Formula Calculated FTE	Additional Admin. FTE	TOTAL FTE NEEDED
Circuit	County	Number of Judges (Current)	Supreme Court Certification of New Judges	TOTAL Certified Judges	2018-19 Filings	2019-20 Filings	2020-21 Filings	3-Year Avg. Filings	Avg. Caseload per Judge			
1	Escambia	18		18	33,433	27,429	31,098	30,653.33				-
1	Okaloosa	9		9	19,061	17,050	17,790	17,967.00				-
1	Santa Rosa	6		6	13,964	11,814	12,810	12,862.67				-
1	Walton	3		3	6,388	6,455	6,994	6,612.33				-
2	Franklin	1.5		1.5	1,458	1,513	1,366	1,445.67				-
2	Gadsden	1.67		1.67	4,479	3,719	3,538	3,912.00				-
2	Jefferson	1.5		1.5	1,186	883	901	990.00				-
2	Leon	18.16		18.16	25,513	20,534	21,104	22,383.67				-
2	Liberty	1.67		1.67	749	717	630	698.67				-
2	Wakulla	1.5		1.5	2,707	2,442	2,608	2,585.67				-
3	Columbia	3.67		3.67	7,286	6,441	6,558	6,761.67				-
3	Dixie	1.33		1.33	1,480	1,188	1,378	1,348.67				-
3	Hamilton	1.83		1.83	2,047	1,372	1,169	1,529.33				-
3	Lafayette	1		1	543	439	471	484.33				-
3	Madison	1.5		1.5	1,758	1,372	1,472	1,534.00				-
3	Suwannee	2.67		2.67	3,995	3,444	3,875	3,771.33				-
3	Taylor	2		2	1,937	1,800	2,100	1,945.67				-
4	Clay	6		6	14,037	13,654	13,979	13,890.00				-
4	Duval	45		45	110,206	95,074	117,053	107,444.33				-
4	Nassau	4		4	7,054	6,440	5,844	6,446.00				-
5	Citrus	7		7	10,408	9,534	10,406	10,116.00				-
5	Hernando	7		7	17,249	15,832	15,772	16,284.33				-
5	Lake	12		12	25,970	23,237	25,796	25,001.00				-
5	Marion	15		15	29,982	28,285	29,070	29,112.33				-
5	Sumter	4		4	6,604	6,383	6,729	6,572.00				-
6	Pasco	21		21	49,015	40,528	42,175	43,906.00				-
6	Pinellas	48		48	94,826	79,312	83,086	85,741.33				-
7	Flagler	4		4	9,923	9,860	8,422	9,401.67				-
7	Putnam	4		4	7,298	6,821	6,778	6,965.67				-
7	St. Johns	8		8	15,788	13,876	16,255	15,306.33				-
7	Volusia	28		28	63,779	61,533	64,158	63,156.67				-
8	Alachua	10.84		10.84	19,417	16,684	17,683	17,928.00				-
8	Baker	4		4	2,550	2,361	2,022	2,311.00				-
8	Bradford	2		2	3,204	2,754	2,666	2,874.67				-
8	Gilchrist	1.83		1.83	1,385	1,276	1,379	1,346.67				-
8	Levy	3		3	4,258	3,482	3,805	3,848.33				-
8	Union	1.33		1.33	944	722	853	839.67				-
9	Orange	55	3	58	135,095	136,709	162,077	144,627.00	2,493.57	11.21	3.00	14.21
9	Osceola	14		14	30,272	26,248	28,750	28,423.33				-
10	Hardee	2.33		2.33	2,755	2,262	2,387	2,468.00				-
10	Highlands	5.33		5.33	7,836	6,304	7,056	7,065.33				-
10	Polk	32.34		32.34	67,903	57,804	59,988	61,898.33				-

**Total Cost
(\$70,141 per
FTE)**

\$ 996,700

11	Miami-Dade	123		123	297,185	243,959	327,040	289,394.67				-	
12	DeSoto	2		2	2,963	2,692	2,822	2,825.67				-	
12	Manatee	14		14	28,392	25,545	28,106	27,347.67				-	
12	Sarasota	16		16	31,499	27,862	29,570	29,643.67				-	
13	Hillsborough	68	2	70	159,910	153,112	211,576	174,866.00	2,498.09	7.49	2.00	9.49	\$ 665,416
14	Bay	13		13	30,123	24,748	22,257	25,709.33				-	
14	Calhoun	2		2	1,110	1,193	1,192	1,165.00				-	
14	Gulf	1.5		1.5	1,655	1,567	1,393	1,538.33				-	
14	Holmes	2		2	1,903	1,630	1,956	1,829.67				-	
14	Jackson	2		2	3,750	3,641	3,407	3,599.33				-	
14	Washington	1.5		1.5	2,534	2,024	1,949	2,169.00				-	
15	Palm Beach	54		54	136,250	111,881	123,012	123,714.33				-	
16	Monroe	8		8	8,573	7,024	7,986	7,861.00				-	
17	Broward	90		90	201,193	190,454	229,374	207,007.00				-	
18	Brevard	27		27	48,787	45,261	46,381	46,809.67				-	
18	Seminole	16		16	34,772	31,395	34,668	33,611.67				-	
19	Indian River	6		6	10,921	9,173	9,537	9,877.00				-	
19	Martin	7		7	11,863	9,345	9,655	10,287.67				-	
19	Okeechobee	3		3	4,320	3,651	3,831	3,934.00				-	
19	St. Lucie	13		13	25,398	22,313	24,507	24,072.67				-	
20	Charlotte	7		7	15,246	13,877	15,073	14,732.00				-	
20	Collier	14		14	25,892	23,520	24,705	24,705.67				-	
20	Glades	1.5		1.5	1,112	936	992	1,013.33				-	
20	Hendry	1.5		1.5	3,791	3,362	3,415	3,522.67				-	
20	Lee	27	1	28	62,810	56,635	61,502	60,315.67	2,154.13	3.23	1.00	4.23	\$ 296,556
		941	6	947	2,017,694	1,792,387	2,075,957	1,962,013		21.92	6.00	27.92	\$ 1,958,672

Avg Case processing time	2.5662
Annual Avail. Work Hours	1,712.5

Notes:

* <https://www.flcourts.org/Publications-Statistics/Statistics/Trial-Court-Statistical-Reference-Guide>

* The CCOC Budget Committee will determine the appropriate FTE split in cases where a Circuit Judge is split between multiple counties