

House Joint Resolution

A joint resolution proposing a revision of Article V of the State Constitution, relating to the judiciary, consisting of amendments to Sections 2, 3, 4, 7, 11, 12, and 14 of Article V, and the creation of Section 21 of Article V, of the State Constitution to divide the current Supreme Court into two divisions, one hearing civil cases and the other hearing criminal cases; providing for administration of the divisions; defining the jurisdiction of the divisions; providing for transition from the present Supreme Court; revising provisions relating to repeal of court rules; limiting readoption of a repealed court rule; providing for Senate confirmation of Supreme Court justices; expanding the jurisdiction of the Supreme Court; requiring the Judicial Qualifications Commission to make all of its files available to the Speaker of the House of Representatives; revising provisions relating to repeal of commission rules; requiring that a specified minimum percentage of general revenue funds be appropriated to the courts; making other conforming and modernizing changes to the State Constitution regarding the judicial system.

Be It Resolved by the Legislature of the State of Florida:

That the following amendments to Sections 2, 3, 4, 7, 11, 12, and 14 of Article V, and the creation of Section 21 of

28 Article V, of the State Constitution are agreed to and shall be  
 29 submitted to the electors of this state for approval or  
 30 rejection at the next general election or at an earlier special  
 31 election specifically authorized by law for that purpose:

32 ARTICLE V

33 JUDICIARY

34 SECTION 2. Administration; practice and procedure.—

35 (a) The supreme court shall adopt rules for the practice  
 36 and procedure in all courts including the time for seeking  
 37 appellate review, the administrative supervision of all courts,  
 38 the transfer to the court having jurisdiction of any proceeding  
 39 when the jurisdiction of another court has been improvidently  
 40 invoked, and a requirement that no cause shall be dismissed  
 41 because an improper remedy has been sought. The supreme court  
 42 shall adopt rules to allow it ~~the court~~ and the district courts  
 43 of appeal to submit questions relating to military law to the  
 44 federal Court of Appeals for the Armed Forces for an advisory  
 45 opinion. Rules of court may be repealed by general law that  
 46 expresses the policy behind the repeal ~~enacted by two-thirds~~  
 47 ~~vote of the membership of each house of the legislature.~~ The  
 48 court may readopt the repealed rule only in conformity with the  
 49 public policy expressed by the legislature. If the legislature  
 50 repeals the readopted rule, the rule may not be readopted  
 51 thereafter without prior approval of the legislature. The  
 52 divisions of the court shall meet jointly to adopt rules or the  
 53 court may designate a division to adopt any specific class of  
 54 rules.

55 (b) (1) The chief justice of the supreme court of Florida

56 shall be ~~chosen by a majority of the members of the court; shall~~  
 57 ~~be~~ the chief administrative officer of the judicial system, and  
 58 shall have the power to assign justices or judges, including  
 59 consenting retired justices or judges, to temporary duty in any  
 60 court for which the judge is qualified and to delegate to a  
 61 chief judge of a judicial circuit the power to assign judges for  
 62 duty in that circuit.

63 (2) The chief justice of a division of the supreme court  
 64 shall be designated by the governor, subject to confirmation by  
 65 the senate. The chief justices of the divisions shall serve  
 66 staggered terms of eight years and shall be the chief  
 67 administrative officers of their respective divisions. In the  
 68 second half of any term as chief justice of a division, the  
 69 chief justice shall serve as the chief justice of the supreme  
 70 court. A justice may serve more than one term as chief justice  
 71 of the division. A chief justice of a division is subject to the  
 72 same requirements of eligibility and retention as a justice of  
 73 the supreme court.

74 (3) If there is a vacancy in the position of chief justice  
 75 of a division, the justice who has served the most time with the  
 76 division shall be the acting chief justice until a new chief  
 77 justice of the division is appointed and confirmed for the  
 78 remainder of the term.

79 (c) A chief judge for each district court of appeal shall  
 80 be chosen by a majority of the judges thereof or, if there is no  
 81 majority, by the chief justice. The chief judge of a district  
 82 court shall be responsible for the administrative supervision of  
 83 the district court.

84 (d) A chief judge in each circuit shall be chosen from  
 85 among the circuit judges as provided by supreme court rule. The  
 86 chief judge of a circuit shall be responsible for the  
 87 administrative supervision of the circuit courts and county  
 88 courts in the ~~his~~ circuit.

89 SECTION 3. Supreme court; divisions.-

90 (a) ORGANIZATION.-The supreme court shall consist of ten  
 91 ~~seven~~ justices. Of the ten justices, five justices shall serve  
 92 in the civil division and five justices shall serve in the  
 93 criminal division. In each division ~~Of the seven justices,~~ each  
 94 appellate district shall have at least one justice ~~elected or~~  
 95 appointed from the district to the supreme court division who is  
 96 a resident of the district at the time of the original  
 97 appointment ~~or election~~. Four ~~Five~~ justices of a division shall  
 98 constitute a quorum for that division and the concurrence of  
 99 three ~~four~~ justices shall be necessary to a decision. When  
 100 vacancies or recusals for cause would prohibit the court from  
 101 convening because of the requirements of this subsection  
 102 ~~section~~, judges assigned to temporary duty may be substituted  
 103 for justices. The justices of both divisions, with seven  
 104 justices constituting a quorum, shall jointly meet regarding  
 105 disciplinary cases, and may jointly meet at the discretion of  
 106 the chief justice regarding court rules or administrative  
 107 supervision of the courts. The justices shall not otherwise meet  
 108 en banc.

