

HOUSE JOINT RESOLUTION F

March 3, 1999, Introduced by Reps. Richner, Law, Koetje, Patterson, O'Neil, Toy, Mortimer, Bishop, Vear and Cassis and referred to the Committee on Family and Civil Law.

A joint resolution proposing an amendment to the state constitution of 1963, by amending sections 1, 11, 12, 13, 18, 19, 22, 23, 24, 27, and 30 of article VI; adding section 31 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:

1 ARTICLE VI

2 Sec. 1. (1) The judicial power of the state is vested
3 exclusively in one court of justice which shall be divided into
4 one supreme court, one court of appeals, one trial court of
5 general jurisdiction known as the circuit court, ~~one probate~~

1 ~~court,~~ and courts of limited jurisdiction that the legislature
2 may establish by a two-thirds vote of the members elected to and
3 serving in each house. THE PROBATE COURT AND EACH OFFICE OF PRO-
4 BATE JUDGE SHALL CONTINUE TO EXIST UNTIL ABOLISHED AS PROVIDED IN
5 SECTION 31.

6 (2) THE LEGISLATURE SHALL PROVIDE BY LAW THAT AT LEAST ONE
7 JUDGE WHOSE JURISDICTION INCLUDES FAMILY MATTERS AS PROVIDED BY
8 LAW SHALL BE ELECTED EXCLUSIVELY IN EACH COUNTY. FOR PURPOSES OF
9 THIS SUBSECTION, THE LEGISLATURE MAY CONSIDER THE COUNTIES OF
10 HOUGHTON AND KEWEENAW AS ONE COUNTY AND MAY CONSIDER COUNTIES
11 THAT ARE PART OF A PROBATE COURT DISTRICT ON THE DATE ON WHICH
12 THIS SUBSECTION BECOMES PART OF THE CONSTITUTION AS ONE COUNTY.

13 Sec. 11. The state shall be divided into judicial circuits
14 along county lines in each of which there shall be elected one or
15 more circuit judges as provided by law. ~~Sessions of the circuit~~
16 ~~court shall be held at least four times in each year in every~~
17 ~~county organized for judicial purposes. Each circuit judge shall~~
18 ~~hold court in the county or counties within the circuit in which~~
19 ~~he is elected, and in other circuits as may be provided by rules~~
20 ~~of the supreme court.~~ A JUDICIAL CIRCUIT WHICH COMPRISES MORE
21 THAN ONE COUNTY MAY BE DIVIDED INTO ELECTION DIVISIONS ALONG
22 COUNTY LINES AS PROVIDED BY LAW. A CIRCUIT JUDGE ELECTED FROM AN
23 ELECTION DIVISION SHALL HAVE AUTHORITY TO PRESIDE WITHIN THE
24 ENTIRE JUDICIAL CIRCUIT. The number of judges may be changed and
25 circuits may be created, altered and discontinued AS PROVIDED by
26 law. ~~and the number of judges shall be changed and circuits~~
27 ~~shall be created, altered and discontinued on recommendation of~~

1 ~~the supreme court~~ EVERY ODD NUMBERED YEAR, THE SUPREME COURT
2 SHALL MAKE A WRITTEN RECOMMENDATION TO THE LEGISLATURE AS TO
3 WHETHER THE NUMBER OF JUDGES SHOULD BE CHANGED AND CIRCUITS
4 SHOULD BE CREATED, ALTERED, OR DISCONTINUED, to reflect changes
5 in judicial activity. No change in the number of judges or
6 alteration or discontinuance of a circuit OR ELECTION DIVISION
7 shall have the effect of removing a judge from office during
8 ~~his~~ THE JUDGE'S term.

