

CS/HJR 7111

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## House Joint Resolution

A joint resolution proposing amendments to Sections 2, 3, 4, 7, 11, 12, and 14 of Article V, Section 17 of Article III, and Sections 3 and 10 of Article IV, 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from the present Supreme Court; revising provisions relating to repeal of court rules; limiting re-adoption of a repealed court rule; providing for Senate confirmation of Supreme Court justices; expanding the jurisdiction of the Supreme Court; requiring the Judicial Qualifications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, Section 17 of Article III, and Sections 3 and 10 of Article IV, and the creation of Section 21 of 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 Rules of court may be repealed by general law that  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 in conformance with the  
 49 expressed legislative policy. If the readopted rule is again  
 50 repealed by general law, the rule shall not be readopted. The  
 51 legislature shall be the final authority to determine whether a  
 52 readopted rule is again repealed. The supreme court divisions  
 53 may meet jointly regarding rules or may assign categories of the  
 54 rules to the divisions.

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~~

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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. The office of chief justice of the supreme  
 63 court of Florida shall alternate between the chief justice of  
 64 the civil division and the chief justice of the criminal  
 65 division every four years.

66 (2) The chief justice of each division shall each be  
 67 chosen by the governor with the advice and consent of the senate  
 68 as provided in Section 11(d). The chief justice of a division  
 69 shall be responsible for the administrative supervision of the  
 70 division. The chief justice of each division shall have an  
 71 eight-year term of office, with the terms of the division chief  
 72 justices permanently set and staggered four years apart. A chief  
 73 justice of a division shall also be the chief justice of the  
 74 supreme court of Florida in the second half of his or her term.  
 75 After a justice's term as chief justice of a division is  
 76 concluded, the justice shall be a justice of the same division  
 77 and may be reappointed and reconfirmed as chief justice of the  
 78 division. A chief justice of a division is a justice of the  
 79 supreme court of Florida subject to a retention election every  
 80 six years pursuant to Section 10, and subject to the eligibility  
 81 requirements of Section 8, which eligibility shall be determined  
 82 by the retention term, not the term as a chief justice.

83 (3) If there is a vacancy in the position of chief justice  
 84 of a division, the justice who has served the most time with the

85 division shall be the acting chief justice until a new chief  
 86 justice of the division is appointed and confirmed for the  
 87 remainder of the term.

88 (c) A chief judge for each district court of appeal shall  
 89 be chosen by a majority of the judges thereof or, if there is no  
 90 majority, by the chief justice. The chief judge of a district  
 91 court shall be responsible for the administrative supervision of  
 92 the district court.

93 (d) A chief judge in each circuit shall be chosen from  
 94 among the circuit judges as provided by supreme court rule. The  
 95 chief judge of a circuit shall be responsible for the  
 96 administrative supervision of the circuit courts and county  
 97 courts in the ~~his~~ circuit.

98 SECTION 3. Supreme court; divisions.-

99 (a) ORGANIZATION.-The supreme court shall consist of ten  
 100 ~~seven~~ justices. Of the ten justices, five justices shall serve  
 101 in the civil division and five justices shall serve in the  
 102 criminal division. In each division ~~Of the seven justices,~~ each  
 103 appellate district shall have at least one justice ~~elected or~~  
 104 appointed from the district to the supreme court division who is  
 105 a resident of the district at the time of the original  
 106 appointment ~~or election~~. Four ~~Five~~ justices of a division shall  
 107 constitute a quorum for that division and the concurrence of  
 108 three ~~four~~ justices shall be necessary to a decision. When  
 109 vacancies or recusals for cause would prohibit the court from  
 110 convening because of the requirements of this subsection  
 111 ~~section~~, judges assigned to temporary duty may be substituted  
 112 for justices. The justices of both divisions, with seven

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113 justices constituting a quorum, shall jointly meet regarding  
 114 court rules, administrative supervision of the courts, and  
 115 disciplinary cases, but the justices shall not otherwise meet en  
 116 banc.