109 (b) JURISDICTION.-The appropriate division of the supreme  
 110 court:

111 (1) Shall hear appeals from ~~final judgments of trial~~  
 112 ~~courts imposing the death penalty and from~~ decisions of district  
 113 courts of appeal declaring invalid a state statute or a  
 114 provision of the state constitution.

115 (2) When provided by general law, shall hear appeals from  
 116 final judgments entered in proceedings for the validation of  
 117 bonds or certificates of indebtedness and shall review action of  
 118 statewide agencies relating to rates or service of utilities  
 119 providing electric, gas, or telephone service. Only the civil  
 120 division may have jurisdiction pursuant to this paragraph.

121 (3) May review any decision of a district court of appeal  
 122 that expressly declares valid a state statute, or that expressly  
 123 construes a provision of the state or federal constitution, or  
 124 that expressly affects a class of constitutional or state  
 125 officers, or that ~~expressly and directly~~ conflicts with a  
 126 decision of another district court of appeal or of the supreme  
 127 court on the same question of law, provided that the conflict  
 128 appears on the face of the majority, concurring, or dissenting  
 129 district court opinion.

130 (4) May review any decision of a district court of appeal  
 131 that passes upon a question certified by the district court of  
 132 appeal ~~it~~ to be of great public importance, that appears to a  
 133 division to be of great public importance based on information  
 134 on the face of the majority, concurring, or dissenting district  
 135 court opinion, or that is certified by the district court of  
 136 appeal ~~it~~ to be in direct conflict with a decision of another  
 137 district court of appeal.

138 (5) May review any order or judgment of a trial court  
 139 certified by the district court of appeal in which an appeal is  
 140 pending to be of great public importance, or to have a great  
 141 effect on the proper administration of justice throughout the  
 142 state, and certified to require immediate resolution by the  
 143 supreme court.

144 (6) May review a question of law certified by the Supreme  
 145 Court of the United States or a United States Court of Appeals  
 146 which is determinative of the cause and for which there is no  
 147 controlling precedent of the supreme court of Florida.

148 (7) May issue writs of prohibition to courts and all writs  
 149 necessary to the complete exercise of its jurisdiction.

150 (8) May issue writs of mandamus and quo warranto to state  
 151 officers and state agencies.

152 (9) May, or any justice may, issue writs of habeas corpus  
 153 returnable before the supreme court or any justice, a district  
 154 court of appeal or any judge thereof, or any circuit judge. Only  
 155 a justice in the criminal division may issue a writ of habeas  
 156 corpus in a criminal case.

157 (10) Shall, when requested by the attorney general  
 158 pursuant to the provisions of Section 10 of Article IV, render  
 159 an advisory opinion of the justices, addressing issues as  
 160 provided by general law.

161 (11) Shall hear appeals from final judgments of trial  
 162 courts imposing the death penalty. Only the criminal division  
 163 has any jurisdiction pursuant to this paragraph.

164 (c) ASSIGNMENT OF CASES TO DIVISIONS.—Criminal and civil  
 165 cases are to be referred to each division in a manner consistent

166 with this section.

167 (1) A criminal case is any case or controversy primarily  
 168 involving the commission of a felony or misdemeanor. A criminal  
 169 case shall also include any case or controversy involving  
 170 criminal law, criminal penalties, criminal procedure, juvenile  
 171 delinquency, or any related action regarding the interpretation  
 172 of or resolution of matters directly affecting the criminal law.  
 173 Equitable relief related to the criminal law, including actions  
 174 in which a party seeks to enjoin the application or form of a  
 175 criminal penalty, shall be within the jurisdiction of the  
 176 criminal division.

177 (2) A civil case is any case or controversy within the  
 178 traditional concepts of civil law, including tort, contract,  
 179 family law, probate, trusts, real property, employment law,  
 180 taxation, and elections. The civil division shall have no  
 181 jurisdiction or authority, whether express or implied, to issue  
 182 a stay of execution or to hear any challenge of any law or  
 183 procedure regarding the death penalty or the administration of a  
 184 criminal penalty.

185 (3) The legislature may, by general law, further define  
 186 the types of cases that are to be referred to each division in a  
 187 manner consistent with this section.

188 (d) JURISDICTIONAL CONFLICTS.—If both divisions assert  
 189 jurisdiction over a particular case, the chief justice of the  
 190 supreme court of Florida shall decide where jurisdiction is  
 191 appropriate.

192 ~~(c) CLERK AND MARSHAL. The supreme court shall appoint a~~  
 193 ~~clerk and a marshal who shall hold office during the pleasure of~~

194 ~~the court and perform such duties as the court directs. Their~~  
 195 ~~compensation shall be fixed by general law. The marshal shall~~  
 196 ~~have the power to execute the process of the court throughout~~  
 197 ~~the state, and in any county may deputize the sheriff or a~~  
 198 ~~deputy sheriff for such purpose.~~

199 SECTION 4. District courts of appeal.-

200 (a) ORGANIZATION.-There shall be a district court of  
 201 appeal serving each appellate district. Each district court of  
 202 appeal shall consist of at least three judges. Three judges  
 203 shall consider each case and the concurrence of two shall be  
 204 necessary to a decision.

205 (b) JURISDICTION.-

206 (1) District courts of appeal shall have jurisdiction to  
 207 hear appeals, that may be taken as a matter of right, from final  
 208 judgments or orders of trial courts, including those entered on  
 209 review of administrative action, not directly appealable to the  
 210 supreme court or a circuit court. They may review interlocutory  
 211 orders in such cases to the extent provided by rules adopted by  
 212 the supreme court.

