

HJR 1741

2004

House Joint Resolution

A joint resolution proposing an amendment to Section 2 of Article V of the State Constitution to remove authority of the Supreme Court to adopt rules of practice and procedure in all courts; to create the judicial conference; to empower the judicial conference to propose rules of practice and procedure in all courts; to empower the Legislature to adopt, amend, or reject rules proposed by the judicial conference by general law; and to empower the Legislature to amend or repeal rules of practice and procedure in all courts by general law.

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

That the amendment to Section 2 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 2. Administration of courts; judicial conference; rules of practice and procedure.--

(a) A judicial conference is created. The duty of the judicial conference is to propose rules of practice and procedure in all courts.

(1) The judicial conference shall be composed of members in the manner as provided by general law.

(2) The members of the judicial conference shall, by majority vote, choose their chair and adopt rules to govern their proceedings.

HJR 1741

2004

31 (3) The clerk of the supreme court shall serve as clerk of
32 the judicial conference.

33 (4) Rules of practice and procedure proposed by the
34 judicial conference shall be submitted to the legislature for
35 consideration. The legislature may adopt, amend, or reject such
36 rules by general law. Unless and until adopted by general law,
37 rules proposed by the judicial conference shall be of no force
38 or effect. If the legislature takes no action upon a proposed
39 rule before the next general election, the proposed rule shall
40 be deemed rejected.

41 (5) Rules proposed by the judicial conference shall not be
42 inconsistent with general law and shall not abridge, enlarge, or
43 modify any substantive right.

44 (6) Rules of practice and procedure may be repealed or
45 amended by general law. ~~The supreme court shall adopt rules for~~
46 ~~the practice and procedure in all courts including the time for~~
47 ~~seeking appellate review, the administrative supervision of all~~
48 ~~courts, the transfer to the court having jurisdiction of any~~
49 ~~proceeding when the jurisdiction of another court has been~~
50 ~~improvidently invoked, and a requirement that no cause shall be~~
51 ~~dismissed because an improper remedy has been sought. The~~
52 ~~supreme court shall adopt rules to allow the court and the~~
53 ~~district courts of appeal to submit questions relating to~~
54 ~~military law to the federal Court of Appeals for the Armed~~
55 ~~Forces for an advisory opinion. Rules of court may be repealed~~
56 ~~by general law enacted by two-thirds vote of the membership of~~
57 ~~each house of the legislature.~~

58 (b) The chief justice of the supreme court shall be chosen
59 by a majority of the members of the court; shall be the chief
60 administrative officer of the judicial system; and shall have

HJR 1741

2004

61 the power to assign justices or judges, including consenting
 62 retired justices or judges, to temporary duty in any court for
 63 which the judge is qualified and to delegate to a chief judge of
 64 a judicial circuit the power to assign judges for duty in that
 65 circuit.

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

70 (d) A chief judge in each circuit shall be chosen from
 71 among the circuit judges as provided by supreme court rule. The
 72 chief judge shall be responsible for the administrative
 73 supervision of the circuit courts and county courts in his
 74 circuit.

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

77 COURT RULES OF PRACTICE AND PROCEDURE

78 Proposes an amendment to Section 2 of Article V of the
 79 State Constitution to remove the Supreme Court's current
 80 authority to adopt rules of practice and procedure in all
 81 courts. The amendment creates a judicial conference empowered to
 82 propose rules of practice and procedure in all courts. The
 83 amendment provides that the judicial conference shall be
 84 composed of members in a manner provided by general law. The
 85 amendment requires the judicial conference to submit its rule
 86 proposals to the Legislature. The amendment empowers the
 87 Legislature to amend, adopt, reject, or repeal by general law
 88 rules of practice and procedure proposed by the judicial
 89 conference and to amend or repeal by general law existing rules
 90 of practice and procedure that were not proposed by the judicial

HJR 1741

2004

91 conference. Under the amendment, rules proposed by the judicial
92 conference will have no force or effect unless and until adopted
93 by general law. If no action is taken by the Legislature to
94 adopt the rule by the next general election, the rule proposal
95 shall be deemed rejected. The amendment provides that rules
96 proposed by the judicial conference shall not be inconsistent
97 with general law and shall not abridge, enlarge, or modify any
98 substantive right.