

By the Committee on Judiciary; and Senator Ring

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Senate Joint Resolution

A joint resolution proposing amendments to Sections 8 and 20 of Article V of the State Constitution to increase the age after which a justice or judge may no longer serve in a judicial office and to increase the period of time that a person must be a member of The Florida Bar before becoming eligible for the office of circuit court or county court judge.

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

That the following amendments to Sections 8 and 20 of Article V of the State Constitution are 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 8. Eligibility.—No person shall be eligible for office of justice or judge of any court unless the person is an elector of the state and resides in the territorial jurisdiction of the court. No justice or judge shall serve after attaining the age of seventy-five ~~seventy~~ years except upon temporary assignment or to complete a term, one-half of which has been served. No person is eligible for the office of justice of the supreme court, ~~or~~ judge of a district court of appeal, circuit court judge, or county court judge unless the person is, and has been for the preceding ten years, a member of the bar of Florida. ~~No person is eligible for the office of circuit judge~~

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30 ~~unless the person is, and has been for the preceding five years,~~  
31 ~~a member of the bar of Florida. Unless otherwise provided by~~  
32 ~~general law, no person is eligible for the office of county~~  
33 ~~court judge unless the person is, and has been for the preceding~~  
34 ~~five years, a member of the bar of Florida. Unless otherwise~~  
35 provided by general law, a person shall be eligible for election  
36 or appointment to the office of county court judge in a county  
37 having a population of 40,000 or less if the person is a member  
38 in good standing of the bar of Florida.

39 Section 20. Schedule to Article V.—

40 (a) This article shall replace all of Article V of the  
41 Constitution of 1885, as amended, which shall then stand  
42 repealed.

43 (b) Except to the extent inconsistent with the provisions  
44 of this article, all provisions of law and rules of court in  
45 force on the effective date of this article shall continue in  
46 effect until superseded in the manner authorized by the  
47 constitution.

48 (c) After this article becomes effective, and until changed  
49 by general law consistent with sections 1 through 19 of this  
50 article:

51 (1) The supreme court shall have the jurisdiction  
52 immediately theretofore exercised by it, and it shall determine  
53 all proceedings pending before it on the effective date of this  
54 article.

55 (2) The appellate districts shall be those in existence on  
56 the date of adoption of this article. There shall be a district  
57 court of appeal in each district. The district courts of appeal  
58 shall have the jurisdiction immediately theretofore exercised by

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59 the district courts of appeal and shall determine all  
60 proceedings pending before them on the effective date of this  
61 article.

62 (3) Circuit courts shall have jurisdiction of appeals from  
63 county courts and municipal courts, except those appeals which  
64 may be taken directly to the supreme court; and they shall have  
65 exclusive original jurisdiction in all actions at law not  
66 cognizable by the county courts; of proceedings relating to the  
67 settlement of the estate of decedents and minors, the granting  
68 of letters testamentary, guardianship, involuntary  
69 hospitalization, the determination of incompetency, and other  
70 jurisdiction usually pertaining to courts of probate; in all  
71 cases in equity including all cases relating to juveniles; of  
72 all felonies and of all misdemeanors arising out of the same  
73 circumstances as a felony which is also charged; in all cases  
74 involving legality of any tax assessment or toll; in the action  
75 of ejectment; and in all actions involving the titles or  
76 boundaries or right of possession of real property. The circuit  
77 court may issue injunctions. There shall be judicial circuits  
78 which shall be the judicial circuits in existence on the date of  
79 adoption of this article. The chief judge of a circuit may  
80 authorize a county court judge to order emergency  
81 hospitalizations pursuant to Chapter 71-131, Laws of Florida, in  
82 the absence from the county of the circuit judge and the county  
83 court judge shall have the power to issue all temporary orders  
84 and temporary injunctions necessary or proper to the complete  
85 exercise of such jurisdiction.