117 (b) JURISDICTION.—The appropriate division of the supreme  
 118 court:

119 (1) Shall hear appeals from ~~final judgments of trial~~  
 120 ~~courts imposing the death penalty and from~~ decisions of district  
 121 courts of appeal declaring invalid a state statute or a  
 122 provision of the state constitution.

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

129 (3) May review any decision of a district court of appeal  
 130 that expressly declares valid a state statute, or that expressly  
 131 construes a provision of the state or federal constitution, or  
 132 that expressly affects a class of constitutional or state  
 133 officers, or that ~~expressly and directly~~ conflicts with a  
 134 decision of another district court of appeal or of the supreme  
 135 court on the same question of law.

136 (4) May review any decision of a district court of appeal  
 137 that passes upon a question certified by it to be of great  
 138 public importance, ~~or~~ that is certified by it to be in direct  
 139 conflict with a decision of another district court of appeal, or

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140 that is found by that division of the supreme court to be of  
 141 great public importance.

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

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

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

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

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

161 (10) Shall, when requested by the attorney general  
 162 pursuant to the provisions of Section 10 of Article IV, render  
 163 an advisory opinion of the justices, addressing issues as  
 164 provided by general law.

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

168        (c) ASSIGNMENT OF CASES TO DIVISIONS.—Criminal cases shall  
 169 be assigned to the criminal division, and civil cases shall be  
 170 assigned to the civil division.

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

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

189        (3) The legislature may, by general law, further define  
 190 the types of cases that are to be referred to each division.

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

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195 ~~(c) CLERK AND MARSHAL. The supreme court shall appoint a~~  
 196 ~~clerk and a marshal who shall hold office during the pleasure of~~  
 197 ~~the court and perform such duties as the court directs. Their~~  
 198 ~~compensation shall be fixed by general law. The marshal shall~~  
 199 ~~have the power to execute the process of the court throughout~~  
 200 ~~the state, and in any county may deputize the sheriff or a~~  
 201 ~~deputy sheriff for such purpose.~~

202 SECTION 4. District courts of appeal.—

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

208 (b) JURISDICTION.—

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

216 (2) District courts of appeal shall have the power of  
 217 direct review of administrative action, as prescribed by general  
 218 law.

219 (3) A district court of appeal or any judge thereof may  
 220 issue writs of habeas corpus returnable before the court or any  
 221 judge thereof or before any circuit judge within the territorial  
 222 jurisdiction of the court. A district court of appeal may issue



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223 writs of mandamus, certiorari, prohibition, quo warranto, and  
 224 other writs necessary to the complete exercise of its  
 225 jurisdiction. To the extent necessary to dispose of all issues  
 226 in a cause properly before it, a district court of appeal may  
 227 exercise any of the appellate jurisdiction of the circuit  
 228 courts.

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

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

245 SECTION 11. Vacancies.—

246 (a) Whenever a vacancy occurs in a judicial office to  
 247 which election for retention applies, the governor shall fill  
 248 the vacancy by appointing for a term ending on the first Tuesday  
 249 after the first Monday in January of the year following the next  
 250 general election occurring at least one year after the date of

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251 | appointment, one of not fewer than three persons nor more than  
 252 | six persons nominated by the appropriate judicial nominating  
 253 | commission.

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

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

269 |       (d) Each appointment of a justice of the supreme court is  
 270 | subject to confirmation by the senate. The senate may sit for  
 271 | the purposes of confirmation regardless of whether the house of  
 272 | representatives is in session or not, or the senate may by its  
 273 | rules designate a committee of senators who shall vote on  
 274 | confirmations while the senate is not in session. If the senate  
 275 | fails to vote on the appointment of a justice within 90 days,  
 276 | the justice shall be deemed confirmed. If the senate votes to  
 277 | not confirm the appointment, the supreme court judicial  
 278 | nominating commission shall reconvene as though a new vacancy

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279 had occurred but may not renominate any person whose prior  
 280 appointment to fill the same vacancy was not confirmed by the  
 281 senate. The appointment of a justice is effective upon  
 282 confirmation by the senate. A justice in one division may apply  
 283 for a position in the other division but may not concurrently  
 284 serve on both.

