

CHAPTER 35

DISTRICT COURTS OF APPEAL

- 35.01 District courts of appeal; districts.
- 35.02 First Appellate District.
- 35.03 Second Appellate District.
- 35.04 Third Appellate District.
- 35.042 Fourth Appellate District.
- 35.043 Fifth Appellate District.
- 35.05 Headquarters.
- 35.06 Organization of district courts of appeal.
- 35.065 Review of judgment or order certified by county court to be of great public importance.
- 35.07 Power to make rules and regulations.
- 35.08 Power to execute its judgments.
- 35.09 Seal of the court.
- 35.10 Regular terms.
- 35.11 Special terms.
- 35.12 Chief judge.
- 35.13 Quorum.
- 35.15 Decisions to be filed; copies to be furnished.
- 35.19 Compensation of district judges.
- 35.20 Retirement of district court of appeal judge.
- 35.21 Clerk of district court.
- 35.22 Clerk of district court; appointment; compensation; assistants; filing fees; teleconferencing.
- 35.23 Location of clerk's office.
- 35.24 Custody of books, records, etc.
- 35.25 Duties of clerk.
- 35.26 Marshal of district court; appointment; duties.
- 35.27 Compensation of marshal.
- 35.28 District courts of appeal libraries.

35.01 District courts of appeal; districts.—Five district courts of appeal are created, and the state is divided into five appellate districts of contiguous circuits.

History.—s. 1, ch. 57-248; s. 1, ch. 65-294; s. 1, ch. 79-413.

35.02 First Appellate District.—The First Appellate District is composed of the First, Second, Third, Fourth, Eighth, and Fourteenth Judicial Circuits.

History.—s. 1, ch. 57-248; s. 1, ch. 65-294; s. 1, ch. 79-413.

35.03 Second Appellate District.—The Second Appellate District is composed of the Sixth, Tenth, Twelfth, Thirteenth, and Twentieth Judicial Circuits.

History.—s. 1, ch. 57-248; s. 1, ch. 65-294; s. 1, ch. 79-413.

35.04 Third Appellate District.—The Third Appellate District is composed of the Eleventh and Sixteenth Judicial Circuits.

History.—s. 1, ch. 57-248; s. 1, ch. 65-294; s. 1, ch. 79-413.

35.042 Fourth Appellate District.—The Fourth Appellate District is composed of the Fifteenth, Seventeenth, and Nineteenth Judicial Circuits.

History.—s. 2, ch. 65-294; s. 1, ch. 79-413.

35.043 Fifth Appellate District.—The Fifth Appellate District is composed of the Fifth, Seventh, Ninth, and Eighteenth Judicial Circuits.

History.—s. 2, ch. 79-413.

35.05 Headquarters.—

(1) The headquarters of the First Appellate District shall be in the Second Judicial Circuit, Tallahassee, Leon County; of the Second Appellate District in the Tenth Judicial Circuit, Lakeland, Polk County; of the Third Appellate District in the Eleventh Judicial Circuit, Dade County; of the Fourth Appellate District in the Fifteenth Judicial Circuit, Palm Beach County; and the Fifth Appellate District in the Seventh Judicial Circuit, Daytona Beach, Volusia County.

(2) The Second District Court of Appeal may designate other locations within its district as branch headquarters for the conduct of the business of the court in special or regular term and as the official headquarters of its officers or employees pursuant to s. 112.061.

History.—s. 1, ch. 57-248; s. 1, ch. 65-294; ss. 1, 2, 3, 4, ch. 67-29; s. 8, ch. 71-355; s. 3, ch. 79-413; s. 1, ch. 80-123.

135.06 Organization of district courts of appeal.—A district court of appeal shall be organized in each of the five appellate districts to be named District Court of Appeal, ____ District. The number of judges of each district court of appeal shall be as follows:

- (1) In the first district there shall be 15 judges.
- (2) In the second district there shall be 14 judges.
- (3) In the third district there shall be 11 judges.
- (4) In the fourth district there shall be 12 judges.
- (5) In the fifth district there shall be 9 judges.

