

HOUSE JOINT RESOLUTION I

January 30, 1997, Introduced by Rep. Nye and referred to the Committee on Judiciary.

A joint resolution proposing an amendment to the state constitution of 1963, by amending sections 1, 4, 7, 11, 12, 13, 18, 22, 23, 26, 27, 29, and 30 of article VI, adding sections 31 and 32 to article VI, and repealing sections 15 and 16 of article VI, to provide for the reorganization of the judicial branch.

Resolved by the Senate and House of Representatives of the state of Michigan, That the following amendment to the state constitution of 1963, to provide for the reorganization of the judicial branch, is proposed, agreed to, and submitted to the people of the state:

ARTICLE VI

1

2

3

4

5

Sec. 1. The judicial power of the state is vested exclusively in one court of justice which shall be divided into one supreme court, one court of appeals, AND ~~one trial court of general~~ COURTS WITH SUCH jurisdiction AS PROVIDED BY LAW. ~~known~~

~~1 as the circuit court, one probate court, and courts of limited
2 jurisdiction that the legislature may establish by a two-thirds
3 vote of the members elected to and serving in each house.~~

4 Sec. 4. The supreme court shall have general superintending
5 control over all courts; power to issue, hear and determine pre-
6 rogative and remedial writs; and appellate jurisdiction as pro-
7 vided by rules of the supreme court. The supreme court shall not
8 have the power to remove a judge, EXCEPT AS PROVIDED IN SECTION
9 30 OF THIS ARTICLE.

10 Sec. 7. The supreme court may appoint, may remove, and
11 shall have general supervision of its staff. ~~It~~ SUBJECT TO
12 SECTION 32 OF THIS ARTICLE, IT shall have control of the prepara-
13 tion of its budget recommendations and the expenditure of moneys
14 appropriated for any purpose pertaining to the operation of the
15 SUPREME court or the performance of activities of its staff
16 except that the salaries of the justices shall be ~~established by~~
17 ~~law~~ DETERMINED BY THE STATE OFFICERS COMPENSATION COMMISSION AS
18 PROVIDED IN SECTION 12 OF ARTICLE IV. All fees and perquisites
19 collected by the court staff shall be turned over to the state
20 treasury and credited to the general fund.

21 Sec. 11. The state shall be divided into judicial
22 ~~circuits~~ UNITS along county lines ~~in each of which there shall~~
23 ~~be elected one or more circuit judges~~ as provided by law.
24 ~~Sessions of the circuit court shall be held at least four times~~
25 ~~in each year in every county organized for judicial purposes.~~
26 ~~Each circuit judge shall hold court in the county or counties~~
27 ~~within the circuit in which he is elected, and in other circuits~~

1 ~~as may be provided by rules of the supreme court.~~ The number of
2 judges may be changed BY LAW and ~~circuits~~ UNITS may be created,
3 altered and discontinued by law. ~~and the number of judges shall~~
4 ~~be changed and circuits shall be created, altered and discontin-~~
5 ~~ued on recommendation of the supreme court to reflect changes in~~
6 ~~judicial activity.~~ EACH UNIT MAY BE DIVIDED INTO SUBJECT MATTER
7 JURISDICTIONS AND ELECTION DISTRICTS AS PROVIDED BY LAW, AND
8 JUDGES MAY BE TRANSFERRED OR ASSIGNED WITHIN A UNIT TO SUBJECT
9 MATTER JURISDICTIONS AND ELECTION DISTRICTS AS PROVIDED BY LAW.
10 EACH UNIT SHALL HAVE ONE OR MORE JUDGES AS PROVIDED BY LAW,
11 EXCEPT THAT EACH COUNTY HAVING A POPULATION OF 10,000 OR MORE
12 SHALL HAVE AT LEAST ONE JUDGE ELECTED EXCLUSIVELY BY THAT COUNTY.
13 No change in the number of judges or alteration or discontinuance
14 of a ~~circuit~~ JUDGESHIP shall have the effect of removing a
15 judge from office during ~~his~~ THAT JUDGE'S term.

16 Sec. 12. ~~Circuit~~ TRIAL COURT judges shall be nominated
17 and elected AS PROVIDED BY LAW at non-partisan elections in the
18 ~~circuit~~ ELECTION DISTRICT in which they reside, and shall hold
19 office for a term of six years and until their successors are
20 elected and qualified. In ~~circuits~~ UNITS having more than one
21 ~~circuit~~ judge their terms of office shall be arranged by law to
22 provide that not all terms will expire at the same time. THE
23 LENGTH OF THE INITIAL TERM OF A JUDGE MAY BE VARIED BY LAW TO
24 ALLOW FOR THE STAGGERING OF THE EXPIRATION OF JUDGES' TERMS
25 WITHIN A UNIT.