213 (2) District courts of appeal shall have the power of  
 214 direct review of administrative action, as prescribed by general  
 215 law.

216 (3) A district court of appeal or any judge thereof may  
 217 issue writs of habeas corpus returnable before the court or any  
 218 judge thereof or before any circuit judge within the territorial  
 219 jurisdiction of the court. A district court of appeal may issue  
 220 writs of mandamus, certiorari, prohibition, quo warranto, and  
 221 other writs necessary to the complete exercise of its



222 jurisdiction. To the extent necessary to dispose of all issues  
 223 in a cause properly before it, a district court of appeal may  
 224 exercise any of the appellate jurisdiction of the circuit  
 225 courts.

226 ~~(c) CLERKS AND MARSHALS. Each district court of appeal~~  
 227 ~~shall appoint a clerk and a marshal who shall hold office during~~  
 228 ~~the pleasure of the court and perform such duties as the court~~  
 229 ~~directs. Their compensation shall be fixed by general law. The~~  
 230 ~~marshal shall have the power to execute the process of the court~~  
 231 ~~throughout the territorial jurisdiction of the court, and in any~~  
 232 ~~county may deputize the sheriff or a deputy sheriff for such~~  
 233 ~~purpose.~~

234 SECTION 7. Specialized divisions.—The supreme court shall  
 235 sit in a civil division and a criminal division, except where  
 236 specifically authorized in this article to sit jointly. All  
 237 other courts ~~except the supreme court~~ may sit in divisions as  
 238 may be established by general law. A circuit or county court may  
 239 hold civil and criminal trials and hearings in any place within  
 240 the territorial jurisdiction of the court as designated by the  
 241 chief judge of the circuit.

242 SECTION 11. Vacancies.—

243 (a) Whenever a vacancy occurs in a judicial office to  
 244 which election for retention applies, the governor shall fill  
 245 the vacancy by appointing for a term ending on the first Tuesday  
 246 after the first Monday in January of the year following the next  
 247 general election occurring at least one year after the date of  
 248 appointment, one of not fewer than three persons nor more than

249 six persons nominated by the appropriate judicial nominating  
 250 commission.

251 (b) The governor shall fill each vacancy on a circuit  
 252 court or on a county court, wherein the judges are elected by a  
 253 majority vote of the electors, by appointing for a term ending  
 254 on the first Tuesday after the first Monday in January of the  
 255 year following the next primary and general election occurring  
 256 at least one year after the date of appointment, one of not  
 257 fewer than three persons nor more than six persons nominated by  
 258 the appropriate judicial nominating commission. An election  
 259 shall be held to fill that judicial office for the term of the  
 260 office beginning at the end of the appointed term.

261 (c) The nominations shall be made within thirty days from  
 262 the occurrence of a vacancy unless the period is extended by the  
 263 governor for a time not to exceed thirty days. The governor  
 264 shall make the appointment within sixty days after the  
 265 nominations have been certified to the governor.

266 (d) Each appointment of a justice of the supreme court is  
 267 subject to confirmation by the senate. The senate may sit for  
 268 the purpose of confirmation regardless of whether the house of  
 269 representatives is in session or not. If the senate fails to  
 270 vote on the appointment of a justice within 90 days, the justice  
 271 shall be deemed confirmed. If the senate votes to not confirm  
 272 the appointment, the supreme court judicial nominating  
 273 commission shall reconvene as though a new vacancy had occurred  
 274 but may not renominate any person whose prior appointment to  
 275 fill the same vacancy was not confirmed by the senate. The  
 276 appointment of a justice is effective upon confirmation by the

277 senate. A justice in one division may apply for a position in  
 278 the other division but may not concurrently serve on both.

279 (e)-(d) There shall be a separate judicial nominating  
 280 commission as provided by general law for the supreme court, one  
 281 for each district court of appeal, and one for each judicial  
 282 circuit for all trial courts within the circuit. Uniform rules  
 283 of procedure shall be established by the judicial nominating  
 284 commissions at each level of the court system. Such rules, or  
 285 any part thereof, may be repealed by general law enacted by a  
 286 majority vote of the membership of each house of the  
 287 legislature, or by a majority vote of the justices of each  
 288 division of the supreme court, ~~five justices concurring~~. Except  
 289 for deliberations of the judicial nominating commissions, the  
 290 proceedings of the commissions and their records shall be open  
 291 to the public.

292 SECTION 12. Discipline; removal and retirement.-

293 (a) JUDICIAL QUALIFICATIONS COMMISSION.—A judicial  
 294 qualifications commission is created.

295 (1) There shall be a judicial qualifications commission  
 296 vested with jurisdiction to investigate and recommend to the  
 297 Supreme Court of Florida the removal from office of any justice  
 298 or judge whose conduct, during term of office or otherwise,  
 299 ~~occurring on or after November 1, 1966, (without regard to the~~  
 300 ~~effective date of this section)~~ demonstrates a present unfitness  
 301 to hold office, and to investigate and recommend the discipline  
 302 of a justice or judge whose conduct, during term of office or  
 303 otherwise ~~occurring on or after November 1, 1966 (without regard~~  
 304 ~~to the effective date of this section)~~, warrants such

305 discipline. For purposes of this section, discipline is defined  
 306 as any or all of the following: reprimand, fine, suspension with  
 307 or without pay, or lawyer discipline. The commission shall have  
 308 jurisdiction over justices and judges regarding allegations that  
 309 misconduct occurred before or during service as a justice or  
 310 judge if a complaint is made no later than one year following  
 311 service as a justice or judge. The commission shall have  
 312 jurisdiction regarding allegations of incapacity during service  
 313 as a justice or judge. The commission shall be composed of:

314 a. Two judges of district courts of appeal selected by the  
 315 judges of those courts, two circuit judges selected by the  
 316 judges of the circuit courts and two judges of county courts  
 317 selected by the judges of those courts;

318 b. Four electors who reside in the state, who are members  
 319 of the bar of Florida, and who shall be chosen by the governing  
 320 body of the bar of Florida; and

321 c. Five electors who reside in the state, who have never  
 322 held judicial office or been members of the bar of Florida, and  
 323 who shall be appointed by the governor.