86 (4) County courts shall have original jurisdiction in all  
87 criminal misdemeanor cases not cognizable by the circuit courts,

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88 of all violations of municipal and county ordinances, and of all  
89 actions at law in which the matter in controversy does not  
90 exceed the sum of two thousand five hundred dollars (\$2,500.00)  
91 exclusive of interest and costs, except those within the  
92 exclusive jurisdiction of the circuit courts. Judges of county  
93 courts shall be committing magistrates. The county courts shall  
94 have jurisdiction now exercised by the county judge's courts  
95 other than that vested in the circuit court by subsection (c) (3)  
96 hereof, the jurisdiction now exercised by the county courts, the  
97 claims court, the small claims courts, the small claims  
98 magistrates courts, magistrates courts, justice of the peace  
99 courts, municipal courts and courts of chartered counties,  
100 including but not limited to the counties referred to in Article  
101 VIII, sections 9, 10, 11 and 24 of the Constitution of 1885.

102 (5) Each judicial nominating commission shall be composed  
103 of the following:

104 a. Three members appointed by the Board of Governors of The  
105 Florida Bar from among The Florida Bar members who are actively  
106 engaged in the practice of law with offices within the  
107 territorial jurisdiction of the affected court, district or  
108 circuit;

109 b. Three electors who reside in the territorial  
110 jurisdiction of the court or circuit appointed by the governor;  
111 and

112 c. Three electors who reside in the territorial  
113 jurisdiction of the court or circuit and who are not members of  
114 the bar of Florida, selected and appointed by a majority vote of  
115 the other six members of the commission.

116 (6) No justice or judge shall be a member of a judicial

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117 nominating commission. A member of a judicial nominating  
118 commission may hold public office other than judicial office. No  
119 member shall be eligible for appointment to state judicial  
120 office so long as that person is a member of a judicial  
121 nominating commission and for a period of two years thereafter.  
122 All acts of a judicial nominating commission shall be made with  
123 a concurrence of a majority of its members.

124 (7) The members of a judicial nominating commission shall  
125 serve for a term of four years except the terms of the initial  
126 members of the judicial nominating commissions shall expire as  
127 follows:

128 a. The terms of one member of category a. b. and c. in  
129 subsection (c) (5) hereof shall expire on July 1, 1974;

130 b. The terms of one member of category a. b. and c. in  
131 subsection (c) (5) hereof shall expire on July 1, 1975;

132 c. The terms of one member of category a. b. and c. in  
133 subsection (c) (5) hereof shall expire on July 1, 1976;

134 (8) All fines and forfeitures arising from offenses tried  
135 in the county court shall be collected, and accounted for by  
136 clerk of the court, and deposited in a special trust account.  
137 All fines and forfeitures received from violations of ordinances  
138 or misdemeanors committed within a county or municipal  
139 ordinances committed within a municipality within the  
140 territorial jurisdiction of the county court shall be paid  
141 monthly to the county or municipality respectively. If any costs  
142 are assessed and collected in connection with offenses tried in  
143 county court, all court costs shall be paid into the general  
144 revenue fund of the state of Florida and such other funds as  
145 prescribed by general law.

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146 (9) Any municipality or county may apply to the chief judge  
147 of the circuit in which that municipality or county is situated  
148 for the county court to sit in a location suitable to the  
149 municipality or county and convenient in time and place to its  
150 citizens and police officers and upon such application said  
151 chief judge shall direct the court to sit in the location unless  
152 the chief judge shall determine the request is not justified. If  
153 the chief judge does not authorize the county court to sit in  
154 the location requested, the county or municipality may apply to  
155 the supreme court for an order directing the county court to sit  
156 in the location. Any municipality or county which so applies  
157 shall be required to provide the appropriate physical facilities  
158 in which the county court may hold court.

159 (10) All courts except the supreme court may sit in  
160 divisions as may be established by local rule approved by the  
161 supreme court.

162 (11) A county court judge in any county having a population  
163 of 40,000 or less according to the last decennial census, shall  
164 not be required to be a member of the bar of Florida.

165 (12) Municipal prosecutors may prosecute violations of  
166 municipal ordinances.

167 (13) Justice shall mean a justice elected or appointed to  
168 the supreme court and shall not include any judge assigned from  
169 any court.

