

By Senator Negrón

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Senate Joint Resolution

A joint resolution proposing an amendment to Section 2 of Article V and the creation of a new section to Article XII of the State Constitution to prohibit a court from requiring or authorizing collateral or postconviction judicial review of a capital case except as provided for by general law and providing an effective date.

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

That the following amendment to Section 2 of Article V and the creation of a new section in Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE V

JUDICIARY

SECTION 2. Administration; practice and procedure.—

(a) The supreme court shall adopt rules for the practice and procedure in all courts including the time for seeking appellate review, the administrative supervision of all courts, the transfer to the court having jurisdiction of any proceeding when the jurisdiction of another court has been improvidently invoked, and a requirement that no cause shall be dismissed because an improper remedy has been sought. The supreme court shall adopt rules to allow the court and the district courts of appeal to submit questions relating to military law to the

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30 federal Court of Appeals for the Armed Forces for an advisory
31 opinion. Rules of court may be repealed by general law enacted
32 by two-thirds vote of the membership of each house of the
33 legislature.

34 (b) Notwithstanding subsection (a), postconviction or
35 collateral review of capital cases resulting in a sentence of
36 death shall be governed exclusively by, and to the extent
37 provided by, general law.

38 (c) ~~(b)~~ The chief justice of the supreme court shall be
39 chosen by a majority of the members of the court; shall be the
40 chief administrative officer of the judicial system; and shall
41 have the power to assign justices or judges, including
42 consenting retired justices or judges, to temporary duty in any
43 court for which the judge is qualified and to delegate to a
44 chief judge of a judicial circuit the power to assign judges for
45 duty in that circuit.

46 (d) ~~(e)~~ A chief judge for each district court of appeal
47 shall be chosen by a majority of the judges thereof or, if there
48 is no majority, by the chief justice. The chief judge shall be
49 responsible for the administrative supervision of the court.

50 (e) ~~(d)~~ A chief judge in each circuit shall be chosen from
51 among the circuit judges as provided by supreme court rule. The
52 chief judge shall be responsible for the administrative
53 supervision of the circuit courts and county courts in his
54 circuit.

ARTICLE XII

SCHEDULE

57 SECTION 34. Postconviction or collateral review of capital
58 cases resulting in a sentence of death.—The amendment to Section

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59 2 of Article V requiring postconviction or collateral review of
60 capital cases resulting in a sentence of death to be governed
61 exclusively by, and to the extent provided by, general law shall
62 take effect July 1, 2015, and shall only apply to capital cases
63 in which the conviction and sentence of death have been affirmed
64 on direct appeal on or after July 1, 2015.

65
66 BE IT FURTHER RESOLVED that the following statement be
67 placed on the ballot:

68 CONSTITUTIONAL AMENDMENT

69 ARTICLE V, SECTION 2

70 POSTCONVICTION DEATH PENALTY PROCEEDINGS.—Proposing an
71 amendment to the State Constitution requiring postconviction or
72 collateral review of capital cases resulting in a death sentence
73 to be governed exclusively by, and to the extent provided by,
74 general law.

75
76 Under the current constitution, only the Supreme Court can
77 adopt rules relating to the practice and procedure in courts.
78 This includes rules relating to the postconviction or collateral
79 review of capital cases resulting in a death sentence. As such,
80 the timeframes for filing motions in such cases are governed by
81 Supreme Court rule.

82
83 By this amendment, postconviction or collateral review of
84 capital cases resulting in a death sentence will be governed
85 exclusively by, and to the extent provided by, general law.

86
87 A general law in Florida is enacted if passed by a majority

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88 of members voting in each of the two legislative chambers and
89 then either signed by the Governor or, if vetoed by the
90 Governor, passed by a two-thirds vote of the members voting in
91 each of the two legislative chambers.

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93 The proposed amendment takes effect July 1, 2015, and
94 applies to capital cases in which the conviction and sentence of
95 death have been affirmed on direct appeal on or after July 1,
96 2015.