

By the Committee on Judiciary; and Senator Ring

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Senate Joint Resolution

A joint resolution proposing amendments to Sections 8 and 20 of Article V of the State Constitution to increase the age after which a justice or judge may no longer serve in a judicial office and to increase the period of time that a person must be a member of The Florida Bar before becoming eligible for the office of circuit court or county court judge.

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

That the following amendments to Sections 8 and 20 of Article V of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE V

JUDICIARY

SECTION 8. Eligibility.—No person shall be eligible for office of justice or judge of any court unless the person is an elector of the state and resides in the territorial jurisdiction of the court. No justice or judge shall serve after attaining the age of seventy-five ~~seventy~~ years except upon temporary assignment or to complete a term, one-half of which has been served. No person is eligible for the office of justice of the supreme court, ~~or~~ judge of a district court of appeal, circuit court judge, or county court judge unless the person is, and has been for the preceding ten years, a member of the bar of Florida. ~~No person is eligible for the office of circuit judge~~

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30 ~~unless the person is, and has been for the preceding five years,~~
31 ~~a member of the bar of Florida. Unless otherwise provided by~~
32 ~~general law, no person is eligible for the office of county~~
33 ~~court judge unless the person is, and has been for the preceding~~
34 ~~five years, a member of the bar of Florida. Unless otherwise~~
35 provided by general law, a person shall be eligible for election
36 or appointment to the office of county court judge in a county
37 having a population of 40,000 or less if the person is a member
38 in good standing of the bar of Florida.

39 Section 20. Schedule to Article V.—

40 (a) This article shall replace all of Article V of the
41 Constitution of 1885, as amended, which shall then stand
42 repealed.

43 (b) Except to the extent inconsistent with the provisions
44 of this article, all provisions of law and rules of court in
45 force on the effective date of this article shall continue in
46 effect until superseded in the manner authorized by the
47 constitution.

48 (c) After this article becomes effective, and until changed
49 by general law consistent with sections 1 through 19 of this
50 article:

51 (1) The supreme court shall have the jurisdiction
52 immediately theretofore exercised by it, and it shall determine
53 all proceedings pending before it on the effective date of this
54 article.

55 (2) The appellate districts shall be those in existence on
56 the date of adoption of this article. There shall be a district
57 court of appeal in each district. The district courts of appeal
58 shall have the jurisdiction immediately theretofore exercised by

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59 the district courts of appeal and shall determine all
60 proceedings pending before them on the effective date of this
61 article.

62 (3) Circuit courts shall have jurisdiction of appeals from
63 county courts and municipal courts, except those appeals which
64 may be taken directly to the supreme court; and they shall have
65 exclusive original jurisdiction in all actions at law not
66 cognizable by the county courts; of proceedings relating to the
67 settlement of the estate of decedents and minors, the granting
68 of letters testamentary, guardianship, involuntary
69 hospitalization, the determination of incompetency, and other
70 jurisdiction usually pertaining to courts of probate; in all
71 cases in equity including all cases relating to juveniles; of
72 all felonies and of all misdemeanors arising out of the same
73 circumstances as a felony which is also charged; in all cases
74 involving legality of any tax assessment or toll; in the action
75 of ejectment; and in all actions involving the titles or
76 boundaries or right of possession of real property. The circuit
77 court may issue injunctions. There shall be judicial circuits
78 which shall be the judicial circuits in existence on the date of
79 adoption of this article. The chief judge of a circuit may
80 authorize a county court judge to order emergency
81 hospitalizations pursuant to Chapter 71-131, Laws of Florida, in
82 the absence from the county of the circuit judge and the county
83 court judge shall have the power to issue all temporary orders
84 and temporary injunctions necessary or proper to the complete
85 exercise of such jurisdiction.

