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House Joint Resolution

A joint resolution proposing an amendment to Section 2 of Article V of the State Constitution relating to rules of court procedure and practice.

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 2006:

ARTICLE V

JUDICIARY

SECTION 2. Administration; practice and procedure.--

(a)(1)a. Except as provided in subparagraph b., the supreme court shall adopt rules for the practice and procedure in all courts including the time for seeking appellate review, the administrative supervision of all courts, the transfer to the court having jurisdiction of any proceeding when the jurisdiction of another court has been improvidently invoked, and a requirement that no cause shall be dismissed because an improper remedy has been sought. The supreme court shall adopt rules to allow the court and the district courts of appeal to submit questions relating to military law to the federal Court of Appeals for the Armed Forces for an advisory opinion.

b.1. A judicial conference is created. The responsibility of the judicial conference is to propose rules of practice and

28 procedure governing violations of criminal law, violations of
29 criminal law by juveniles, and postconviction proceedings.

30 2. The judicial conference shall be composed of members in
31 the manner as provided by general law.

32 3. The judicial conference shall adopt rules governing
33 conference proceedings. Meetings of the judicial conference
34 shall be open to the public and provide opportunity for comment.

35 4. Rules proposed by the judicial conference shall be
36 submitted to the supreme court for consideration.

37 5. Unless otherwise provided by general law, the supreme
38 court shall submit proposed rules to the legislature by November
39 30 of the year preceding the effective date of the proposed
40 rule. The legislature may adopt, reject, or amend proposed rules
41 by general law. If the legislature takes no action upon a
42 proposed rule by adjournment sine die of the next regular
43 session, the rule shall be deemed approved. Unless and until
44 adopted by general law or approved as provided in this
45 subsection, rules proposed by the judicial conference shall have
46 no force or effect.

47 (2) Notwithstanding any other provision of the
48 constitution, a court may not require or authorize collateral or
49 postconviction judicial review of a criminal judgment or
50 sentence except as authorized by general law or rule of
51 postconviction procedure adopted or approved in accordance with
52 this subsection. (3) Rules of practice and procedure may not
53 be inconsistent with general law and shall not abridge, enlarge,
54 or modify any substantive right. Rules of practice and procedure
55 may be repealed by general law. ~~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
 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 JUDICIAL CONFERENCE;

78 RULES OF COURT PRACTICE AND PROCEDURE

79 Proposes an amendment to Section 2 of Article V of the
 80 State Constitution to create a judicial conference to propose
 81 and implement rules of court practice and procedure governing
 82 violations of criminal law, violations of criminal law by
 83 juveniles, and postconviction proceedings, subject to review by

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84 | the Florida Supreme Court and approval by the Legislature; to
85 | prohibit courts from requiring or authorizing judicial review of
86 | criminal judgments or sentences except as authorized by general
87 | law or court rule of postconviction procedure approved by the
88 | Legislature; to require rules of court practice and procedure to
89 | be consistent with general law, protective of substantive
90 | rights, and repealable by the Legislature; and to delete a
91 | requirement that legislative repeal of rules of court be by
92 | extraordinary vote of each legislative chamber.