

By Senator Crist

12-1289A-05

1 Senate Joint Resolution No. _____

2 A joint resolution proposing an amendment to

3 Section 2 of Article V of the State

4 Constitution, relating to administration,

5 practice, and procedure in the judicial system,

6 to create a judicial conference that will

7 propose rules on criminal procedure, juvenile

8 procedure relating to criminal violations, and

9 postconviction proceedings; to require

10 submission of such rules for legislative

11 approval before they may take effect; and to

12 change the vote required for the Legislature to

13 repeal a rule of court.

14

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

16

17 That the following amendment to Section 2 of Article V

18 of the State Constitution is agreed to and shall be submitted

19 to the electors of this state for approval or rejection at the

20 next general election or at an earlier special election

21 specifically authorized by law for that purpose:

22 ARTICLE V

23 JUDICIARY

24 SECTION 2. Administration; practice and procedure.--

25 (a) Except as provided in subsection (b), the supreme

26 court shall adopt rules for the practice and procedure in all

27 courts including the time for seeking appellate review, the

28 administrative supervision of all courts, the transfer to the

29 court having jurisdiction of any proceeding when the

30 jurisdiction of another court has been improvidently invoked,

31 and a requirement that no cause shall be dismissed because an

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1 improper remedy has been sought. The supreme court shall
2 adopt rules to allow the court and the district courts of
3 appeal to submit questions relating to military law to the
4 federal Court of Appeals for the Armed Forces for an advisory
5 opinion. ~~Rules of court may be repealed by general law enacted~~
6 ~~by two thirds vote of the membership of each house of the~~
7 ~~legislature.~~

8 (b)(1) A judicial conference is created. The
9 responsibility of the judicial conference is to propose rules
10 of criminal procedure, rules of juvenile procedure relating to
11 violations of criminal law, and rules of procedure governing
12 postconviction proceedings.

13 (2) The judicial conference shall be composed of
14 members selected in the manner provided by general law.

15 (3) The judicial conference shall adopt rules to
16 govern its proceedings. Meetings of the judicial conference
17 shall be open to the public and must provide opportunity for
18 comment.

19 (4) Rules proposed by the judicial conference shall be
20 submitted to the supreme court for consideration.

21 (5) Unless otherwise provided by general law, the
22 supreme court shall submit proposed rules to the legislature
23 by November 30 of the year preceding the effective date of the
24 proposed rule. The legislature may adopt, reject, or amend
25 proposed rules by general law. If the legislature takes no
26 action upon a proposed rule by the adjournment sine die of the
27 regular session following the rule's submission to the
28 legislature, the rule shall be deemed approved. Unless and
29 until adopted by general law or approved as provided in this
30 subsection, rules proposed by the judicial conference shall be
31 of no force and effect.

1 (c) Rules of practice and procedure may not be
2 inconsistent with general law and may not abridge, enlarge, or
3 modify any substantive right. Rules of practice and procedure
4 may be repealed by general law.

5 (d) Notwithstanding any other provision in this
6 constitution, a court may not require or authorize collateral
7 or postconviction judicial review of a criminal judgment or
8 sentence except as authorized by general law or rule of
9 postconviction procedure adopted or approved in accordance
10 with this section.

11 ~~(e)(b)~~ The chief justice of the supreme court shall be
12 chosen by a majority of the members of the court; shall be the
13 chief administrative officer of the judicial system; and shall
14 have the power to assign justices or judges, including
15 consenting retired justices or judges, to temporary duty in
16 any court for which the judge is qualified and to delegate to
17 a chief judge of a judicial circuit the power to assign judges
18 for duty in that circuit.

19 ~~(f)(e)~~ A chief judge for each district court of appeal
20 shall be chosen by a majority of the judges thereof or, if
21 there is no majority, by the chief justice. The chief judge
22 shall be responsible for the administrative supervision of the
23 court.

24 ~~(g)(d)~~ A chief judge in each circuit shall be chosen
25 from among the circuit judges as provided by supreme court
26 rule. The chief judge shall be responsible for the
27 administrative supervision of the circuit courts and county
28 courts in his circuit.

29 BE IT FURTHER RESOLVED that the following statement be
30 placed on the ballot:

31 CONSTITUTIONAL AMENDMENT

ARTICLE V, SECTION 2

ADMINISTRATION; PRACTICE AND PROCEDURE IN THE
COURTS.--Proposing an amendment to the State Constitution to
create a judicial conference, constituted according to general
law, to propose rules relating to criminal procedure, juvenile
procedure relating to violations of criminal law, and
postconviction proceedings. The conference will submit its
rules to the Supreme Court for consideration, and proposed
rules must be submitted to the Legislature by November 30 of
the year before they take effect. The amendment prohibits
rules from being inconsistent with general law and from
abridging, enlarging, or modifying any substantive right. The
Legislature may adopt, reject, or amend a proposed rule, but
if it takes no action by the end of the regular session, the
rule is deemed approved. The amendment also reduces the vote
required for the Legislature to repeal a rule from two-thirds
of the membership of each house to a majority vote of each
house.