86 (4) County courts shall have original jurisdiction in all
87 criminal misdemeanor cases not cognizable by the circuit courts,

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88 of all violations of municipal and county ordinances, and of all
89 actions at law in which the matter in controversy does not
90 exceed the sum of two thousand five hundred dollars (\$2,500.00)
91 exclusive of interest and costs, except those within the
92 exclusive jurisdiction of the circuit courts. Judges of county
93 courts shall be committing magistrates. The county courts shall
94 have jurisdiction now exercised by the county judge's courts
95 other than that vested in the circuit court by subsection (c) (3)
96 hereof, the jurisdiction now exercised by the county courts, the
97 claims court, the small claims courts, the small claims
98 magistrates courts, magistrates courts, justice of the peace
99 courts, municipal courts and courts of chartered counties,
100 including but not limited to the counties referred to in Article
101 VIII, sections 9, 10, 11 and 24 of the Constitution of 1885.

102 (5) Each judicial nominating commission shall be composed
103 of the following:

104 a. Three members appointed by the Board of Governors of The
105 Florida Bar from among The Florida Bar members who are actively
106 engaged in the practice of law with offices within the
107 territorial jurisdiction of the affected court, district or
108 circuit;

109 b. Three electors who reside in the territorial
110 jurisdiction of the court or circuit appointed by the governor;
111 and

112 c. Three electors who reside in the territorial
113 jurisdiction of the court or circuit and who are not members of
114 the bar of Florida, selected and appointed by a majority vote of
115 the other six members of the commission.

116 (6) No justice or judge shall be a member of a judicial

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117 nominating commission. A member of a judicial nominating
118 commission may hold public office other than judicial office. No
119 member shall be eligible for appointment to state judicial
120 office so long as that person is a member of a judicial
121 nominating commission and for a period of two years thereafter.
122 All acts of a judicial nominating commission shall be made with
123 a concurrence of a majority of its members.

124 (7) The members of a judicial nominating commission shall
125 serve for a term of four years except the terms of the initial
126 members of the judicial nominating commissions shall expire as
127 follows:

128 a. The terms of one member of category a. b. and c. in
129 subsection (c) (5) hereof shall expire on July 1, 1974;

130 b. The terms of one member of category a. b. and c. in
131 subsection (c) (5) hereof shall expire on July 1, 1975;

132 c. The terms of one member of category a. b. and c. in
133 subsection (c) (5) hereof shall expire on July 1, 1976;

134 (8) All fines and forfeitures arising from offenses tried
135 in the county court shall be collected, and accounted for by
136 clerk of the court, and deposited in a special trust account.
137 All fines and forfeitures received from violations of ordinances
138 or misdemeanors committed within a county or municipal
139 ordinances committed within a municipality within the
140 territorial jurisdiction of the county court shall be paid
141 monthly to the county or municipality respectively. If any costs
142 are assessed and collected in connection with offenses tried in
143 county court, all court costs shall be paid into the general
144 revenue fund of the state of Florida and such other funds as
145 prescribed by general law.

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146 (9) Any municipality or county may apply to the chief judge
147 of the circuit in which that municipality or county is situated
148 for the county court to sit in a location suitable to the
149 municipality or county and convenient in time and place to its
150 citizens and police officers and upon such application said
151 chief judge shall direct the court to sit in the location unless
152 the chief judge shall determine the request is not justified. If
153 the chief judge does not authorize the county court to sit in
154 the location requested, the county or municipality may apply to
155 the supreme court for an order directing the county court to sit
156 in the location. Any municipality or county which so applies
157 shall be required to provide the appropriate physical facilities
158 in which the county court may hold court.

159 (10) All courts except the supreme court may sit in
160 divisions as may be established by local rule approved by the
161 supreme court.

162 (11) A county court judge in any county having a population
163 of 40,000 or less according to the last decennial census, shall
164 not be required to be a member of the bar of Florida.

165 (12) Municipal prosecutors may prosecute violations of
166 municipal ordinances.

167 (13) Justice shall mean a justice elected or appointed to
168 the supreme court and shall not include any judge assigned from
169 any court.