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

298 SECTION 12. Discipline; removal and retirement.—

299 (a) JUDICIAL QUALIFICATIONS COMMISSION.—A judicial  
 300 qualifications commission is created.

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

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307 | to hold office, and to investigate and recommend the discipline  
 308 | of a justice or judge whose conduct, during term of office or  
 309 | otherwise ~~occurring on or after November 1, 1966 (without regard~~  
 310 | ~~to the effective date of this section)~~, warrants such  
 311 | discipline. For purposes of this section, discipline is defined  
 312 | as any or all of the following: reprimand, fine, suspension with  
 313 | or without pay, or lawyer discipline. The commission shall have  
 314 | jurisdiction over justices and judges regarding allegations that  
 315 | misconduct occurred before or during service as a justice or  
 316 | judge if a complaint is made no later than one year following  
 317 | service as a justice or judge. The commission shall have  
 318 | jurisdiction regarding allegations of incapacity during service  
 319 | as a justice or judge. The commission shall be composed of:

320 |       a. Two judges of district courts of appeal selected by the  
 321 | judges of those courts, two circuit judges selected by the  
 322 | judges of the circuit courts and two judges of county courts  
 323 | selected by the judges of those courts;

324 |       b. Four electors who reside in the state, who are members  
 325 | of the bar of Florida, and who shall be chosen by the governing  
 326 | body of the bar of Florida; and

327 |       c. Five electors who reside in the state, who have never  
 328 | held judicial office or been members of the bar of Florida, and  
 329 | who shall be appointed by the governor.

330 |       (2) The members of the judicial qualifications commission  
 331 | shall serve staggered terms, not to exceed six years, as  
 332 | prescribed by general law. No member of the commission except a  
 333 | judge shall be eligible for state judicial office while acting  
 334 | as a member of the commission and for a period of two years

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335 thereafter. No member of the commission shall hold office in a  
 336 political party or participate in any campaign for judicial  
 337 office or hold public office; provided that a judge may campaign  
 338 for judicial office and hold that office. The commission shall  
 339 elect one of its members as its chairperson.

340 (3) Members of the judicial qualifications commission not  
 341 subject to impeachment shall be subject to removal from the  
 342 commission pursuant to the provisions of Article IV, Section 7,  
 343 Florida Constitution.

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

361 (5) The commission shall have access to all information  
 362 from all executive, legislative and judicial agencies, including

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363 grand juries, subject to the rules of the commission. At any  
 364 time, on request of the speaker of the house of representatives  
 365 ~~or the governor~~, the commission shall make available to the  
 366 house of representatives all information in the possession of  
 367 the commission, which information shall remain confidential  
 368 during any investigation and until such information is used in  
 369 the pursuit for use in consideration of impeachment or  
 370 suspension, respectively.

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

386 (c) SUPREME COURT.—The supreme court shall receive  
 387 recommendations from the judicial qualifications commission's  
 388 hearing panel.

389 (1) The supreme court may accept, reject, or modify in  
 390 whole or in part the findings, conclusions, and recommendations

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

406 (2) The supreme court may award costs to the prevailing  
 407 party.

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

411 (e) PROCEEDINGS INVOLVING SUPREME COURT JUSTICE.—  
 412 Notwithstanding any of the foregoing provisions of this section,  
 413 if the person who is the subject of proceedings by the judicial  
 414 qualifications commission is a justice of the supreme court of  
 415 Florida all justices of such court automatically shall be  
 416 disqualified to sit as justices of such court with respect to  
 417 all proceedings therein concerning such person and the supreme  
 418 court for such purposes shall be composed of a panel consisting

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419 of the seven chief judges of the judicial circuits of the state  
 420 of Florida most senior in tenure of judicial office as circuit  
 421 judge. For purposes of determining seniority of such circuit  
 422 judges in the event there be judges of equal tenure in judicial  
 423 office as circuit judge the judge or judges from the lower  
 424 numbered circuit or circuits shall be deemed senior. In the  
 425 event any such chief circuit judge is under investigation by the  
 426 judicial qualifications commission or is otherwise disqualified  
 427 or unable to serve on the panel, the next most senior chief  
 428 circuit judge or judges shall serve in place of such  
 429 disqualified or disabled chief circuit judge.

