

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from the present Supreme Court; revising provisions relating to repeal of court rules; limiting readoption of a repealed court rule; providing for Senate confirmation of Supreme Court justices; expanding the jurisdiction of the Supreme Court; requiring the Judicial Qualifications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 Rules of court may be repealed by general law that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 purposes of confirmation regardless of whether the house of
 269 representatives is in session or not, or the senate may by its
 270 rules designate a committee of senators who shall vote on
 271 confirmations while the senate is not in session. If the senate
 272 fails to vote on the appointment of a justice within 90 days,
 273 the justice shall be deemed confirmed. If the senate votes to
 274 not confirm the appointment, the supreme court judicial
 275 nominating commission shall reconvene as though a new vacancy
 276 had occurred but may not renominate any person whose prior

277 appointment to fill the same vacancy was not confirmed by the
 278 senate. The appointment of a justice is effective upon
 279 confirmation by the senate. A justice in one division may apply
 280 for a position in the other division but may not concurrently
 281 serve on both.

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 288 any part thereof, may be repealed by general law enacted by a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

295 SECTION 12. Discipline; removal and retirement.—

296 (a) JUDICIAL QUALIFICATIONS COMMISSION.—A judicial
 297 qualifications commission is created.

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

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

317 a. Two judges of district courts of appeal selected by the
 318 judges of those courts, two circuit judges selected by the
 319 judges of the circuit courts and two judges of county courts
 320 selected by the judges of those courts;

321 b. Four electors who reside in the state, who are members
 322 of the bar of Florida, and who shall be chosen by the governing
 323 body of the bar of Florida; and

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

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

333 political party or participate in any campaign for judicial
 334 office or hold public office; provided that a judge may campaign
 335 for judicial office and hold that office. The commission shall
 336 elect one of its members as its chairperson.

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

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

358 (5) The commission shall have access to all information
 359 from all executive, legislative and judicial agencies, including
 360 grand juries, subject to the rules of the commission. At any

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

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

383 (c) SUPREME COURT.—The supreme court shall receive
 384 recommendations from the judicial qualifications commission's
 385 hearing panel.

386 (1) The supreme court may accept, reject, or modify in
 387 whole or in part the findings, conclusions, and recommendations
 388 of the commission and it may order that the justice or judge be

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

403 (2) The supreme court may award costs to the prevailing
 404 party.

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

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

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

427 (f) SCHEDULE TO SECTION 12.—

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

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

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

438 b. The investigative panel shall be composed of:

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

442 c. The hearing panel shall be composed of:

- 443 1. Two judges,
- 444 2. Two members of the bar of Florida, and

445 3. Two non-lawyers.

446 d. Membership on the panels may rotate in a manner

447 determined by the rules of the commission provided that no

448 member shall vote as a member of the investigative and hearing

449 panel on the same proceeding.

450 e. The commission shall hire separate staff for each

451 panel.

452 f. The members of the commission shall serve for staggered

453 terms of six years.

454 ~~g. The terms of office of the present members of the~~

455 ~~judicial qualifications commission shall expire upon the~~

456 ~~effective date of the amendments to this section approved by the~~

457 ~~legislature during the regular session of the legislature in~~

458 ~~1996 and new members shall be appointed to serve the following~~

459 ~~staggered terms:~~

460 ~~1. Group I. The terms of five members, composed of two~~

461 ~~electors as set forth in s. 12(a)(1)c. of Article V, one member~~

462 ~~of the bar of Florida as set forth in s. 12(a)(1)b. of Article~~

463 ~~V, one judge from the district courts of appeal and one circuit~~

464 ~~judge as set forth in s. 12(a)(1)a. of Article V, shall expire~~

465 ~~on December 31, 1998.~~

466 ~~2. Group II. The terms of five members, composed of one~~

467 ~~elector as set forth in s. 12(a)(1)c. of Article V, two members~~

468 ~~of the bar of Florida as set forth in s. 12(a)(1)b. of Article~~

469 ~~V, one circuit judge and one county judge as set forth in s.~~

470 ~~12(a)(1)a. of Article V shall expire on December 31, 2000.~~

471 ~~3. Group III. The terms of five members, composed of two~~

472 ~~electors as set forth in s. 12(a)(1)c. of Article V, one member~~

473 ~~of the bar of Florida as set forth in s. 12(a)(1)b., one judge~~
 474 ~~from the district courts of appeal and one county judge as set~~
 475 ~~forth in s. 12(a)(1)a. of Article V, shall expire on December~~
 476 ~~31, 2002.~~

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

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

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

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

491 SECTION 14. Funding.—

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

498 (b) All funding for the offices of the clerks of the
 499 circuit and county courts performing court-related functions,
 500 except as otherwise provided in this subsection and subsection

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

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

529 Counties shall also pay reasonable and necessary salaries,
 530 costs, and expenses of the state courts system to meet local
 531 requirements as determined by general law.

532 (d) The judiciary shall have no power to fix
 533 appropriations.

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

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

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

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

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

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

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

585 to a division, including the power to issue final process that
 586 would have the effect of removing the case from the inventory of
 587 cases to be assigned.

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

591 (1) Newly appointed justices shall take office.

592 (2) The jurisdiction of the supreme court shall be divided
 593 between the divisions, the jurisdictional changes in Sections
 594 3(b)(3) and 3(b)(4) shall take effect, and all pending cases
 595 shall be assigned to the appropriate division.

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

600 (d) The initial chief justice of the civil division shall
 601 also be the chief justice of the supreme court of Florida and
 602 shall serve in that position from the 120th day after the
 603 election through June 30, 2016. The initial chief justice of the
 604 criminal division shall be the chief justice of the criminal
 605 division from the 120th day after the election through June 30,
 606 2020. Thereafter, the offices of the chief justices of the
 607 divisions shall alternate as provided in Section 2.

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

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

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

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

621
 622 BE IT FURTHER RESOLVED that the following statement be
 623 placed on the ballot:

624
 625 CONSTITUTIONAL AMENDMENT

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

627
 628 STATE COURTS.—Proposing a revision of Article V of the
 629 State Constitution relating to the judiciary.

630 Under current law, the Florida Supreme Court is the highest
 631 court in Florida and hears both civil and criminal cases. It has
 632 7 appointed justices. This revision would divide the current
 633 Supreme Court into two divisions, one hearing civil cases and
 634 the other hearing criminal cases. Each division would have 5
 635 appointed justices who are permanently assigned. The 3 current
 636 justices who have the most service with the Florida Supreme
 637 Court would be assigned to the criminal division, the remaining
 638 4 current justices would be assigned to the civil division, and

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

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

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

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

692 The State Constitution authorizes the Supreme Court to
693 adopt rules for the practice and procedure in all courts. The
694 constitution further provides that a rule of court may be

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

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

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

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

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

749
750 BE IT FURTHER RESOLVED that the following statement be

751 placed on the ballot if a court declares the preceding statement
 752 defective and the decision of the court is not reversed:

753

754 CONSTITUTIONAL AMENDMENT

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

756

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

766

767 BE IT FURTHER RESOLVED that the following statement be
 768 placed on the ballot if a court declares the preceding
 769 statements defective and the decision of the court is not
 770 reversed:

771

772 CONSTITUTIONAL AMENDMENT

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

774

775 STATE COURTS.—Proposing a revision to Article V of the
 776 State Constitution relating to the judiciary; changing the
 777 authority of the Legislature to repeal a court rule by 2/3 vote
 778 of the membership of each house to a simple majority of each

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

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