

HJR 1479

2007

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 following amendment to Section 2 of Article V of the State Constitution is 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 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

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

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

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

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

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

48 (2) Notwithstanding any other provision of the  
49 constitution, a court may not require or authorize collateral or  
50 postconviction judicial review of a criminal judgment or  
51 sentence except as authorized by general law or rule of  
52 postconviction procedure adopted or approved in accordance with  
53 this subsection.

54 (3) Rules of practice and procedure may not be  
55 inconsistent with general law and shall not abridge, enlarge, or  
56 modify any substantive right. Rules of practice and procedure

57 may be repealed by general law. ~~Rules of court may be repealed~~  
 58 ~~by general law enacted by two-thirds vote of the membership of~~  
 59 ~~each house of the legislature.~~

60 (b) The chief justice of the supreme court shall be chosen  
 61 by a majority of the members of the court; shall be the chief  
 62 administrative officer of the judicial system; and shall have  
 63 the power to assign justices or judges, including consenting  
 64 retired justices or judges, to temporary duty in any court for  
 65 which the judge is qualified and to delegate to a chief judge of  
 66 a judicial circuit the power to assign judges for duty in that  
 67 circuit.

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

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

77 BE IT FURTHER RESOLVED that the following statement be  
 78 placed on the ballot:

79 CONSTITUTIONAL AMENDMENT

80 ARTICLE V, SECTION 2

81 JUDICIAL CONFERENCE; RULES OF COURT PRACTICE AND  
 82 PROCEDURE.--Proposing an amendment to the State Constitution to  
 83 create a judicial conference to propose and implement rules of  
 84 court practice and procedure governing violations of criminal

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