The successors of the original and additional judges of the district courts of appeal shall be elected at the general election next preceding the expiration of their respective terms of office to serve for full terms of 6 years.

History.—s. 1, ch. 57-248; s. 1, ch. 65-294; s. 1, ch. 67-11; s. 9, ch. 71-355; s. 3, ch. 76-175; s. 3, ch. 77-368; s. 3, ch. 79-312; s. 3, ch. 79-413; s. 4, ch. 80-164; s. 4, ch. 81-220; s. 4, ch. 82-236; s. 1, ch. 88-167; ss. 3, 10, ch. 89-290; s. 3, ch. 93-63.

Note.—Section 4, ch. 93-63, provides that "[t]he judges filling new offices created by this act shall be appointed by the Governor and shall take office on the first Tuesday after the first Monday in January 1994, except that one of the additional district court of appeal judgeships in the First District Court of Appeal shall be appointed by the Governor and shall take office on July 1, 1993."

35.065 Review of judgment or order certified by county court to be of great public importance.—A district court of appeal may review any order or judgment of a county court which is certified by the county court to be of great public importance.

History.—s. 4, ch. 84-303.

35.07 Power to make rules and regulations.—Subject to the power of the Supreme Court to make rules of practice and procedure, the district courts of appeal may make such regulations as necessary for the internal government of the court.

History.—s. 1, ch. 57-248.

35.08 Power to execute its judgments.—Each district court of appeal is vested with all the power and authority necessary for carrying into complete execution all of its judgments, decrees, orders, and determinations in the matters before it agreeable to the usage and principles of law.

History.—s. 1, ch. 57-248.

35.09 Seal of the court.—Each district court of appeal shall have an official identifying seal as prescribed by the Supreme Court.

History.—s. 1, ch. 57-248.

35.10 Regular terms.—The district court of appeal shall hold two regular terms each year at its headquarters, commencing respectively on the second Tuesday in January and July. The court may adjourn from time to time as may be deemed necessary for the dispatch of business.

History.—s. 1, ch. 57-248.

35.11 Special terms.—The district court in each district may hold special terms at such times and places as may be deemed necessary for the public interest, provided that each district court of appeal shall hold at least one special term every year in each judicial circuit wherein there is ready business to be transacted. Each district court of appeal shall have the power to hear and decide at any regular or special term, causes arising anywhere within the district.

History.—s. 1, ch. 57-248.

35.12 Chief judge.—There shall be a chief judge of each of the district courts of appeal to be selected by the members of the court.

History.—s. 1, ch. 57-248.

35.13 Quorum.—Three judges shall consider each case and the concurrence of a majority shall be necessary to a decision.

History.—s. 1, ch. 57-248.

35.15 Decisions to be filed; copies to be furnished. All decisions and opinions delivered by the district courts of appeal or any judge thereof in relation to any action or proceeding pending in said court shall be filed and remain in the office of the clerk, and shall not be taken therefrom except by order of the court; but said clerk shall at all times be required to furnish to any person who may desire the same certified copies of such opinions and decisions, upon receiving his or her fees therefor.

History.—s. 1, ch. 57-248; s. 200, ch. 95-147.

35.19 Compensation of district judges.—The salary of the judges of the district courts of appeal shall be as provided by law.

History.—s. 1, ch. 57-248.

35.20 Retirement of district court of appeal judge. Retirement of a district court of appeal judge shall be as provided by law.

History.—s. 1, ch. 57-248.

35.21 Clerk of district court.—Each district court of appeal shall appoint a clerk of such district court who shall hold office during the pleasure of the court.

History.—s. 1, ch. 57-248; s. 201, ch. 95-147; s. 3, ch. 95-325.

35.22 Clerk of district court; appointment; compensation; assistants; filing fees; teleconferencing.—

(1) Each district court of appeal shall appoint a clerk who shall be paid an annual salary to be determined in accordance with s. 25.382.

