

FINAL BILL REPORT

HJR 4201

As Passed Legislature

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

By Representatives Ludwig, Padden, Appelwick, Foreman and Johanson.

House Committee on Judiciary
Senate Committee on Law & Justice

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 unless exclusive jurisdiction over the matter has 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.

The Legislature clearly has authority to assign concurrent jurisdiction over some matters 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 about whether this assignment of jurisdiction is constitutionally permitted.

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

Votes on Final Passage:

House	97	0
Senate	44	1