430 (f) SCHEDULE TO SECTION 12.-

431 (1) Except to the extent inconsistent with the provisions  
 432 of this section, all provisions of law and rules of court in  
 433 force on the effective date of this article shall continue in  
 434 effect until superseded in the manner authorized by the  
 435 constitution.

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

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

441 b. The investigative panel shall be composed of:

- 442 1. Four judges,
- 443 2. Two members of the bar of Florida, and
- 444 3. Three non-lawyers.

445 c. The hearing panel shall be composed of:

- 446 1. Two judges,



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- 447           2. Two members of the bar of Florida, and
- 448           3. Two non-lawyers.
- 449           d. Membership on the panels may rotate in a manner
- 450 determined by the rules of the commission provided that no
- 451 member shall vote as a member of the investigative and hearing
- 452 panel on the same proceeding.
- 453           e. The commission shall hire separate staff for each
- 454 panel.
- 455           f. The members of the commission shall serve for staggered
- 456 terms of six years.
- 457           ~~g. The terms of office of the present members of the~~
- 458 ~~judicial qualifications commission shall expire upon the~~
- 459 ~~effective date of the amendments to this section approved by the~~
- 460 ~~legislature during the regular session of the legislature in~~
- 461 ~~1996 and new members shall be appointed to serve the following~~
- 462 ~~staggered terms:~~
- 463           ~~1. Group I. The terms of five members, composed of two~~
- 464 ~~electors as set forth in s. 12(a)(1)c. of Article V, one member~~
- 465 ~~of the bar of Florida as set forth in s. 12(a)(1)b. of Article~~
- 466 ~~V, one judge from the district courts of appeal and one circuit~~
- 467 ~~judge as set forth in s. 12(a)(1)a. of Article V, shall expire~~
- 468 ~~on December 31, 1998.~~
- 469           ~~2. Group II. The terms of five members, composed of one~~
- 470 ~~elector as set forth in s. 12(a)(1)c. of Article V, two members~~
- 471 ~~of the bar of Florida as set forth in s. 12(a)(1)b. of Article~~
- 472 ~~V, one circuit judge and one county judge as set forth in s.~~
- 473 ~~12(a)(1)a. of Article V shall expire on December 31, 2000.~~

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474 ~~3. Group III. The terms of five members, composed of two~~  
 475 ~~electors as set forth in s. 12(a)(1)c. of Article V, one member~~  
 476 ~~of the bar of Florida as set forth in s. 12(a)(1)b., one judge~~  
 477 ~~from the district courts of appeal and one county judge as set~~  
 478 ~~forth in s. 12(a)(1)a. of Article V, shall expire on December~~  
 479 ~~31, 2002.~~

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

482 h.i. Selection of members by district courts of appeal  
 483 judges, circuit judges, and county court judges, shall be by no  
 484 less than a majority of the members voting at the respective  
 485 courts' conferences. Selection of members by the board of  
 486 governors of the bar of Florida shall be by no less than a  
 487 majority of the board.

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

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

494 SECTION 14. Funding.—

495 (a) All justices and judges shall be compensated only by  
 496 state salaries fixed by general law. Funding for the state  
 497 courts system, state attorneys' offices, public defenders'  
 498 offices, and court-appointed counsel, except as otherwise  
 499 provided in subsection (c), shall be provided from state  
 500 revenues appropriated by general law.

