

HOUSE JOINT RESOLUTION EE

February 11, 1998, Introduced by Reps. Ciaramitaro and Nye and referred to the Committee on Judiciary.

A joint resolution proposing an amendment to the state constitution of 1963, by amending sections 1, 11, 12, 13, 18, 19, 27, 29, and 30 of article VI; adding section 9 to article III; and repealing sections 9, 15, 16, and 22 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:

1

ARTICLE III

2

SEC. 9. EACH OF THE THREE BRANCHES OF GOVERNMENT SHALL, TO

3

THE GREATEST EXTENT POSSIBLE, PROVIDE TO THE PUBLIC INFORMATION

4

REGARDING THE AFFAIRS OF THAT BRANCH OF GOVERNMENT AND ALLOW

5

MEETINGS WITHIN THAT BRANCH OF GOVERNMENT TO BE OPEN TO MEMBERS

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1 OF THE PUBLIC. THIS SECTION SHALL BE IMPLEMENTED FOR THE
2 EXECUTIVE OFFICE BY EXECUTIVE ORDER OF THE GOVERNOR; FOR THE
3 SENATE BY RULES OF THE SENATE; FOR THE HOUSE OF REPRESENTATIVES
4 BY RULES OF THE HOUSE OF REPRESENTATIVES; FOR CONFERENCE COMMIT-
5 TEES AND JOINT COMMITTEES OF THE SENATE AND HOUSE OF
6 REPRESENTATIVES BY JOINT RULES OF THE SENATE AND HOUSE OF
7 REPRESENTATIVES; FOR THE JUDICIAL BRANCH BY ADMINISTRATIVE ORDER
8 OF THE SUPREME COURT; AND AS TO ANY OTHER GOVERNMENTAL ENTITY BY
9 LAW.

10 ARTICLE VI

11 Sec. 1. (1) The judicial power of the state is vested
12 exclusively in one court of justice which shall be divided into
13 one supreme court, one court of appeals, one trial court of gen-
14 eral jurisdiction, ~~known as the circuit court, one probate~~
15 ~~court,~~ and courts of limited jurisdiction that the legislature
16 may establish by a two-thirds vote of the members elected to and
17 serving in each house.

18 (2) COURTS IN EXISTENCE ON THE DATE ON WHICH THIS SUBSECTION
19 BECOMES A PART OF THIS CONSTITUTION SHALL RETAIN THEIR POWERS AND
20 JURISDICTION, EXCEPT AS PROVIDED BY LAW, UNTIL THEY ARE ABOLISHED
21 BY LAW.

22 ~~Sec. 9. Judges of the court of appeals shall hold office~~
23 ~~for a term of six years and until their successors are elected~~
24 ~~and qualified. The terms of office for the judges in each dis-~~
25 ~~trict shall be arranged by law to provide that not all terms will~~
26 ~~expire at the same time.~~

1 Sec. 11. The state shall be divided into judicial
2 ~~circuits~~ UNITS along county lines. ~~in each of which there~~
3 ~~shall be elected one or more circuit judges as provided by law.~~
4 ~~Sessions of the circuit court shall be held at least four times~~
5 ~~in each year in every county organized for judicial purposes.~~
6 ~~Each circuit judge shall hold court in the county or counties~~
7 ~~within the circuit in which he is elected, and in other circuits~~
8 ~~as may be provided by rules of the supreme court.~~ AT LEAST ONE
9 JUDGE SHALL BE ELECTED EXCLUSIVELY BY EACH COUNTY. FOR PURPOSES
10 OF THIS SECTION, THE LEGISLATURE MAY CONSIDER THE COUNTIES OF
11 HOUGHTON AND KEWEENAW AS ONE COUNTY. IN A COUNTY IN WHICH ONLY
12 ONE JUDGE IS ELECTED EXCLUSIVELY BY THAT COUNTY, THAT JUDGE'S
13 JURISDICTION SHALL INCLUDE FAMILY MATTERS ARISING IN THAT COUNTY,
14 AS PROVIDED BY LAW. The number of judges may be changed and
15 ~~circuits~~ JUDICIAL UNITS may be created, altered, COMBINED, and
16 discontinued by law and the number of judges shall be changed and
17 ~~circuits~~ JUDICIAL UNITS shall be created, altered, COMBINED,
18 and discontinued on recommendation of the supreme court to
19 reflect changes in judicial activity. No change in the number of
20 judges or alteration, COMBINATION, or discontinuance of a
21 ~~circuit~~ JUDICIAL UNIT shall have the effect of removing a judge
22 from office during ~~his~~ THAT JUDGE'S term.

23 Sec. 12. (1) ~~Circuit~~ AS PROVIDED BY LAW, judges shall be
24 nominated and elected at non-partisan elections in the ~~circuit~~
25 ELECTION DISTRICTS in which they reside, and shall hold office
26 for a term of six years and until their successors are elected
27 and qualified. In ~~circuits~~ ELECTION DISTRICTS having more than

1 one ~~circuit~~ judge their terms of office shall be arranged by
2 law to provide that not all terms will expire at the same time.
3 THE LENGTH OF THE INITIAL TERM OF A JUDGE MAY BE VARIED BY LAW TO
4 ALLOW FOR THE STAGGERING OF THE EXPIRATION OF JUDGES' TERMS
5 WITHIN AN ELECTION DISTRICT.

