RULE 2.241. DETERMINATION OF THE NECESSITY TO INCREASE, DECREASE, OR REDEFINE JUDICIAL CIRCUITS AND APPELLATE DISTRICTS

(a) Purpose. The purpose of this rule is to establish uniform criteria for the supreme court's determination of the necessity for increasing, decreasing, or redefining judicial circuits and appellate districts as required by article V, section 9, of the Florida Constitution. This rule also provides for an assessment committee and a certification process to assist the court in certifying to the legislature its findings and recommendations concerning such need.

(b) Certification Process. A certification process shall be completed in conjunction with the supreme court's annual determination regarding the need for judges under Florida Rule of Judicial Administration 2.240(d) and in accordance with the following:

(1) The supreme court shall certify a necessity to increase, decrease, or redefine judicial circuits and appellate districts when it determines that the judicial process is adversely affected by circumstances that present a compelling need for the certified change.

(2) The supreme court may certify a necessity to increase, decrease, or redefine judicial circuits and appellate districts when it determines that the judicial process would be improved significantly by the certified change.

(3) The state courts administrator will distribute a compilation of summary statistics and projections to each chief judge at a time designated by the chief justice.

(4) Each chief judge shall consider criteria as may apply under rules 2.241(c) and 2.241(d), as well as any other relevant factors, and shall inform the chief justice of any perceived need to increase, decrease, or redefine the state's judicial circuits or appellate districts.

(5) Having been advised in these matters by the chief justice and taking into consideration other relevant factors, the supreme court, finding cause for further inquiry, may appoint an assessment committee to consider the capacity of the courts to effectively fulfill their constitutional and statutory responsibilities as well as any attendant need to

increase, decrease, or redefine appellate districts and judicial circuits.

(6) If an assessment committee is appointed, the committee shall confer with the chief judges and other representatives of appellate districts and judicial circuits, district court of appeal and/or trial court budget commissions, The Florida Bar, and the public for purposes of gathering additional information regarding matters within its charge and shall submit written recommendations to the supreme court.

(7) The supreme court shall consider the assessment committee's recommendations within a timeframe it deems appropriate.

(8) Whether or not an assessment committee is appointed, the supreme court shall balance the potential impact and disruption caused by changes in judicial circuits and appellate districts against the need to address circumstances that limit the quality and efficiency of, and public confidence in, the judicial process. Given the impact and disruption that can arise from any alteration in judicial structure, prior to recommending a change in judicial circuits or appellate districts, the supreme court shall consider less disruptive adjustments including, but not limited to, the addition of judges, the creation of branch locations, geographic or subject-matter divisions within judicial circuits or appellate districts, deployment of new technologies, and increased ratios of support staff per judge.

(c) Criteria for Judicial Circuits. The following criteria shall be considered when determining the necessity for increasing, decreasing, or redefining judicial circuits as required by article V, section 9, of the Florida Constitution:

(1) Effectiveness. Factors to be considered for this criterion include the extent to which each court:

(A) expedites appropriate cases;

(B) handles its workload in a manner permitting its judges to prepare written decisions when warranted;

(C) is capable of accommodating changes in statutes or case law impacting workload or court operations; and

(D) handles its workload in a manner permitting its judges to serve on committees for the judicial system.

(2) Efficiency. Factors to be considered for this criterion are the extent to which each court:

(A) stays current with its caseload, as indicated by measurements such as the clearance rate;

(B) adjudicates a high percentage of its cases within the time standards set forth in the Rules of Judicial Administration and has adequate procedures to ensure efficient, timely disposition of its cases; and

(C) uses its resources, case management techniques, and technologies to improve the efficient adjudication of cases, research of legal issues, and issuance of decisions.

(3) Access to Courts. Factors to be considered for this criterion are the extent to which:

(A) litigants, including self-represented litigants, have meaningful access consistent with due process; and

(B) decisions of a court are available in a timely and efficient manner.

(4) Professionalism. Factors to be considered for this criterion are the extent to which each court:

(A) handles workload issues in a manner permitting its judges adequate time and resources to participate in continuing judicial education and to stay abreast of the law in order to maintain a qualified judiciary;

(B) is capable of recruiting and retaining qualified staff; and

(C) affords staff adequate time to participate in continuing education and specialized training.

(5) Public Trust and Confidence. Factors to be considered for this criterion are the extent to which each court:

(A) handles workload in a manner permitting its judges adequate time for community involvement;

(B) affords access to open court and other public proceedings for the general public;

(C) fosters public trust and confidence given its geography and demographic composition; and

(D) attracts a diverse group of well-qualified applicants for judicial vacancies, including applicants from all counties within the circuit.

(6) Additional criteria. Such other factors as are regularly considered when making a determination with respect to the need for additional judges under Florida Rule of Judicial Administration 2.240(b)(1) and (c).

(d) Criteria for District Courts. The following criteria shall be considered when determining the necessity for increasing, decreasing, or redefining appellate districts as required by article V, section 9, of the Florida Constitution:

(1) Effectiveness. Factors to be considered for this criterion are the extent to which each court:

(A) expedites appropriate cases;

(B) handles workload in a manner permitting its judges to prepare written opinions when warranted;

(C) functions in a collegial manner;

(D) handles workload in a manner permitting its judges to develop, clarify, and maintain consistency in the law within that district, including consistency between written opinions and per curiam affirmances without written opinions;

(E) handles its workload in a manner permitting its judges to harmonize decisions of their court with those of other district courts or to certify conflict when appropriate;

(F) handles its workload in a manner permitting its judges to have adequate time to review all decisions rendered by the court;

(G) is capable of accommodating changes in statutes or case law impacting workload or court operations; and

(H) handles its workload in a manner permitting its judges to serve on committees for the judicial system.