324 (2) The members of the judicial qualifications commission  
 325 shall serve staggered terms, not to exceed six years, as  
 326 prescribed by general law. No member of the commission except a  
 327 judge shall be eligible for state judicial office while acting  
 328 as a member of the commission and for a period of two years  
 329 thereafter. No member of the commission shall hold office in a  
 330 political party or participate in any campaign for judicial  
 331 office or hold public office; provided that a judge may campaign

332 for judicial office and hold that office. The commission shall  
 333 elect one of its members as its chairperson.

334 (3) Members of the judicial qualifications commission not  
 335 subject to impeachment shall be subject to removal from the  
 336 commission pursuant to the provisions of Article IV, Section 7,  
 337 Florida Constitution.

338 (4) The commission shall adopt rules regulating its  
 339 proceedings, the filling of vacancies by the appointing  
 340 authorities, the disqualification of members, the rotation of  
 341 members between the panels, and the temporary replacement of  
 342 disqualified or incapacitated members. The commission's rules,  
 343 or any part thereof, may be repealed by general law ~~enacted by a~~  
 344 ~~majority vote of the membership of each house of the~~  
 345 ~~legislature,~~ or by the supreme court, seven ~~five~~ justices  
 346 concurring. The commission shall have power to issue subpoenas.  
 347 Until formal charges against a justice or judge are filed by the  
 348 investigative panel with the clerk of the supreme court of  
 349 Florida all proceedings by or before the commission shall be  
 350 confidential; provided, however, upon a finding of probable  
 351 cause and the filing by the investigative panel with said clerk  
 352 of such formal charges against a justice or judge such charges  
 353 and all further proceedings before the commission shall be  
 354 public.

355 (5) The commission shall have access to all information  
 356 from all executive, legislative and judicial agencies, including  
 357 grand juries, subject to the rules of the commission. At any  
 358 time, on request of the speaker of the house of representatives  
 359 ~~or the governor,~~ the commission shall make available to the

360 house of representatives all information in the possession of  
 361 the commission, which information shall remain confidential  
 362 during any investigation and until such information is used in  
 363 the pursuit ~~for use in consideration~~ of impeachment ~~or~~  
 364 ~~suspension,~~ respectively.

365 (b) PANELS.—The commission shall be divided into an  
 366 investigative panel and a hearing panel as established by rule  
 367 of the commission. The investigative panel is vested with the  
 368 jurisdiction to receive or initiate complaints, conduct  
 369 investigations, dismiss complaints, and upon a vote of a simple  
 370 majority of the panel submit formal charges to the hearing  
 371 panel. The hearing panel is vested with the authority to receive  
 372 and hear formal charges from the investigative panel and upon a  
 373 two-thirds vote of the panel recommend to the supreme court the  
 374 removal of a justice or judge or the involuntary retirement of a  
 375 justice or judge for any permanent disability that seriously  
 376 interferes with the performance of judicial duties. Upon a  
 377 simple majority vote of the membership of the hearing panel, the  
 378 panel may recommend to the supreme court that the justice or  
 379 judge be subject to appropriate discipline.

380 (c) SUPREME COURT.—The supreme court shall receive  
 381 recommendations from the judicial qualifications commission's  
 382 hearing panel.

383 (1) The supreme court may accept, reject, or modify in  
 384 whole or in part the findings, conclusions, and recommendations  
 385 of the commission and it may order that the justice or judge be  
 386 subjected to appropriate discipline, or be removed from office  
 387 with termination of compensation for willful or persistent

388 failure to perform judicial duties or for other conduct  
 389 unbecoming a member of the judiciary demonstrating a present  
 390 unfitness to hold office, or be involuntarily retired for any  
 391 permanent disability that seriously interferes with the  
 392 performance of judicial duties. Malafides, scienter or moral  
 393 turpitude on the part of a justice or judge shall not be  
 394 required for removal from office of a justice or judge whose  
 395 conduct demonstrates a present unfitness to hold office. After  
 396 the filing of a formal proceeding and upon request of the  
 397 investigative panel, the supreme court may suspend the justice  
 398 or judge from office, with or without compensation, pending  
 399 final determination of the inquiry.

400 (2) The supreme court may award costs to the prevailing  
 401 party.

402 (d) REMOVAL POWER.—The power of removal conferred by this  
 403 section shall be both alternative and cumulative to the power of  
 404 impeachment.