(2) The clerk is authorized to employ such deputies and clerical assistants as may be necessary. Their number and compensation shall be approved by the court, and paid from the annual appropriation for the district courts of appeal.

(3) The clerk, upon the filing of a certified copy of a notice of appeal or petition, shall charge and collect a service charge of \$250 for each case docketed, and for copying, certifying or furnishing opinions, records, papers or other instruments and for other services the same service charges as provided in s. 28.24. The State of Florida or its agencies, when appearing as appellant or petitioner, is exempt from the filing fee required in this subsection.

(4) The opinions of the district court of appeal shall not be recorded, but the original as filed shall be preserved with the record in each case.

(5) The clerk is authorized immediately after a case is disposed of, to supply the judge who tried the case and from whose order, judgment, or decree, appeal or other review is taken, a copy of all opinions, orders, or judgments filed in such case. Copies of opinions, orders, and decrees shall be furnished in all cases to each attorney of record and for publication in Florida reports to the authorized publisher without charge, and copies furnished to other law book publishers at one-half the regular statutory fee.

(6) The clerk of each district court of appeal is required to deposit all fees collected in the State Treasury to the credit of the General Revenue Fund. The clerk shall retain an accounting of each such remittance.

(7) The clerk of the district court of appeal is authorized to collect a fee from the parties to an appeal reflecting the actual cost of conducting the proceeding through teleconferencing where the parties have requested that an oral argument or mediation be conducted through teleconferencing. The fee collected for this purpose shall be used to offset the expenses associated with scheduling the teleconference and shall be deposited in the Mediation/Arbitration Trust Fund.

History.—s. 1, ch. 57-248; s. 1, ch. 73-305; s. 4, ch. 75-124; s. 1, ch. 78-349; s. 2, ch. 85-222; s. 3, ch. 85-249; s. 7, ch. 89-290; s. 1, ch. 93-161; s. 202, ch. 95-147; s. 16, ch. 95-312.

35.23 Location of clerk's office.—Each clerk shall keep his or her records at the headquarters of the district court of appeal.

History.—s. 1, ch. 57-248; s. 203, ch. 95-147.

35.24 Custody of books, records, etc.—All books, papers, records, files and the seal of each district court of appeal shall be kept in the office of the clerk of said court.

History.—s. 1, ch. 57-248.

35.25 Duties of clerk.—Duties of clerk shall be as prescribed by the rules of the court.

History.—s. 1, ch. 57-248.

35.26 Marshal of district court; appointment; duties.—

(1) Each of the district courts of appeal shall appoint a marshal who shall hold office during the pleasure of the court.

(2) He or she shall have the power to execute the process of the court throughout the state, and in any county may deputize the sheriff or a deputy sheriff for such purpose.

(3) The marshal shall, under the direction of the district court of appeal be custodian of the headquarters occupied by the court and shall perform such other duties as directed by the court.

(4) The marshal and his or her assistants shall be the conservators of the peace in the headquarters of the district court of appeal, or in any building in which the district court of appeal is sitting, and shall apprehend, without warrant, any person disturbing the peace and deliver that person to the appropriate law enforcement officer of the municipality or county in which further proceedings may be held according to law.

(5) The marshal and his or her assistants shall attend and successfully complete a minimum standards training program approved by the Criminal Justice Standards and Training Commission within the Department of Law Enforcement.

History.—s. 1, ch. 57-248; s. 2, ch. 80-145; s. 5, ch. 83-167; s. 204, ch. 95-147; s. 4, ch. 95-325.

35.27 Compensation of marshal.—The compensation of the said marshal shall be as provided by law.

History.—s. 1, ch. 57-248.

35.28 District courts of appeal libraries.—The library of each of the district courts of appeal and its custodian shall be provided for by rule of the Supreme Court. Payment for books, equipment, supplies, and quarters as provided for in such rules shall be paid from funds appropriated for the district courts, on requisition drawn as provided by law.

History.—s. 1, ch. 57-248.