26 Sec. 13. The ~~circuit court~~ TRIAL COURTS shall have
27 original jurisdiction ~~in all matters not prohibited~~ AS PROVIDED

1 by law; appellate jurisdiction from all inferior courts and
2 tribunals except as otherwise provided by law; power to issue,
3 hear and determine prerogative and remedial writs; supervisory
4 and general control over inferior courts and tribunals within
5 their respective jurisdictions in accordance with rules of the
6 supreme court; and jurisdiction of other cases and matters as
7 provided by ~~rules of the supreme court~~ LAW.

8 ~~Sec. 15. In each county organized for judicial purposes~~
9 ~~there shall be a probate court. The legislature may create or~~
10 ~~alter probate court districts of more than one county if approved~~
11 ~~in each affected county by a majority of the electors voting on~~
12 ~~the question. The legislature may provide for the combination of~~
13 ~~the office of probate judge with any judicial office of limited~~
14 ~~jurisdiction within a county with supplemental salary as provided~~
15 ~~by law. The jurisdiction, powers and duties of the probate court~~
16 ~~and of the judges thereof shall be provided by law. They shall~~
17 ~~have original jurisdiction in all cases of juvenile delinquents~~
18 ~~and dependents, except as otherwise provided by law.~~

19 ~~Sec. 16. One or more judges of probate as provided by law~~
20 ~~shall be nominated and elected at non-partisan elections in the~~
21 ~~counties or the probate districts in which they reside and shall~~
22 ~~hold office for terms of six years and until their successors are~~
23 ~~elected and qualified. In counties or districts with more than~~
24 ~~one judge the terms of office shall be arranged by law to provide~~
25 ~~that not all terms will expire at the same time.~~

26 Sec. 18. Salaries ~~of justices of the supreme court,~~ of
27 the judges of the court of appeals ~~,~~ SHALL BE UNIFORM AND SHALL

1 BE DETERMINED AS PROVIDED BY LAW. SALARIES of the ~~circuit~~
2 TRIAL COURT judges ~~within a circuit, and of the probate judges~~
3 ~~within a county or district,~~ shall be ~~uniform, and~~ DETERMINED
4 AS PROVIDED BY LAW. EFFECTIVE JANUARY 1, 1998, JUDGES' SALARIES
5 SHALL BE PAID BY THE STATE, AND JUDGES SHALL NOT RECEIVE SUPPLE-
6 MENTAL SALARIES FROM LOCAL UNITS OF GOVERNMENT. THE ELIMINATION
7 OF LOCAL SUPPLEMENTAL SALARIES SHALL NOT CAUSE A REDUCTION IN THE
8 TOTAL AMOUNT OF A JUDGE'S SALARY. A JUDGE'S SALARY may be
9 increased but shall not be decreased during a term of office
10 except and only to the extent of a general salary reduction in
11 all other branches of government. EFFECTIVE JANUARY 1, 2003, THE
12 SALARIES OF THE TRIAL COURT JUDGES OF COURTS OF RECORD SHALL BE
13 UNIFORM.

14 ~~Each of the judges of the circuit court shall receive an~~
15 ~~annual salary as provided by law. In addition to the salary~~
16 ~~received from the state, each circuit judge may receive from any~~
17 ~~county in which he regularly holds court an additional salary as~~
18 ~~determined from time to time by the board of supervisors of the~~
19 ~~county. In any county where an additional salary is granted, it~~
20 ~~shall be paid at the same rate to all circuit judges regularly~~
21 ~~holding court therein.~~

22 Sec. 22. Any judge of the court of appeals ~~, circuit~~
23 ~~court or probate court~~ ANY TRIAL COURT JUDGE may become a can-
24 didate in the primary election for the office of which he OR SHE
25 is the incumbent by filing an affidavit of candidacy in the form
26 and manner prescribed by law.

1 Sec. 23. A vacancy shall occur in the office of JUSTICE OR
2 judge ~~of any court of record or in the district court~~ by death,
3 removal, resignation or vacating of the office, and such vacancy
4 shall be filled by appointment by the governor. The person
5 appointed by the governor shall hold office until 12 noon of the
6 first day of January next succeeding the first general election
7 held after the vacancy occurs, at which election a successor
8 shall be elected for the remainder of the unexpired term.

9 Whenever a new office of judge ~~in a court of record, or the dis-~~
10 ~~trict court,~~ is created by law, it shall be filled by election
11 as provided by law. The supreme court may authorize persons who
12 have been elected and served as judges to perform judicial duties
13 for limited periods or specific assignments.