(2) Efficiency. Factors to be considered for this criterion are the extent to which each court:

(A) stays current with its caseload, as indicated by measurements such as the clearance rate;

(B) adjudicates a high percentage of its cases within the time standards set forth in the Rules of Judicial Administration and has adequate procedures to ensure efficient, timely disposition of its cases; and

(C) uses its resources, case management techniques, and other technologies to improve the efficient adjudication of cases, research of legal issues, and preparation and distribution of decisions.

(3) Access to Appellate Review. Factors to be considered for this criterion are the extent to which:

(A) litigants, including self-represented litigants, have meaningful access to a district court for mandatory and discretionary review of cases, consistent with due process;

(B) litigants are afforded efficient access to the court for the filing of pleadings and for oral argument when appropriate; and

(C) orders and opinions of a court are available in a timely and efficient manner.

(4) Professionalism. Factors to be considered for this criterion are the extent to which each court:

(A) handles its workload in a manner permitting its judges adequate time and resources to participate

in continuing judicial education opportunities and to stay abreast of the law in order to maintain a qualified judiciary;

(B) is capable of recruiting and retaining qualified staff; and

(C) affords staff adequate time to participate in continuing education and specialized training.

(5) Public Trust and Confidence. Factors to be considered for this criterion are the extent to which each court:

(A) handles its workload in a manner permitting its judges adequate time for community involvement;

(B) provides adequate access to oral arguments and other public proceedings for the general public within its district;

(C) fosters public trust and confidence given its geography and demographic composition; and

(D) attracts diverse group of well-qualified applicants for judicial vacancies, including applicants from all circuits within the district.

(e) Results of determination. Only upon the supreme court's finding that a need exists for increasing, decreasing, or redefining appellate districts and judicial circuits, shall the court, acting prior to the next regular session of the legislature, certify to the legislature its findings and recommendations concerning such need.

Committee Notes

District Court of Appeal Workload and Jurisdiction Committee Notes 2006 Adoption. Article V, section 9 of the Florida constitution states that:

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. If the supreme court finds that a need exists for . . . increasing, decreasing or redefining appellate districts . . . , it shall, prior to the next regular session of the legislature, certify to the legislature its findings and recommendations concerning such need.

(Emphasis added.) Thus, the constitution uses only "need" when describing the uniform criteria for certifying additional judges, but uses both "necessity" and "need" when describing the uniform criteria for increasing, decreasing, or redefining appellate districts. The supreme court has never determined whether this language compels differing tests for the two certifications. Subdivision (c) of this rule uses the phrase "certify a necessity." The Committee on District Court of Appeal Workload and Jurisdiction determined that the two standards set forth in that subdivision recognize the supreme court's obligation to recommend a change to the structure of the district courts when circumstances reach the level of necessity that compels a change, but also recognize the court's discretion to recommend a change to the structure of the district courts when improvements are needed.

The criteria set forth in this rule are based on studies of the workload, jurisdiction, and performance of the appellate courts, and the work of the Committee on District Court of Appeal Workload and Jurisdiction in 2005. In establishing these criteria, substantial reliance was placed on empirical research conducted by judicial branch committees and on other statistical data concerning cases, caseloads, timeliness of case processing, and manner for disposition of cases, collected by the Office of the State Courts Administrator Office as required by section 25.075, Florida Statutes (2004), and Florida Rule of Judicial Administration 2.030(e)(2).

The workload and jurisdiction committee considered the impact of computer technology on appellate districts. It is clear that, at this time or in the future, technology can be deployed to allow litigants efficient access to a court for filing of pleadings and for participation in oral argument, and that it can expand the general public's access to the courts. It is possible that technology will substantially alter the appellate review process in the future and that appellate courts may find that technology permits or even requires different districting techniques. This rule was designed to allow these issues to be addressed by the assessment committee and the supreme court without mandating any specific approach.

The five basic criteria in subdivision (d) are not listed in any order of priority. Thus, for example, the workload and jurisdiction committee did not intend efficiency to be a more important criterion than engendering public trust and confidence.

Subdivision (d)(2)(A) recognizes that the court currently provides the legislature with an annual measurement of the appellate courts' "clearance rate," which is the ratio between the number of cases that are resolved during a fiscal year and the new cases that are filed during the same period. Thus, a clearance rate of one hundred percent reflects a court that is disposing of pending cases at approximately the same rate that new cases arrive. Given that other measurements may be selected in the future, the rule does not mandate sole reliance on this measurement.

Subdivision (d)(5)(E) recognizes that a district court's geographic territory may be so large that it limits or discourages applicants for judicial vacancies from throughout the district and creates the perception that a court's judges do not reflect the makeup of the territory.

Court Commentary

2013 Amendment. The rule has been amended so the supreme court's annual certification process will include an analysis of the need to increase, decrease, or redefine judicial circuits. The requirement for an assessment committee to analyze, once every eight years, the capacity of the district courts to fulfill their duties has been deleted. Instead, the chief judges of the trial and appellate courts will review annual statistics provided by the state courts administrator, along with the criteria set forth in the rule and any other relevant factors, and inform the chief justice of any perceived need. Taking these and other concerns into consideration, the supreme court may appoint an assessment committee to make further inquiry. If an assessment committee is appointed, the supreme court will consider the committee's recommendations and will certify to the legislature its own findings and recommendations concerning such need.