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House Joint Resolution

A joint resolution proposing an amendment to Section 4 of Article V of the State Constitution to require judges of the District Courts of Appeal to perform annual service in a circuit court or county court, to provide penalties for judges who do not perform such service, and to authorize the Legislature to provide additional penalties by general law.

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

That the amendment to Section 4 of Article V of the State Constitution set forth below is agreed to and shall be submitted to the electors of Florida for approval or rejection at the general election to be held in November 2004:

ARTICLE V
JUDICIARY

SECTION 4. District courts of appeal.--

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

(b) JURISDICTION.--

(1) District courts of appeal shall have jurisdiction to hear appeals, that may be taken as a matter of right, from final judgments or orders of trial courts, including those entered on review of administrative action, not directly appealable to the supreme court or a circuit court. They may review interlocutory



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30 orders in such cases to the extent provided by rules adopted by
 31 the supreme court.

32 (2) District courts of appeal shall have the power of
 33 direct review of administrative action, as prescribed by general
 34 law.

35 (3) A district court of appeal or any judge thereof may
 36 issue writs of habeas corpus returnable before the court or any
 37 judge thereof or before any circuit judge within the territorial
 38 jurisdiction of the court. A district court of appeal may issue
 39 writs of mandamus, certiorari, prohibition, quo warranto, and
 40 other writs necessary to the complete exercise of its
 41 jurisdiction. To the extent necessary to dispose of all issues
 42 in a cause properly before it, a district court of appeal may
 43 exercise any of the appellate jurisdiction of the circuit
 44 courts.

45 (c) CLERKS AND MARSHALS.--Each district court of appeal
 46 shall appoint a clerk and a marshal who shall hold office during
 47 the pleasure of the court and perform such duties as the court
 48 directs. Their compensation shall be fixed by general law. The
 49 marshal shall have the power to execute the process of the court
 50 throughout the territorial jurisdiction of the court, and in any
 51 county may deputize the sheriff or a deputy sheriff for such
 52 purpose.

53 (d) ANNUAL TRIAL COURT DUTIES OF JUDGES.--

54 (1) Every judge of a district court of appeal shall
 55 annually be required to serve on the trial courts. This
 56 requirement shall be met by performing the duties of a circuit
 57 or county court judge for five consecutive business days.

58 (2) The chief judge of each district court of appeal shall
 59 determine in which circuit within the district a judge of that



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60 district court of appeal shall serve to meet this requirement;
 61 provided, however, a judge must have served in each circuit
 62 within the district the same number of times prior to serving in
 63 the same circuit again.

64 (3) The chief judge of a circuit to which a judge of a
 65 district court of appeal has been assigned pursuant to this
 66 subsection shall determine what circuit or county court duties
 67 the judge of the district court of appeal shall perform.

68 (4) Failure of a judge of a district court of appeal to
 69 perform the annual trial court duties required by this
 70 subsection shall be reported to the judicial qualifications
 71 commission and shall create a rebuttable presumption of conduct
 72 warranting discipline. Nothing herein shall be interpreted as a
 73 limitation of the power of the legislature under Section 17 of
 74 Article III.

75 (5) The legislature may, by general law, provide
 76 additional penalties for failure of a judge of a district court
 77 of appeal to perform the annual trial court duties required by
 78 this subsection.

79 BE IT FURTHER RESOLVED that the title and substance of the
 80 amendment proposed herein shall appear on the ballot as follows:

81 MANDATORY SERVICE ON TRIAL COURTS FOR
 82 JUDGES OF THE DISTRICT COURTS OF APPEAL

83 Proposes an amendment to Section 4 of Article V of the
 84 State Constitution to require judges of the District Courts of
 85 Appeal to perform annual service in a circuit court or county
 86 court, to provide penalties for judges who do not perform such
 87 service, and to authorize the Legislature to provide additional
 88 penalties by general law.