14 Sec. 26. The offices of circuit court commissioner and jus-
15 tice of the peace are abolished. ~~at the expiration of five years~~
16 ~~from the date this constitution becomes effective or may within~~
17 ~~this period be abolished by law. Their jurisdiction, compensa-~~
18 ~~tion and powers within this period shall be as provided by law.~~
19 ~~Within this five-year period,~~

20 BY A TWO-THIRDS VOTE OF THE MEMBERS ELECTED TO AND SERVING
21 IN EACH HOUSE, the legislature ~~shall~~ MAY establish a court or
22 courts of limited jurisdiction with powers and jurisdiction
23 defined by law. The location of such court or courts, and the
24 qualifications, tenure, method of election and ~~salary~~
25 COMPENSATION of the judges of such court or courts, and by what
26 governmental units the judges shall be paid, shall be provided by
27 law, subject to the limitations contained in this article.

1 Statutory courts in existence at the time this constitution
 2 becomes effective shall retain their powers and jurisdiction,
 3 except as provided by law, until they are abolished by law.

4 THE CIRCUIT COURT, THE PROBATE COURT, AND ANY COURT OF
 5 LIMITED JURISDICTION CREATED AFTER 1963, SHALL RETAIN THEIR
 6 POWERS AND JURISDICTION, EXCEPT AS PROVIDED BY LAW, UNTIL THEY
 7 ARE ABOLISHED BY LAW.

8 Sec. 27. The supreme court, the court of appeals, ~~the cir-~~
 9 ~~cuit court,~~ or any justices or judges thereof, shall not exer-
 10 cise any power of appointment to public office except as provided
 11 in this constitution.

12 Sec. 29. Justices of the supreme court, judges of the court
 13 of appeals, ~~circuit judges~~ and ~~other~~ TRIAL COURT judges as
 14 provided by law shall be conservators of the peace within their
 15 respective jurisdictions.

16 Sec. 30. (1) A judicial tenure commission is established
 17 consisting of nine persons selected for three-year terms as
 18 follows: Four members shall be judges elected by the judges of
 19 the courts in which they serve; OF WHOM one shall be a court of
 20 appeals judge ~~, one a circuit judge, one a probate judge~~ and
 21 ~~one a judge of a court of limited jurisdiction~~ THREE SHALL BE
 22 TRIAL COURT JUDGES. ~~Three~~ TWO shall be members of the state bar
 23 who shall be elected by the members of the state bar of whom
 24 ~~one~~ NONE shall be a judge. ~~and two shall not be judges. Two~~
 25 THREE shall be appointed by the governor; the members appointed
 26 by the governor shall not be judges, retired judges or members of
 27 the state bar. Terms shall be staggered as provided by rule of

1 the supreme court. Vacancies shall be filled by the appointing
2 power.

3 (2) On recommendation of the judicial tenure commission, the
4 supreme court may censure, suspend with or without salary, retire
5 or remove a judge for conviction of a felony, physical or mental
6 disability which prevents the performance of judicial duties,
7 misconduct in office, persistent failure to perform his OR HER
8 duties, habitual intemperance or conduct that is clearly preju-
9 dicial to the administration of justice. The supreme court shall
10 make rules implementing this section and providing for confiden-
11 tiality and privilege of proceedings.

12 SEC. 31. THE SUPREME COURT, WHEN MEETING TO DECIDE ADMINIS-
13 TRATIVE, BUDGETARY, OR FINANCIAL MATTERS OR COURT RULES, SHALL BE
14 OPEN TO THE PUBLIC AS PROVIDED BY LAW. THE RECORDS OF ALL COURTS
15 SHALL BE OPEN TO THE PUBLIC AS PROVIDED BY LAW.

16 SEC. 32. COURTS SHALL BE FUNDED IN THE MANNER PROVIDED BY
17 LAW.

18 COURTS SHALL ONLY SET FEES OR RAISE REVENUE AS PROVIDED BY
19 LAW.

20 TO ENSURE PUBLIC ACCOUNTABILITY, COURTS SHALL BE SUBJECT TO
21 GENERALLY ACCEPTED BUDGETING AND ACCOUNTING PRINCIPLES AS PRO-
22 VIDED BY LAW.

23 THE EMPLOYER OF PUBLIC OFFICERS AND EMPLOYEES SERVING IN A
24 COURT SHALL BE DETERMINED AS PROVIDED BY LAW.

25 EXCEPT AS PROVIDED IN SECTION 7 OF THIS ARTICLE WITH REGARD
26 TO THE STAFF OF THE SUPREME COURT, THE COMPENSATION AND PERSONNEL

1 POLICIES OF PUBLIC OFFICERS AND EMPLOYEES SERVING IN ANY COURT
2 SHALL BE DETERMINED AS PROVIDED BY LAW.

3 Resolved further, That the foregoing amendment shall be sub-
4 mitted to the people of the state at the next general election in
5 the manner provided by law.