405 (e) PROCEEDINGS INVOLVING SUPREME COURT JUSTICE.—  
 406 Notwithstanding any of the foregoing provisions of this section,  
 407 if the person who is the subject of proceedings by the judicial  
 408 qualifications commission is a justice of the supreme court of  
 409 Florida all justices of such court automatically shall be  
 410 disqualified to sit as justices of such court with respect to  
 411 all proceedings therein concerning such person and the supreme  
 412 court for such purposes shall be composed of a panel consisting  
 413 of the seven chief judges of the judicial circuits of the state  
 414 of Florida most senior in tenure of judicial office as circuit  
 415 judge. For purposes of determining seniority of such circuit

416 judges in the event there be judges of equal tenure in judicial  
 417 office as circuit judge the judge or judges from the lower  
 418 numbered circuit or circuits shall be deemed senior. In the  
 419 event any such chief circuit judge is under investigation by the  
 420 judicial qualifications commission or is otherwise disqualified  
 421 or unable to serve on the panel, the next most senior chief  
 422 circuit judge or judges shall serve in place of such  
 423 disqualified or disabled chief circuit judge.

424 (f) SCHEDULE TO SECTION 12.—

425 (1) Except to the extent inconsistent with the provisions  
 426 of this section, all provisions of law and rules of court in  
 427 force on the effective date of this article shall continue in  
 428 effect until superseded in the manner authorized by the  
 429 constitution.

430 (2) After this section becomes effective and until adopted  
 431 by rule of the commission consistent with it:

432 a. The commission shall be divided, as determined by the  
 433 chairperson, into one investigative panel and one hearing panel  
 434 to meet the responsibilities set forth in this section.

435 b. The investigative panel shall be composed of:

- 436 1. Four judges,
- 437 2. Two members of the bar of Florida, and
- 438 3. Three non-lawyers.

439 c. The hearing panel shall be composed of:

- 440 1. Two judges,
- 441 2. Two members of the bar of Florida, and
- 442 3. Two non-lawyers.



443 d. Membership on the panels may rotate in a manner  
 444 determined by the rules of the commission provided that no  
 445 member shall vote as a member of the investigative and hearing  
 446 panel on the same proceeding.

447 e. The commission shall hire separate staff for each  
 448 panel.

449 f. The members of the commission shall serve for staggered  
 450 terms of six years.

451 ~~g. The terms of office of the present members of the~~  
 452 ~~judicial qualifications commission shall expire upon the~~  
 453 ~~effective date of the amendments to this section approved by the~~  
 454 ~~legislature during the regular session of the legislature in~~  
 455 ~~1996 and new members shall be appointed to serve the following~~  
 456 ~~staggered terms:~~

457 ~~1. Group I. The terms of five members, composed of two~~  
 458 ~~electors as set forth in s. 12(a)(1)c. of Article V, one member~~  
 459 ~~of the bar of Florida as set forth in s. 12(a)(1)b. of Article~~  
 460 ~~V, one judge from the district courts of appeal and one circuit~~  
 461 ~~judge as set forth in s. 12(a)(1)a. of Article V, shall expire~~  
 462 ~~on December 31, 1998.~~

463 ~~2. Group II. The terms of five members, composed of one~~  
 464 ~~elector as set forth in s. 12(a)(1)c. of Article V, two members~~  
 465 ~~of the bar of Florida as set forth in s. 12(a)(1)b. of Article~~  
 466 ~~V, one circuit judge and one county judge as set forth in s.~~  
 467 ~~12(a)(1)a. of Article V shall expire on December 31, 2000.~~

468 ~~3. Group III. The terms of five members, composed of two~~  
 469 ~~electors as set forth in s. 12(a)(1)c. of Article V, one member~~  
 470 ~~of the bar of Florida as set forth in s. 12(a)(1)b., one judge~~

471 ~~from the district courts of appeal and one county judge as set~~  
 472 ~~forth in s. 12(a)(1)a. of Article V, shall expire on December~~  
 473 ~~31, 2002.~~

474 g.h. An appointment to fill a vacancy of the commission  
 475 shall be for the remainder of the term.

476 h.i. Selection of members by district courts of appeal  
 477 judges, circuit judges, and county court judges, shall be by no  
 478 less than a majority of the members voting at the respective  
 479 courts' conferences. Selection of members by the board of  
 480 governors of the bar of Florida shall be by no less than a  
 481 majority of the board.

482 i.j. The commission shall be entitled to recover the costs  
 483 of investigation and prosecution, in addition to any penalty  
 484 levied by the supreme court.

485 j.k. The compensation of members and referees shall be the  
 486 travel expenses or transportation and per diem allowance as  
 487 provided by general law.

488 SECTION 14. Funding.—

489 (a) All justices and judges shall be compensated only by  
 490 state salaries fixed by general law. Funding for the state  
 491 courts system, state attorneys' offices, public defenders'  
 492 offices, and court-appointed counsel, except as otherwise  
 493 provided in subsection (c), shall be provided from state  
 494 revenues appropriated by general law.

495 (b) All funding for the offices of the clerks of the  
 496 circuit and county courts performing court-related functions,  
 497 except as otherwise provided in this subsection and subsection  
 498 (c), shall be provided by adequate and appropriate filing fees

499 | for judicial proceedings and service charges and costs for  
 500 | performing court-related functions as required by general law.  
 501 | Selected salaries, costs, and expenses of the state courts  
 502 | system may be funded from appropriate filing fees for judicial  
 503 | proceedings and service charges and costs for performing court-  
 504 | related functions, as provided by general law. Where the  
 505 | requirements of either the United States Constitution or the  
 506 | Constitution of the State of Florida preclude the imposition of  
 507 | filing fees for judicial proceedings and service charges and  
 508 | costs for performing court-related functions sufficient to fund  
 509 | the court-related functions of the offices of the clerks of the  
 510 | circuit and county courts, the state shall provide, as  
 511 | determined by the legislature, adequate and appropriate  
 512 | supplemental funding from state revenues appropriated by general  
 513 | law.

