

RULE 1.071. CONSTITUTIONAL CHALLENGE TO STATE STATUTE OR COUNTY OR MUNICIPAL CHARTER, ORDINANCE, OR FRANCHISE; NOTICE BY PARTY

A party that files a pleading, written motion, or other document drawing into question the constitutionality of a state statute or a county or municipal charter, ordinance, or franchise must promptly

(a) file a notice of constitutional question stating the question and identifying the document that raises it; and

(b) serve the notice and the pleading, written motion, or other document drawing into question the constitutionality of a state statute or a county or municipal charter, ordinance, or franchise on the Attorney General or the state attorney of the judicial circuit in which the action is pending, by either certified or registered mail.

Service of the notice and pleading, written motion, or other document does not require joinder of the Attorney General or the state attorney as a party to the action.

Committee Notes

2010 Adoption. This rule clarifies that, with respect to challenges to a state statute or municipal charter, ordinance, or franchise, service of the notice does not require joinder of the Attorney General or the state attorney as a party to the action; however, consistent with section 86.091, Florida Statutes, the Florida Attorney General has the discretion to participate and be heard on matters affecting the constitutionality of a statute. See, e.g., *Mayo v. National Truck Brokers, Inc.*, 220 So. 2d 11 (Fla. 1969); *State ex rel. Shevin v. Kerwin*, 279 So. 2d 836 (Fla. 1973) (Attorney General may choose to participate in appeal even though he was not required to be a party at the trial court). The rule imposes a new requirement that the party challenging the statute, charter, ordinance, or franchise file verification with the court of compliance with section 86.091, Florida Statutes. See form 1.975