170 (d) When this article becomes effective:

171 (1) All courts not herein authorized, except as provided by
172 subsection (d)(4) of this section shall cease to exist and
173 jurisdiction to conclude all pending cases and enforce all prior
174 orders and judgments shall vest in the court that would have

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175 jurisdiction of the cause if thereafter instituted. All records
176 of and property held by courts abolished hereby shall be
177 transferred to the proper office of the appropriate court under
178 this article.

179 (2) Judges of the following courts, if their terms do not
180 expire in 1973 and if they are eligible under subsection (d) (8)
181 hereof, shall become additional judges of the circuit court for
182 each of the counties of their respective circuits, and shall
183 serve as such circuit judges for the remainder of the terms to
184 which they were elected and shall be eligible for election as
185 circuit judges thereafter. These courts are: civil court of
186 record of Dade county, all criminal courts of record, the felony
187 courts of record of Alachua, Leon and Volusia Counties, the
188 courts of record of Broward, Brevard, Escambia, Hillsborough,
189 Lee, Manatee and Sarasota Counties, the civil and criminal court
190 of record of Pinellas County, and county judge's courts and
191 separate juvenile courts in counties having a population in
192 excess of 100,000 according to the 1970 federal census. On the
193 effective date of this article, there shall be an additional
194 number of positions of circuit judges equal to the number of
195 existing circuit judges and the number of judges of the above
196 named courts whose term expires in 1973. Elections to such
197 offices shall take place at the same time and manner as
198 elections to other state judicial offices in 1972 and the terms
199 of such offices shall be for a term of six years. Unless changed
200 pursuant to section nine of this article, the number of circuit
201 judges presently existing and created by this subsection shall
202 not be changed.

203 (3) In all counties having a population of less than

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204 100,000 according to the 1970 federal census and having more
205 than one county judge on the date of the adoption of this
206 article, there shall be the same number of judges of the county
207 court as there are county judges existing on that date unless
208 changed pursuant to section 9 of this article.

209 (4) Municipal courts shall continue with their same
210 jurisdiction until amended or terminated in a manner prescribed
211 by special or general law or ordinances, or until January 3,
212 1977, whichever occurs first. On that date all municipal courts
213 not previously abolished shall cease to exist. Judges of
214 municipal courts shall remain in office and be subject to
215 reappointment or reelection in the manner prescribed by law
216 until said courts are terminated pursuant to the provisions of
217 this subsection. Upon municipal courts being terminated or
218 abolished in accordance with the provisions of this subsection,
219 the judges thereof who are not members of the bar of Florida,
220 shall be eligible to seek election as judges of county courts of
221 their respective counties.

222 (5) Judges, holding elective office in all other courts
223 abolished by this article, whose terms do not expire in 1973
224 including judges established pursuant to Article VIII, sections
225 9 and 11 of the Constitution of 1885 shall serve as judges of
226 the county court for the remainder of the term to which they
227 were elected. Unless created pursuant to section 9, of this
228 Article V such judicial office shall not continue to exist
229 thereafter.

230 (6) By March 21, 1972, the supreme court shall certify the
231 need for additional circuit and county judges. The legislature
232 in the 1972 regular session may by general law create additional

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233 offices of judge, the terms of which shall begin on the
234 effective date of this article. Elections to such offices shall
235 take place at the same time and manner as election to other
236 state judicial offices in 1972.

237 (7) County judges of existing county judge's courts and
238 justices of the peace and magistrates' court who are not members
239 of bar of Florida shall be eligible to seek election as county
240 court judges of their respective counties.

241 (8) No judge of a court abolished by this article shall
242 become or be eligible to become a judge of the circuit court
243 unless the judge has been a member of bar of Florida for the
244 preceding five years.

245 (9) The office of judges of all other courts abolished by
246 this article shall be abolished as of the effective date of this
247 article.

248 (10) The offices of county solicitor and prosecuting
249 attorney shall stand abolished, and all county solicitors and
250 prosecuting attorneys holding such offices upon the effective
251 date of this article shall become and serve as assistant state
252 attorneys for the circuits in which their counties are situate
253 for the remainder of their terms, with compensation not less
254 than that received immediately before the effective date of this
255 article.