170 (d) When this article becomes effective:

171 (1) All courts not herein authorized, except as provided by  
172 subsection (d)(4) of this section shall cease to exist and  
173 jurisdiction to conclude all pending cases and enforce all prior  
174 orders and judgments shall vest in the court that would have

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175 jurisdiction of the cause if thereafter instituted. All records  
176 of and property held by courts abolished hereby shall be  
177 transferred to the proper office of the appropriate court under  
178 this article.

179 (2) Judges of the following courts, if their terms do not  
180 expire in 1973 and if they are eligible under subsection (d) (8)  
181 hereof, shall become additional judges of the circuit court for  
182 each of the counties of their respective circuits, and shall  
183 serve as such circuit judges for the remainder of the terms to  
184 which they were elected and shall be eligible for election as  
185 circuit judges thereafter. These courts are: civil court of  
186 record of Dade county, all criminal courts of record, the felony  
187 courts of record of Alachua, Leon and Volusia Counties, the  
188 courts of record of Broward, Brevard, Escambia, Hillsborough,  
189 Lee, Manatee and Sarasota Counties, the civil and criminal court  
190 of record of Pinellas County, and county judge's courts and  
191 separate juvenile courts in counties having a population in  
192 excess of 100,000 according to the 1970 federal census. On the  
193 effective date of this article, there shall be an additional  
194 number of positions of circuit judges equal to the number of  
195 existing circuit judges and the number of judges of the above  
196 named courts whose term expires in 1973. Elections to such  
197 offices shall take place at the same time and manner as  
198 elections to other state judicial offices in 1972 and the terms  
199 of such offices shall be for a term of six years. Unless changed  
200 pursuant to section nine of this article, the number of circuit  
201 judges presently existing and created by this subsection shall  
202 not be changed.

203 (3) In all counties having a population of less than

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204 100,000 according to the 1970 federal census and having more  
205 than one county judge on the date of the adoption of this  
206 article, there shall be the same number of judges of the county  
207 court as there are county judges existing on that date unless  
208 changed pursuant to section 9 of this article.

209 (4) Municipal courts shall continue with their same  
210 jurisdiction until amended or terminated in a manner prescribed  
211 by special or general law or ordinances, or until January 3,  
212 1977, whichever occurs first. On that date all municipal courts  
213 not previously abolished shall cease to exist. Judges of  
214 municipal courts shall remain in office and be subject to  
215 reappointment or reelection in the manner prescribed by law  
216 until said courts are terminated pursuant to the provisions of  
217 this subsection. Upon municipal courts being terminated or  
218 abolished in accordance with the provisions of this subsection,  
219 the judges thereof who are not members of the bar of Florida,  
220 shall be eligible to seek election as judges of county courts of  
221 their respective counties.

222 (5) Judges, holding elective office in all other courts  
223 abolished by this article, whose terms do not expire in 1973  
224 including judges established pursuant to Article VIII, sections  
225 9 and 11 of the Constitution of 1885 shall serve as judges of  
226 the county court for the remainder of the term to which they  
227 were elected. Unless created pursuant to section 9, of this  
228 Article V such judicial office shall not continue to exist  
229 thereafter.

230 (6) By March 21, 1972, the supreme court shall certify the  
231 need for additional circuit and county judges. The legislature  
232 in the 1972 regular session may by general law create additional



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233 offices of judge, the terms of which shall begin on the  
234 effective date of this article. Elections to such offices shall  
235 take place at the same time and manner as election to other  
236 state judicial offices in 1972.

237 (7) County judges of existing county judge's courts and  
238 justices of the peace and magistrates' court who are not members  
239 of bar of Florida shall be eligible to seek election as county  
240 court judges of their respective counties.

241 (8) No judge of a court abolished by this article shall  
242 become or be eligible to become a judge of the circuit court  
243 unless the judge has been a member of bar of Florida for the  
244 preceding five years.

245 (9) The office of judges of all other courts abolished by  
246 this article shall be abolished as of the effective date of this  
247 article.

248 (10) The offices of county solicitor and prosecuting  
249 attorney shall stand abolished, and all county solicitors and  
250 prosecuting attorneys holding such offices upon the effective  
251 date of this article shall become and serve as assistant state  
252 attorneys for the circuits in which their counties are situate  
253 for the remainder of their terms, with compensation not less  
254 than that received immediately before the effective date of this  
255 article.

