

By the Committee on Judiciary

590-03242-11

20112084

Senate Joint Resolution

A joint resolution proposing an amendment to Section 2 of Article V of the State Constitution to reduce the vote threshold required for the Legislature to enact a law repealing a rule of court and to prohibit the Supreme Court from readopting a rule repealed by the Legislature for a prescribed period.

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

That the following amendment to Section 2 of Article V of the State Constitution is 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 federal Court of Appeals for the Armed Forces for an advisory opinion. Rules of court may be repealed by general law enacted

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30 by a three-fifths ~~two-thirds~~ vote of the membership of each  
31 house of the legislature. The supreme court may not readopt a  
32 rule within three years after the rule has been repealed by  
33 general law.

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

42 (c) A chief judge for each district court of appeal shall  
43 be chosen by a majority of the judges thereof or, if there is no  
44 majority, by the chief justice. The chief judge shall be  
45 responsible for the administrative supervision of the court.

46 (d) A chief judge in each circuit shall be chosen from  
47 among the circuit judges as provided by supreme court rule. The  
48 chief judge shall be responsible for the administrative  
49 supervision of the circuit courts and county courts in his  
50 circuit.

51 BE IT FURTHER RESOLVED that the following statement be  
52 placed on the ballot:

53 CONSTITUTIONAL AMENDMENT

54 ARTICLE V, SECTION 2

55 REVISING REQUIREMENTS RELATING TO THE REPEAL OF A SUPREME  
56 COURT RULE BY GENERAL LAW.—The State Constitution authorizes the  
57 Supreme Court to adopt rules for the practice and procedure in  
58 all courts. The constitution further provides that a rule of

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59 court may be repealed by a general law enacted by a two-thirds  
60 vote of the membership of each house of the Legislature. This  
61 proposed constitutional amendment reduces the vote required to  
62 enact a general law repealing a rule of court to a three-fifths  
63 vote of each house of the Legislature. The proposed amendment  
64 also prohibits the Supreme Court from readopting a rule within 3  
65 years after the rule is repealed by a general law.

66  
67 BE IT FURTHER RESOLVED that the following statement be  
68 placed on the ballot if a court declares the preceding statement  
69 defective and the decision of the court is not reversed:

70 CONSTITUTIONAL AMENDMENT

71 ARTICLE V, SECTION 2

72 REPEAL OF SUPREME COURT RULES BY GENERAL LAW.—Under the  
73 State Constitution, the Supreme Court adopts rules governing  
74 practice and procedure in all courts in this state. The  
75 constitution empowers the Legislature to repeal a court rule by  
76 passing a general bill. The bill, however, must pass both the  
77 Senate and the House of Representatives by a vote of two-thirds  
78 of the membership of each respective chamber. If the bill  
79 becomes law, the rule is repealed. There is currently no  
80 prohibition in the State Constitution against the Supreme Court  
81 readopting the same rule at any time. This proposed  
82 constitutional amendment allows the Legislature to repeal a rule  
83 of court by a general law enacted by a three-fifths vote of each  
84 house. In addition, this amendment specifies that the Supreme  
85 Court would have to wait at least 3 years before readopting the  
86 rule.

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88 BE IT FURTHER RESOLVED that the following statement be  
89 placed on the ballot if a court declares the preceding statement  
90 defective and the decision of the court is not reversed:

91 CONSTITUTIONAL AMENDMENT

92 ARTICLE V, SECTION 2

93 MAKING IT EASIER TO REPEAL A SUPREME COURT RULE BY GENERAL  
94 LAW.—Proposing an amendment to the State Constitution to reduce  
95 the vote requirement that the Legislature needs in order to  
96 repeal a rule adopted by the Supreme Court. Currently under the  
97 State Constitution, the Legislature may enact a general bill  
98 that repeals a rule of court adopted by the Supreme Court. The  
99 bill must pass both the Senate and the House of Representatives  
100 by vote at least equal to two-thirds of the membership of each  
101 house of the Legislature. If this bill becomes law, it repeals  
102 the rule of court. This proposed constitutional amendment would  
103 make it easier for the Legislature to repeal a rule of court by  
104 reducing the vote threshold to repeal a rule of court to a  
105 three-fifths vote of each house. The proposed amendment also  
106 adds a new provision to the constitution which prohibits the  
107 Supreme Court from readopting a rule within 3 years after the  
108 rule is repealed by a general law.

109  
110 BE IT FURTHER RESOLVED that the following statement be  
111 placed on the ballot if a court declares the preceding statement  
112 defective and the decision of the court is not reversed:

113 CONSTITUTIONAL AMENDMENT

114 ARTICLE V, SECTION 2

115 REDUCING THE LEGISLATIVE VOTE NECESSARY TO REPEAL A RULE OF  
116 COURT.—Proposing an amendment to the State Constitution to

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117 eliminate the requirement for an extraordinary vote of each  
118 house of the Legislature in order to repeal a rule of court by  
119 general law. The Supreme Court adopts rules governing practice  
120 and procedure in all state courts. Currently under the  
121 constitution, the Legislature can repeal a rule of court by  
122 passing a general bill, but the bill must pass by a vote of at  
123 least two-thirds of the membership of each of the Senate and the  
124 House of Representatives. The proposed constitutional amendment  
125 reduces the vote required to enact a general law repealing a  
126 rule of court to a three-fifths vote of each house of the  
127 Legislature. Currently, the constitution does not prohibit the  
128 Supreme Court from readopting a rule that is repealed by general  
129 law. The proposed amendment adds new language specifying that  
130 the Court may not readopt a rule within 3 years after the rule  
131 is repealed in this manner.