514 |       (c) No county or municipality, except as provided in this  
 515 | subsection, shall be required to provide any funding for the  
 516 | state courts system, state attorneys' offices, public defenders'  
 517 | offices, court-appointed counsel or the offices of the clerks of  
 518 | the circuit and county courts performing court-related  
 519 | functions. Counties shall be required to fund the cost of  
 520 | communications services, existing radio systems, existing multi-  
 521 | agency criminal justice information systems, and the cost of  
 522 | construction or lease, maintenance, utilities, and security of  
 523 | facilities for the trial courts, public defenders' offices,  
 524 | state attorneys' offices, and the offices of the clerks of the  
 525 | circuit and county courts performing court-related functions.  
 526 | Counties shall also pay reasonable and necessary salaries,

527 costs, and expenses of the state courts system to meet local  
 528 requirements as determined by general law.

529 (d) The judiciary shall have no power to fix  
 530 appropriations.

531 (e) The total appropriation of all fund sources to the  
 532 judicial branch shall equal no less than 2.25 percent of the  
 533 total general revenue funds appropriated in the general  
 534 appropriation bill referred to in Section 19(b) of Article III.  
 535 Any adjustments to the total appropriations of all fund sources  
 536 to the judicial branch made in any special appropriations act  
 537 shall equal no more than the percent of total general revenue  
 538 appropriations adjusted in such special appropriations act.  
 539 For purposes of this subsection, the judicial branch does not  
 540 include the Justice Administrative Commission or any of the  
 541 entities for which the Justice Administrative Commission  
 542 provides administrative services.

543 SECTION 21. Schedule to Article V revision increasing the  
 544 membership of the supreme court and creating divisions thereof.-

545 (a) Except to the extent inconsistent with this article,  
 546 all provisions of law and rules of court in force on the  
 547 effective date of this article shall continue in effect until  
 548 superseded in the manner authorized by the constitution.

549 (b) The effective date of the revision creating two  
 550 divisions of the supreme court shall be upon passage by the  
 551 electorate.

552 (1) On the first day after the election approving the  
 553 revision, the supreme court shall rank all of the justices then

554 in office by seniority in service on the supreme court. The  
555 three who have the most seniority shall be the initial justices  
556 assigned to the criminal division, and the remaining justices  
557 shall be the initial justices assigned to the civil division.  
558 Initial appointments of existing justices to either division  
559 shall not be limited by the district court from which the  
560 justice was appointed. A justice assigned to a division of the  
561 supreme court pursuant to this paragraph shall remain in the  
562 same term of office and shall sit for future retention elections  
563 on the same cycle. The supreme court shall immediately transmit  
564 to the governor the names of the justices, their division  
565 assignments, and the districts from which they were appointed.  
566 The governor shall then direct the supreme court nominating  
567 commission to make its recommendations for the open seats of  
568 justices for both divisions, which recommendations must be  
569 delivered to the governor no later than the 60th day after the  
570 election. Before the 90th day after the election, the governor  
571 shall make the appointments for the open seats of justices for  
572 both divisions and shall also designate the chief justices of  
573 each division. The appointments and designations shall, in this  
574 instance only, not be subject to the advice and consent of the  
575 senate.

576 (2) The supreme court shall inventory all cases in its  
577 possession and determine as to each case whether it will be  
578 assigned to the criminal division or the civil division. Newly  
579 filed cases shall be designated between the two new divisions as  
580 they are filed. The supreme court shall retain full jurisdiction  
581 and power over all cases until such cases are actually assigned

582 to a division, including the power to issue final process that  
583 would have the effect of removing the case from the inventory of  
584 cases to be assigned.

585 (c) The two divisions of the supreme court shall begin  
586 formal operations on the 120th day after the election. On that  
587 day:

588 (1) Newly appointed justices shall take office.

589 (2) The jurisdiction of the supreme court shall be divided  
590 between the divisions, the jurisdictional changes in Sections  
591 3(b)(3) and 3(b)(4) shall take effect, and all pending cases  
592 shall be assigned to the appropriate division.

593 (3) The term of the supreme court shall be deemed to have  
594 ended. All mandates issued by the supreme court prior to the end  
595 of the term shall be final and not subject to recall. No motion  
596 for reconsideration shall be considered.

597 (d) The initial chief justice of the civil division shall  
598 also be the chief justice of the supreme court of Florida and  
599 shall serve in that position from the 120th day after the  
600 election through June 30, 2016. The initial chief justice of the  
601 criminal division shall be the chief justice of the criminal  
602 division from the 120th day after the election through June 30,  
603 2020. Thereafter, the offices of the chief justices of the  
604 divisions shall alternate as provided in Section 2.

605 (e) All court rules adopted by the supreme court shall  
606 continue in full force and effect after the effective date of  
607 this revision, subject to future amendment or repeal.

608       (f) The legislature may, by general law, otherwise provide  
 609 for the administrative transfer of employees, property, duties,  
 610 and functions between the divisions.

611       (g) The change in court funding provided in Section 14(e)  
 612 shall be effective commencing in fiscal year 2013-2014.

613       (h) The legislature shall have the power, by concurrent  
 614 resolution, to delete from this article any subsection of this  
 615 section 21, including this subsection, when all events to which  
 616 the subsection to be deleted is or could become applicable have  
 617 occurred.