256 (e) LIMITED OPERATION OF SOME PROVISIONS.—

257 (1) All justices of the supreme court, judges of the  
258 district courts of appeal and circuit judges in office upon the  
259 effective date of this article shall retain their offices for  
260 the remainder of their respective terms. All members of the  
261 judicial qualifications commission in office upon the effective

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262 date of this article shall retain their offices for the  
263 remainder of their respective terms. Each state attorney in  
264 office on the effective date of this article shall retain the  
265 office for the remainder of the term.

266 (2) No justice or judge holding office immediately after  
267 this article becomes effective who held judicial office on July  
268 1, 1957, shall be subject to retirement from judicial office  
269 because of age pursuant to section 8 of this article.

270 (f) Until otherwise provided by law, the nonjudicial duties  
271 required of county judges shall be performed by the judges of  
272 the county court.

273 (g) All provisions of Article V of the Constitution of  
274 1885, as amended, not embraced herein which are not inconsistent  
275 with this revision shall become statutes subject to modification  
276 or repeal as are other statutes.

277 (h) The requirements of section 14 relative to all county  
278 court judges or any judge of a municipal court who continues to  
279 hold office pursuant to subsection (d)(4) hereof being  
280 compensated by state salaries shall not apply prior to January  
281 3, 1977, unless otherwise provided by general law.

282 (i) DELETION OF OBSOLETE SCHEDULE ITEMS.—The legislature  
283 shall have power, by concurrent resolution, to delete from this  
284 article any subsection of this section 20 including this  
285 subsection, when all events to which the subsection to be  
286 deleted is or could become applicable have occurred. A  
287 legislative determination of fact made as a basis for  
288 application of this subsection shall be subject to judicial  
289 review.

290 (j) EFFECTIVE DATE.—Unless otherwise provided herein, this

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291 article shall become effective at 11:59 o'clock P.M., Eastern  
292 Standard Time, January 1, 1973.

293 (k) QUALIFICATIONS OF CIRCUIT AND COUNTY COURT JUDGES.—The  
294 amendment to Section 8 changing the qualifications of circuit  
295 judges and county court judges shall take effect January 9,  
296 2013. The amendment does not affect any judge in office on the  
297 effective date of the amendment. Any judge qualified to hold  
298 office and in office on January 8, 2013, shall remain in office  
299 and shall be eligible to seek reelection to such judicial office  
300 in the future regardless of whether such judge has been a member  
301 of The Florida Bar for the previous ten years.

302 CONSTITUTIONAL AMENDMENT

303 ARTICLE V, SECTIONS 8 AND 20

304 REVISING CERTAIN QUALIFICATIONS FOR JUSTICES AND JUDGES.—  
305 The State Constitution currently prohibits a justice or judge  
306 from serving in a judicial office after attaining the age of  
307 seventy years except upon temporary assignment or to complete a  
308 judicial term, if one-half of the term has been served. This  
309 proposed amendment increases the age after which a justice or  
310 judge may no longer serve to seventy-five years of age. However,  
311 a justice or judge who has attained the age of seventy-five  
312 years may continue to serve upon temporary assignment or to  
313 complete a judicial term. In addition, the State Constitution  
314 currently prohibits a person from serving as a circuit court  
315 judge unless the person is, and has been for the preceding 5  
316 years, a member of The Florida Bar. This same prohibition  
317 applies to county court judges, except in counties having a  
318 population of 40,000 or fewer, where a person need only be a  
319 member in good standing of The Florida Bar. This proposed

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320 amendment increases to 10 years the period of time that a person  
321 must be a member of The Florida Bar before serving as a circuit  
322 court judge or a county court judge. However, in counties having  
323 a population of 40,000 or fewer, a person continues to be  
324 eligible to serve as a county court judge if he or she is a  
325 member in good standing of The Florida Bar. The increased  
326 qualifications do not apply to county court or circuit court  
327 judges in office on January 8, 2013, or to persons seeking to be  
328 elected to the office of county court or circuit court judge  
329 during this election.