256 (e) LIMITED OPERATION OF SOME PROVISIONS.—

257 (1) All justices of the supreme court, judges of the
258 district courts of appeal and circuit judges in office upon the
259 effective date of this article shall retain their offices for
260 the remainder of their respective terms. All members of the
261 judicial qualifications commission in office upon the effective

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262 date of this article shall retain their offices for the
263 remainder of their respective terms. Each state attorney in
264 office on the effective date of this article shall retain the
265 office for the remainder of the term.

266 (2) No justice or judge holding office immediately after
267 this article becomes effective who held judicial office on July
268 1, 1957, shall be subject to retirement from judicial office
269 because of age pursuant to section 8 of this article.

270 (f) Until otherwise provided by law, the nonjudicial duties
271 required of county judges shall be performed by the judges of
272 the county court.

273 (g) All provisions of Article V of the Constitution of
274 1885, as amended, not embraced herein which are not inconsistent
275 with this revision shall become statutes subject to modification
276 or repeal as are other statutes.

277 (h) The requirements of section 14 relative to all county
278 court judges or any judge of a municipal court who continues to
279 hold office pursuant to subsection (d)(4) hereof being
280 compensated by state salaries shall not apply prior to January
281 3, 1977, unless otherwise provided by general law.

282 (i) DELETION OF OBSOLETE SCHEDULE ITEMS.—The legislature
283 shall have power, by concurrent resolution, to delete from this
284 article any subsection of this section 20 including this
285 subsection, when all events to which the subsection to be
286 deleted is or could become applicable have occurred. A
287 legislative determination of fact made as a basis for
288 application of this subsection shall be subject to judicial
289 review.

290 (j) EFFECTIVE DATE.—Unless otherwise provided herein, this

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291 article shall become effective at 11:59 o'clock P.M., Eastern
292 Standard Time, January 1, 1973.

293 (k) QUALIFICATIONS OF CIRCUIT AND COUNTY COURT JUDGES.—The
294 amendment to Section 8 changing the qualifications of circuit
295 judges and county court judges shall take effect January 9,
296 2013. The amendment does not affect any judge in office on the
297 effective date of the amendment. Any judge qualified to hold
298 office and in office on January 8, 2013, shall remain in office
299 and shall be eligible to seek reelection to such judicial office
300 in the future regardless of whether such judge has been a member
301 of The Florida Bar for the previous ten years.

302 CONSTITUTIONAL AMENDMENT

303 ARTICLE V, SECTIONS 8 AND 20

304 REVISING CERTAIN QUALIFICATIONS FOR JUSTICES AND JUDGES.—
305 The State Constitution currently prohibits a justice or judge
306 from serving in a judicial office after attaining the age of
307 seventy years except upon temporary assignment or to complete a
308 judicial term, if one-half of the term has been served. This
309 proposed amendment increases the age after which a justice or
310 judge may no longer serve to seventy-five years of age. However,
311 a justice or judge who has attained the age of seventy-five
312 years may continue to serve upon temporary assignment or to
313 complete a judicial term. In addition, the State Constitution
314 currently prohibits a person from serving as a circuit court
315 judge unless the person is, and has been for the preceding 5
316 years, a member of The Florida Bar. This same prohibition
317 applies to county court judges, except in counties having a
318 population of 40,000 or fewer, where a person need only be a
319 member in good standing of The Florida Bar. This proposed

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320 amendment increases to 10 years the period of time that a person
321 must be a member of The Florida Bar before serving as a circuit
322 court judge or a county court judge. However, in counties having
323 a population of 40,000 or fewer, a person continues to be
324 eligible to serve as a county court judge if he or she is a
325 member in good standing of The Florida Bar. The increased
326 qualifications do not apply to county court or circuit court
327 judges in office on January 8, 2013, or to persons seeking to be
328 elected to the office of county court or circuit court judge
329 during this election.