618  
 619           BE IT FURTHER RESOLVED that the following statement be  
 620 placed on the ballot:

621  
 622                                   CONSTITUTIONAL AMENDMENT

623                   ARTICLE V, SECTIONS 2, 3, 4, 7, 11, 12, 14, AND 21

624  
 625           STATE COURTS.—Proposing a revision of Article V of the  
 626 State Constitution relating to the judiciary.

627           Under current law, the Florida Supreme Court is the highest  
 628 court in Florida and hears both civil and criminal cases. It has  
 629 7 appointed justices. This revision would divide the current  
 630 Supreme Court into two divisions, one hearing civil cases and  
 631 the other hearing criminal cases. Each division would have 5  
 632 appointed justices who are permanently assigned. The 3 current  
 633 justices who have the most service with the Florida Supreme  
 634 Court would be assigned to the criminal division, the remaining  
 635 4 current justices would be assigned to the civil division, and

636 the Governor would appoint 3 new justices to fill the remaining  
637 openings in the two divisions. The existing jurisdiction of the  
638 Supreme Court would be expanded to allow discretionary review of  
639 certain district court of appeal decisions. This revision  
640 generally defines the civil law and criminal law jurisdiction of  
641 each division, provides for assignment of cases to each  
642 respective division, and allows the Legislature, by general law,  
643 to further define the jurisdictions of each division. The  
644 jurisdiction of a division will be limited to the division's  
645 area, whether civil or criminal. The power of justices of the  
646 criminal division to hear appeals from final judgments entered  
647 in proceedings for the validation of bonds or certificates of  
648 indebtedness and to review action of statewide agencies relating  
649 to rates or service of utilities providing electric, gas, or  
650 telephone service is limited by this revision and granted  
651 exclusively to the civil division. The power of justices of the  
652 civil division to issue a writ of habeas corpus and to hear  
653 appeals from final judgments of trial courts imposing the death  
654 penalty is limited by this revision and granted exclusively to  
655 the justices of the criminal division. This revision provides  
656 that if both divisions assert jurisdiction over a case, the  
657 Chief Justice of the Supreme Court of Florida will decide where  
658 jurisdiction is appropriate.

659 This proposed revision also creates a title of chief  
660 justice in each of the divisions with an 8-year term. The  
661 constitution currently provides that the Chief Justice of the  
662 Supreme Court is the administrative head of the state judicial  
663 system. This revision provides that the position of Chief



664 Justice of the Supreme Court will rotate every 4 years between  
665 the chief justice of the civil division and the chief justice of  
666 the criminal division. The constitution currently also provides  
667 that the chief justice is chosen by vote of the justices. This  
668 revision provides that the initial new justices and the initial  
669 chief justice of each division will be selected by the Governor  
670 and future chief justices will be selected by the Governor  
671 subject to Senate confirmation. A chief justice is, like a  
672 regular justice under current law, subject to retention election  
673 and mandatory retirement requirements applicable to all Florida  
674 justices and judges.

675 Under current law, the Governor appoints a justice from a  
676 list of nominees provided by a judicial nominating commission,  
677 and appointments by the Governor are not subject to  
678 confirmation. Other than the initial 3 new appointees, this  
679 revision requires Senate confirmation of a justice before the  
680 appointee can take office. If the Senate votes not to confirm  
681 the appointment, the judicial nominating commission must  
682 reconvene and may not renominate any person whose prior  
683 appointment to fill the same vacancy was not confirmed by the  
684 Senate. For the purpose of confirmation, the Senate may meet at  
685 any time. If the Senate does not vote against confirmation  
686 within 90 days, the justice will be deemed confirmed and will  
687 take office.

688 The State Constitution authorizes the Supreme Court to  
689 adopt rules for the practice and procedure in all courts. The  
690 constitution further provides that a rule of court may be  
691 repealed by a general law enacted by a two-thirds vote of the

692 membership of each house of the Legislature. This proposed  
693 constitutional revision eliminates the requirement that a  
694 general law repealing a court rule pass by a two-thirds vote of  
695 each house. The Legislature could repeal a rule of court by a  
696 general law approved by a majority vote of each house of the  
697 Legislature that expresses the policy behind the repeal. The  
698 court could readopt the rule in conformity with the public  
699 policy expressed by the Legislature, but if the Legislature  
700 repeals the readopted rule, this proposed revision prohibits the  
701 court from readopting the repealed rule without the  
702 Legislature's prior approval. Court rules may be adopted by both  
703 divisions of the Supreme Court meeting jointly, or the court may  
704 elect to divide classes of rules between the divisions.

705 The Judicial Qualifications Commission is an independent  
706 commission created by the State Constitution to investigate and  
707 prosecute before the Florida Supreme Court alleged misconduct by  
708 a justice or judge. Currently under the constitution, commission  
709 proceedings are confidential until formal charges are filed by  
710 the investigative panel of the commission. Once formal charges  
711 are filed, the formal charges and all further proceedings of the  
712 commission are public. Currently, the constitution authorizes  
713 the House of Representatives to impeach a justice or judge.  
714 Further, the Speaker of the House of Representatives may  
715 request, and the Judicial Qualifications Commission must make  
716 available, all information in the commission's possession for  
717 use in deciding whether to impeach a justice or judge. This  
718 proposed revision requires the commission to make all of its  
719 files available to the Speaker of the House of Representatives,

720 rather than just the file of a justice or judge under  
721 investigation by the House of Representatives. Such files would  
722 maintain their confidentiality unless the House of  
723 Representatives initiates impeachment proceedings against a  
724 justice or judge, in which case the files related to that  
725 justice or judge may be open. This revision deletes a  
726 requirement that a general law repealing a commission rule be  
727 passed by a majority vote of the membership of each house of the  
728 Legislature and revises the number of Supreme Court justices  
729 needed to repeal such a rule.