6 (2) ANY JUDGE MAY BECOME A CANDIDATE IN THE PRIMARY ELECTION
7 FOR THE OFFICE OF WHICH HE OR SHE IS THE INCUMBENT BY FILING AN
8 AFFIDAVIT OF CANDIDACY IN THE FORM AND MANNER PROVIDED BY LAW.

9 Sec. 13. The ~~circuit court~~ TRIAL COURT OF GENERAL
10 JURISDICTION shall have original jurisdiction in all matters not
11 prohibited by law; appellate jurisdiction from all inferior
12 courts and tribunals except as otherwise provided by law; power
13 to issue, hear and determine prerogative and remedial writs;
14 supervisory and general control over inferior courts and tribu-
15 nals within their respective jurisdictions in accordance with
16 rules of the supreme court; and jurisdiction of other cases and
17 matters as provided by ~~rules of the supreme court~~ LAW.

18 ~~Sec. 15. In each county organized for judicial purposes~~
19 ~~there shall be a probate court. The legislature may create or~~
20 ~~alter probate court districts of more than one county if approved~~
21 ~~in each affected county by a majority of the electors voting on~~
22 ~~the question. The legislature may provide for the combination of~~
23 ~~the office of probate judge with any judicial office of limited~~
24 ~~jurisdiction within a county with supplemental salary as provided~~
25 ~~by law. The jurisdiction, powers and duties of the probate court~~
26 ~~and of the judges thereof shall be provided by law. They shall~~

~~1 have original jurisdiction in all cases of juvenile delinquents
2 and dependents, except as otherwise provided by law.~~

~~3 -Sec. 16. One or more judges of probate as provided by law
4 shall be nominated and elected at non-partisan elections in the
5 counties or the probate districts in which they reside and shall
6 hold office for terms of six years and until their successors are
7 elected and qualified. In counties or districts with more than
8 one judge the terms of office shall be arranged by law to provide
9 that not all terms will expire at the same time.~~

10 Sec. 18. Salaries of ~~justices of the supreme court, of the~~
11 ~~judges of the court of appeals, of the circuit judges within a~~
12 ~~circuit, and of the probate judges within a county or district,~~
13 ~~shall be uniform, and~~ JUDGES SHALL BE EQUITABLE AS PROVIDED BY
14 LAW AND SHALL BE UNIFORM WITHIN AN ELECTION DISTRICT. A JUDGE'S
15 TOTAL SALARY may be increased but shall not be decreased during a
16 term of office except and only to the extent of a general salary
17 reduction in all other branches of government. A JUDGE SHALL NOT
18 ENGAGE IN THE PRACTICE OF LAW DURING HIS OR HER TERM OF OFFICE AS
19 A JUDGE.

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

1 Sec. 19. (1) The supreme court, the court of appeals, the
2 ~~circuit court, the probate court~~ TRIAL COURT OF GENERAL
3 JURISDICTION, and other courts designated as such by the legisla-
4 ture shall be courts of record and each shall have a common
5 seal. Justices and judges of courts of record must be persons
6 who are licensed to practice law in this state.

7 (2) To be qualified to serve as a judge of a trial court, a
8 judge of the court of appeals, or a justice of the supreme court,
9 a person shall have been admitted to the practice of law for at
10 least 5 years. This subsection shall not apply to any judge or
11 justice appointed or elected to judicial office prior to ~~the~~
12 ~~date on which this subsection becomes part of the constitution~~
13 DECEMBER 21, 1996.

14 (3) No person shall be elected or appointed to a judicial
15 office after reaching the age of 70 years.

16 ~~Sec. 22. Any judge of the court of appeals, circuit court~~
17 ~~or probate court may become a candidate in the primary election~~
18 ~~for the office of which he is the incumbent by filing an affida-~~
19 ~~vit of candidacy in the form and manner prescribed by law.~~

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

24 Sec. 29. Justices ~~of the supreme court,~~ AND judges ~~of~~
25 ~~the court of appeals, circuit judges and other judges as provided~~
26 ~~by law~~ shall be conservators of the peace within their
27 respective jurisdictions.

1 Sec. 30. (1) A judicial tenure commission is established
2 consisting of nine persons selected for three-year terms as
3 follows: Four members shall be judges elected by the judges of
4 the courts in which they serve, ~~— OF WHOM one shall be a court~~
5 ~~of appeals judge. —, one a circuit judge, one a probate judge and~~
6 ~~one a judge of a court of limited jurisdiction.~~ Three shall be
7 members of the state bar who shall be elected by the members of
8 the state bar of whom one shall be a judge and two shall not be
9 judges. Two shall be appointed by the governor; the members
10 appointed by the governor shall not be judges, retired judges or
11 members of the state bar. Terms shall be staggered as provided
12 by rule of the supreme court. Vacancies shall be filled by the
13 appointing power.

14 (2) On recommendation of the judicial tenure commission, the
15 supreme court may censure, suspend with or without salary, retire
16 or remove a judge for conviction of a felony, physical or mental
17 disability which prevents the performance of judicial duties,
18 misconduct in office, persistent failure to perform his duties,
19 habitual intemperance or conduct that is clearly prejudicial to
20 the administration of justice. The supreme court shall make
21 rules implementing this section and providing for confidentiality
22 and privilege of proceedings.

23 Resolved further, That the foregoing amendment shall be sub-
24 mitted to the people of the state at a special election on August
25 4, 1998 in the manner provided by law.