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501 (b) All funding for the offices of the clerks of the  
 502 circuit and county courts performing court-related functions,  
 503 except as otherwise provided in this subsection and subsection  
 504 (c), shall be provided by adequate and appropriate filing fees  
 505 for judicial proceedings and service charges and costs for  
 506 performing court-related functions as required by general law.  
 507 Selected salaries, costs, and expenses of the state courts  
 508 system may be funded from appropriate filing fees for judicial  
 509 proceedings and service charges and costs for performing court-  
 510 related functions, as provided by general law. Where the  
 511 requirements of either the United States Constitution or the  
 512 Constitution of the State of Florida preclude the imposition of  
 513 filing fees for judicial proceedings and service charges and  
 514 costs for performing court-related functions sufficient to fund  
 515 the court-related functions of the offices of the clerks of the  
 516 circuit and county courts, the state shall provide, as  
 517 determined by the legislature, adequate and appropriate  
 518 supplemental funding from state revenues appropriated by general  
 519 law.

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

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529 facilities for the trial courts, public defenders' offices,  
 530 state attorneys' offices, and the offices of the clerks of the  
 531 circuit and county courts performing court-related functions.  
 532 Counties shall also pay reasonable and necessary salaries,  
 533 costs, and expenses of the state courts system to meet local  
 534 requirements as determined by general law.

535 (d) The judiciary shall have no power to fix  
 536 appropriations.

537 (e) The total appropriation of all fund sources to the  
 538 judicial branch shall equal no less than 2.25 percent of the  
 539 total general revenue funds appropriated in the general  
 540 appropriation bill referred to in Section 19(b) of Article III.  
 541 Any adjustments to the total appropriations of all fund sources  
 542 to the judicial branch made in any special appropriations act  
 543 shall equal no more than the percent of total general revenue  
 544 appropriations adjusted in such special appropriations act.

545 SECTION 21. Schedule to Article V amendment increasing the  
 546 membership of the supreme court and creating divisions thereof.-

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

551 (b) The effective date of the amendment creating two  
 552 divisions of the supreme court shall be upon passage by the  
 553 electorate.

554 (1) On the first day after the election approving the  
 555 amendment, the supreme court shall rank all of the justices then  
 556 in office by seniority in service on the supreme court. The

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

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

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585 would have the effect of removing the case from the inventory of  
 586 cases to be assigned.

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

590 (1) Newly appointed justices shall take office.

591 (2) The jurisdiction of the supreme court shall be divided  
 592 between the divisions, and all pending cases shall be assigned  
 593 to the appropriate division.

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

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

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

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



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640 supreme court, in which case the governor shall preside. The  
 641 senate shall determine the time for the trial of any impeachment  
 642 and may sit for the trial whether the house of representatives  
 643 is ~~be~~ in session or not. The time fixed for trial shall not be  
 644 more than six months after the impeachment. During an  
 645 impeachment trial senators shall be upon their oath or  
 646 affirmation. No officer shall be convicted without the  
 647 concurrence of two-thirds of the members of the senate present.  
 648 Judgment of conviction in cases of impeachment shall remove the  
 649 offender from office and, in the discretion of the senate, may  
 650 include disqualification to hold any office of honor, trust, or  
 651 profit. Conviction or acquittal shall not affect the civil or  
 652 criminal responsibility of the officer.

653 ARTICLE IV

654 EXECUTIVE

655 SECTION 3. Succession to office of governor; acting  
 656 governor.—

657 (a) Upon vacancy in the office of governor, the lieutenant  
 658 governor shall become governor. Further succession to the office  
 659 of governor shall be prescribed by law. A successor shall serve  
 660 for the remainder of the term.

661 (b) Upon impeachment of the governor and until completion  
 662 of trial thereof, or during the governor's physical or mental  
 663 incapacity, the lieutenant governor shall act as governor.  
 664 Further succession as acting governor shall be prescribed by  
 665 law. Incapacity to serve as governor may be determined by the  
 666 civil division of the supreme court upon due notice after  
 667 docketing of a written suggestion thereof by two ~~three~~ cabinet



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668 members, and in such case restoration of capacity shall be  
 669 similarly determined after docketing of written suggestion  
 670 thereof by the governor, the legislature or two ~~three~~ cabinet  
 671 members. Incapacity to serve as governor may also be established  
 672 by certificate filed with the custodian of state records by the  
 673 governor declaring incapacity for physical reasons to serve as  
 674 governor, and in such case restoration of capacity shall be  
 675 similarly established.