730 State appropriations are made annually by general law.  
731 Current law does not require any specific level of funding for  
732 any agency or department. This revision requires that the courts  
733 be appropriated a minimum of 2.25 percent of general revenue  
734 funding beginning with the 2013-2014 fiscal year.

735 This revision will take effect upon its passage by the  
736 electorate and provides a schedule for implementation of its  
737 provisions. This revision makes other conforming and modernizing  
738 changes to the State Constitution regarding the judicial system,  
739 including removing the positions of clerk and marshal of the  
740 Supreme Court and the courts of appeal from the constitution;  
741 providing for transition to the new divisions; removing outdated  
742 schedules related to the Judicial Qualifications Commission; and  
743 making conforming and technical changes in the judicial articles  
744 of the constitution.

745  
746 BE IT FURTHER RESOLVED that the following statement be  
747 placed on the ballot if a court declares the preceding statement

748 defective and the decision of the court is not reversed:

749

750 CONSTITUTIONAL AMENDMENT

751 ARTICLE V, SECTIONS 2, 3, 4, 7, 11, 12, 14, AND 21

752

753 JUDICIARY.—Proposing a revision of the Judiciary Article of  
 754 the Florida Constitution; reorganizing the Florida Supreme Court  
 755 into divisions; requiring Senate confirmation for appointment of  
 756 a Supreme Court justice; providing standards and procedures for  
 757 legislative repeal of a court rule; providing a minimum level of  
 758 court funding; allowing legislative review of confidential files  
 759 of the Judicial Qualifications Commission; providing for  
 760 transition; and making other ancillary amendments, including,  
 761 but not limited to, technical and conforming amendments.

762

763 BE IT FURTHER RESOLVED that the following statement be  
 764 placed on the ballot if a court declares the preceding  
 765 statements defective and the decision of the court is not  
 766 reversed:

767

768 CONSTITUTIONAL AMENDMENT

769 ARTICLE V, SECTIONS 2, 3, 4, 7, 11, 12, 14, AND 21

770

771 STATE COURTS.—Proposing a revision to Article V of the  
 772 State Constitution relating to the judiciary; changing the  
 773 authority of the Legislature to repeal a court rule by 2/3 vote  
 774 of the membership of each house to a simple majority of each  
 775 house; limiting the Supreme Court's ability to readopt a rule

776 repealed by the Legislature; replacing the current seven-member  
 777 Supreme Court with two five-member divisions of the Supreme  
 778 Court, one with civil jurisdiction and one with criminal  
 779 jurisdiction; establishing a Chief Justice of the Supreme Court  
 780 who shall serve as the chief administrative officer for the  
 781 courts; establishing a chief justice for the civil division of  
 782 the Supreme Court; establishing a chief justice for the criminal  
 783 division of the Supreme Court; providing for the manner of  
 784 selection and term for the chief justice of each division of the  
 785 Supreme Court; changing the manner of designation and term of  
 786 office of the Chief Justice of the Supreme Court; providing that  
 787 a chief justice of a division of the Supreme Court is subject to  
 788 a retention election and eligibility requirements as currently  
 789 established in the State Constitution; providing for manner of  
 790 replacement of a chief justice of a division; providing for  
 791 apportionment of current justices among the civil and criminal  
 792 divisions of the Supreme Court; changing the requirements for a  
 793 quorum from four to three as being necessary for a decision;  
 794 providing authority and circumstances where the divisions of the  
 795 Supreme Court may meet en banc; providing jurisdiction for each  
 796 division of the Supreme Court, including matters which will be  
 797 exclusive to each division; clarifying the jurisdiction of the  
 798 Supreme Court to hear appeals from certain district court of  
 799 appeal decisions; providing that the Legislature may further  
 800 define the split of jurisdiction between civil and criminal  
 801 matters; providing that the Chief Justice of the Supreme Court  
 802 decides jurisdiction should both divisions claim jurisdiction  
 803 over the same case; removing references to clerks and marshals;

804 requiring Senate confirmation before a justice may take office;  
805 providing that if the Senate does not act within 90 days the  
806 nominee is deemed confirmed as a justice; allowing the Senate to  
807 meet outside of regular session without having the House of  
808 Representatives convene at the same time; deleting outdated  
809 references; requiring the Judicial Qualifications Commission to  
810 provide the House of Representatives access to records;  
811 providing for confidentiality of records; requiring a minimum  
812 level of funding for the judicial system; providing for  
813 transition; requiring the current Supreme Court to list its  
814 members by seniority in office; providing that the three most  
815 senior justices be assigned to the criminal division and the  
816 remaining justices assigned to the criminal division; providing  
817 time limits for appointments by the Governor for the remaining  
818 seats; providing an exception to Senate confirmation for initial  
819 appointments; requiring the Governor to name the initial chief  
820 justice of each division; providing that the initial chief  
821 justice of the civil division be named the Chief Justice of the  
822 Supreme Court; requiring that existing cases be split between  
823 the divisions; providing that cases decided before the split  
824 into divisions are final and not subject to rehearing or recall  
825 of the mandate; providing for the terms of the initial chief  
826 justices of the divisions; providing for adoption of court  
827 rules; allowing the Legislature by general law to further  
828 provide for transition; providing that the transition schedules  
829 may be deleted by general law when they have become outdated.