676 SECTION 10. Attorney General.—The attorney general shall,  
 677 as directed by general law, request the opinion of the justices  
 678 of the civil division of the supreme court as to the validity of  
 679 any initiative petition circulated pursuant to Section 3 of  
 680 Article XI. The justices shall, subject to their rules of  
 681 procedure, permit interested persons to be heard on the  
 682 questions presented and shall render their written opinion no  
 683 later than April 1 of the year in which the initiative is to be  
 684 submitted to the voters pursuant to Section 5 of Article XI.

685  
 686 BE IT FURTHER RESOLVED that the following statement be  
 687 placed on the ballot:

688  
 689 CONSTITUTIONAL AMENDMENT

690 ARTICLE III, SECTION 17

691 ARTICLE IV, SECTIONS 3 AND 10

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

693  
 694 STATE COURTS.—Proposing an amendment to the State  
 695 Constitution regarding the courts.

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696 Under current law, the Florida Supreme Court is the highest  
697 court in Florida and hears both civil and criminal cases. It has  
698 7 appointed justices. This amendment would divide the current  
699 Supreme Court into two divisions, one hearing civil cases and  
700 the other hearing criminal cases. Each division would have 5  
701 appointed justices who are permanently assigned. The 3 current  
702 justices who have the most service with the Florida Supreme  
703 Court would be assigned to the criminal division, the remaining  
704 4 current justices would be assigned to the civil division, and  
705 the Governor would appoint 3 new justices to fill the remaining  
706 openings in the two divisions. The existing jurisdiction of the  
707 Supreme Court would be expanded to allow discretionary review of  
708 certain lower court decisions. This amendment generally defines  
709 the civil law and criminal law jurisdiction of each division and  
710 allows the Legislature, by general law, to further define them.  
711 The jurisdiction of a division will be limited to the division's  
712 area, whether civil or criminal. The power of justices of the  
713 civil division to issue a writ of habeas corpus is limited by  
714 this amendment. This proposed amendment also creates a position  
715 of chief justice in each of the divisions with an 8-year term of  
716 office. The constitution currently provides that the Chief  
717 Justice of the Supreme Court is the administrative head of the  
718 state judicial system. This amendment provides that the position  
719 of Chief Justice of the Supreme Court will rotate every 4 years  
720 between the chief justice of the civil division and the chief  
721 justice of the criminal division. The constitution currently  
722 also provides that the chief justice is chosen by vote of the  
723 justices. This amendment provides that the initial new justices

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724 and the initial chief justice of each division will be selected  
725 by the Governor and future chief justices will be selected by  
726 the Governor subject to Senate confirmation. A chief justice is,  
727 like a regular justice under current law, subject to a retention  
728 election every 6 years and subject to a mandatory retirement  
729 requirement applicable to all Florida justices and judges.

730 Under current law, the Governor appoints a justice from a  
731 list of nominees provided by a judicial nominating commission,  
732 and appointments by the Governor are not subject to  
733 confirmation. Other than the initial 3 new appointees, this  
734 amendment requires Senate confirmation of a justice before the  
735 appointee can take office. If the Senate votes not to confirm  
736 the appointment, the judicial nominating commission must  
737 reconvene and may not renominate any person whose prior  
738 appointment to fill the same vacancy was not confirmed by the  
739 Senate. For the purpose of confirmation, the Senate may meet at  
740 any time or may appoint a committee to decide confirmations  
741 while the Senate is not in session. If the Senate does not vote  
742 against confirmation within 90 days, the justice will be deemed  
743 confirmed and will take office.

744 The State Constitution authorizes the Supreme Court to  
745 adopt rules for the practice and procedure in all courts. The  
746 constitution further provides that a rule of court may be  
747 repealed by a general law enacted by a two-thirds vote of the  
748 membership of each house of the Legislature. This proposed  
749 constitutional amendment eliminates the requirement that a  
750 general law repealing a court rule pass by a two-thirds vote of  
751 each house. The Legislature could repeal a rule of court by a

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752 | general law approved by a majority vote of each house of the  
 753 | Legislature that expresses the policy behind the repeal. The  
 754 | court could readopt the rule in conformance with the expressed  
 755 | policy, but if the Legislature repeals the readopted rule, this  
 756 | proposed amendment prohibits the court from readopting the  
 757 | repealed rule. The Legislature would decide if a rule has been  
 758 | repealed twice.

759 |         The Judicial Qualifications Commission is an independent  
 760 | commission created by the State Constitution to investigate and  
 761 | prosecute before the Florida Supreme Court alleged misconduct by  
 762 | a justice or judge. Currently under the constitution, commission  
 763 | proceedings are confidential until formal charges are filed by  
 764 | the investigative panel of the commission. Once formal charges  
 765 | are filed, the formal charges and all further proceedings of the  
 766 | commission are public. Currently, the constitution authorizes  
 767 | the House of Representatives to impeach a justice or judge.  
 768 | Further, the Speaker of the House of Representatives may  
 769 | request, and the Judicial Qualifications Commission must make  
 770 | available, all information in the commission's possession for  
 771 | use in deciding whether to impeach a justice or judge. This  
 772 | proposed amendment requires the commission to make all of its  
 773 | files available to the Speaker of the House of Representatives,  
 774 | rather than just the file of a justice or judge under  
 775 | investigation by the House of Representatives. Such files would  
 776 | maintain their confidentiality unless the House of  
 777 | Representatives initiates impeachment proceedings against a  
 778 | justice or judge, in which case the files related to that  
 779 | justice or judge may be open. The amendment deletes a

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780 requirement that a general law repealing a commission rule be  
 781 passed by a majority vote of the membership of each house of the  
 782 Legislature and revises the number of Supreme Court justices  
 783 needed to repeal such a rule.

784 State appropriations are made annually by general law.  
 785 Current law does not require any specific level of funding for  
 786 any agency or department. This amendment requires that the  
 787 courts be appropriated a minimum of 2.25 percent of general  
 788 revenue funding beginning with the 2013-2014 fiscal year.

789 This amendment will take effect upon its passage by the  
 790 electorate and provides a schedule for implementation of its  
 791 provisions. This amendment makes other conforming and  
 792 modernizing changes to the State Constitution regarding the  
 793 judicial system, including removing the positions of clerk and  
 794 marshal of the Supreme Court and the courts of appeal from the  
 795 constitution; lowering the number of Cabinet members required to  
 796 petition the Supreme Court regarding disability of the Governor,  
 797 to conform to a prior change in the size of the Cabinet;  
 798 removing provisions related to the Governor's power to seek  
 799 investigative files from the Judicial Qualifications Commission,  
 800 to conform to a prior change removing the Governor's power to  
 801 suspend a judge; providing for transition to the new divisions;  
 802 removing outdated schedules related to the Judicial  
 803 Qualifications Commission; and making conforming and technical  
 804 changes in the judicial articles of the constitution.

805

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

809  
 810 CONSTITUTIONAL AMENDMENT  
 811 ARTICLE III, SECTION 17  
 812 ARTICLE IV, SECTIONS 3 AND 10  
 813 ARTICLE V, SECTIONS 2, 3, 4, 7, 11, 12, 14, AND 21  
 814

815 JUDICIARY.—Proposing a revision of the Judiciary Article of  
 816 the Florida Constitution; reorganizing the Florida Supreme Court  
 817 into divisions; requiring Senate confirmation for appointment of  
 818 a Supreme Court justice; providing standards and procedures for  
 819 legislative repeal of a court rule; providing a minimum level of  
 820 court funding; allowing legislative review of confidential files  
 821 of the Judicial Qualifications Commission; and providing for  
 822 transition.

823  
 824 BE IT FURTHER RESOLVED that the following statement be  
 825 placed on the ballot if a court declares the preceding  
 826 statements defective and the decision of the court is not  
 827 reversed:

828  
 829 CONSTITUTIONAL AMENDMENT  
 830 ARTICLE III, SECTION 17  
 831 ARTICLE IV, SECTIONS 3 AND 10  
 832 ARTICLE V, SECTIONS 2, 3, 4, 7, 11, 12, 14, AND 21  
 833

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834 STATE COURTS.—Proposing an amendment to the State  
 835 Constitution regarding the courts; changing the authority of the  
 836 Legislature to repeal a court rule by 2/3 vote of the membership  
 837 of each house to a simple majority of each house; limiting the  
 838 Supreme Court's ability to readopt a rule repealed by the  
 839 Legislature; replacing the current seven-member Supreme Court  
 840 with two five-member divisions of the Supreme Court, one with  
 841 civil jurisdiction and one with criminal jurisdiction;  
 842 establishing a Chief Justice of the Supreme Court who shall  
 843 serve as the chief administrative officer for the courts;  
 844 establishing a chief justice for the civil division of the  
 845 Supreme Court; establishing a chief justice for the criminal  
 846 division of the Supreme Court; providing for the manner of  
 847 selection and term for the chief justice of each division of the  
 848 Supreme Court; changing the manner of designation and term of  
 849 office of the Chief Justice of the Supreme Court; providing that  
 850 a chief justice of a division of the Supreme Court is subject to  
 851 a retention vote every 6 years based on the term for retention  
 852 and subject to the eligibility as currently established in the  
 853 State Constitution; providing for manner of replacement of a  
 854 chief justice of a division; providing for apportionment of  
 855 current justices among the civil and criminal divisions of the  
 856 Supreme Court; changing the requirements for a quorum from four  
 857 to three as being necessary for a decision; providing authority  
 858 and circumstances where the divisions of the Supreme Court may  
 859 meet en banc; providing jurisdiction for each division of the  
 860 Supreme Court, including matters which will be exclusive to each  
 861 division; expanding the jurisdiction of the Supreme Court to

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862 include appeals from decisions of any district court of appeal  
 863 that a division deems to be of great public importance;  
 864 providing that the Legislature may further define the split of  
 865 jurisdiction between civil and criminal matters; providing that  
 866 the Chief Justice of the Supreme Court decides jurisdiction  
 867 should both divisions claim jurisdiction over the same case;  
 868 removing references to clerks and marshals; requiring Senate  
 869 confirmation before a justice may take office; providing that if  
 870 the Senate does not act within 90 days the nominee is deemed  
 871 confirmed as a justice; allowing the Senate to meet outside of  
 872 regular session without having the House of Representatives  
 873 convene at the same time; allowing Senate Rule to designate a  
 874 committee that may confirm a nominee; deleting outdated  
 875 references; requiring the Judicial Qualifications Commission to  
 876 provide the House of Representatives access to records;  
 877 providing for confidentiality of records; requiring a minimum  
 878 level of funding for the judicial system; providing for  
 879 transition; requiring the current Supreme Court to list its  
 880 members by seniority in office; providing that the three most  
 881 senior justices be assigned to the criminal division and the  
 882 remaining justices assigned to the criminal division; providing  
 883 time limits for appointments by the Governor for the remaining  
 884 seats; providing an exception to Senate confirmation for initial  
 885 appointments; requiring the Governor to name the initial chief  
 886 justice of each division; providing that the initial chief  
 887 justice of the civil division be named the Chief Justice of the  
 888 Supreme Court; requiring that existing cases be split between  
 889 the divisions; providing that cases decided before the split



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890 into divisions are final and not subject to rehearing or recall  
891 of the mandate; providing for the terms of the initial chief  
892 justices of the divisions; providing for adoption of court  
893 rules; allowing the Legislature by general law to further  
894 provide for transition; providing that the transition schedules  
895 may be deleted by general law when they have become outdated;  
896 amending provision on impeachment to conform; and providing that  
897 the civil division determines incapacity of the Governor upon  
898 petition of two Cabinet members.