9 Sec. 12. Circuit judges shall be nominated and elected at
10 non-partisan elections in the circuit OR ELECTION DIVISION in
11 which they reside AS PROVIDED BY LAW, and shall hold office for a
12 term of six years and until their successors are elected and
13 qualified. In circuits OR ELECTION DIVISIONS having more than
14 one circuit judge their terms of office shall be arranged by law
15 to provide that not all terms will expire at the same time. THE
16 LENGTH OF THE INITIAL TERM OF A JUDGE MAY BE VARIED BY LAW TO
17 ALLOW FOR THE STAGGERING OF THE EXPIRATION OF JUDGES' TERMS
18 WITHIN A JUDICIAL CIRCUIT OR AN ELECTION DIVISION.

19 Sec. 13. The circuit court shall have original jurisdiction
20 in all matters not prohibited by law; appellate jurisdiction from
21 all inferior courts and tribunals except as otherwise provided by
22 law; power to issue, hear and determine prerogative and remedial
23 writs; AND supervisory and general control over inferior courts
24 and tribunals within their respective jurisdictions in accordance
25 with rules of the supreme court. ~~; and jurisdiction of other~~
26 ~~cases and matters as provided by rules of the supreme court.~~

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

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

19 ~~Sec. 18. Salaries of justices of the supreme court, of~~
20 ~~the judges of the court of appeals SHALL BE UNIFORM, SALARIES of~~
21 ~~the circuit judges within a circuit, and of the probate judges~~
22 ~~within a county or district, shall be uniform, and SALARIES OF~~
23 ~~JUDGES OF ANY COURT OF LIMITED JURISDICTION SHALL BE UNIFORM.~~
24 ~~THE SALARIES OF ALL JUDGES SHALL BE DETERMINED AS PROVIDED BY~~
25 ~~LAW. THE TOTAL SALARY OF A JUDGE may be increased but shall not~~
26 ~~be decreased during a term of office except and only to the~~
27 ~~extent of a general salary reduction in all other branches of~~

1 government. A JUSTICE OR JUDGE OF A COURT OF RECORD WHO IS
2 ELECTED OR REELECTED AFTER THE DATE ON WHICH THE 1999 AMENDMENT
3 TO THIS SECTION BECOMES PART OF THE CONSTITUTION SHALL NOT ENGAGE
4 IN THE PRACTICE OF LAW DURING HIS OR HER TERM AS A JUSTICE OR
5 JUDGE.

6 ~~Each of the judges of the circuit court shall receive an~~
7 ~~annual salary as provided by law. In addition to the salary~~
8 ~~received from the state, each circuit judge may receive from any~~
9 ~~county in which he regularly holds court an additional salary as~~
10 ~~determined from time to time by the board of supervisors of the~~
11 ~~county. In any county where an additional salary is granted, it~~
12 ~~shall be paid at the same rate to all circuit judges regularly~~
13 ~~holding court therein.~~

14 Sec. 19. (1) The supreme court, the court of appeals, the
15 circuit court, ~~the probate court~~ and other courts designated as
16 such by the legislature shall be courts of record and each shall
17 have a common seal. Justices and judges of courts of record must
18 be persons who are licensed to practice law in this state.

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

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

1 Sec. 22. ~~Any~~ A judge ~~of the court of appeals, circuit~~
2 ~~court or probate court~~ may become a candidate in the primary
3 election for the office of which he OR SHE is the incumbent by
4 filing an affidavit of candidacy in the form and manner pre-
5 scribed by law.

6 Sec. 23. (1) A vacancy shall occur in the office of JUSTICE
7 OR judge of any court of record ~~or in the district court~~ by
8 death, removal, resignation, or vacating of the office, and such
9 vacancy shall be filled by appointment by the governor. The
10 person appointed by the governor shall hold office until 12 noon
11 of the first day of January next succeeding the first general
12 election held after the vacancy occurs, at which election a suc-
13 cessor shall be elected for the remainder of the unexpired term.
14 Whenever a new office of judge in a court of record ~~, or the~~
15 ~~district court,~~ is created by law, it shall be filled by elec-
16 tion as provided by law. THE DIVIDING OF A COURT OR THE MERGER
17 OR CONSOLIDATION OF TWO OR MORE COURTS WHICH DOES NOT RESULT IN A
18 CHANGE IN THE TOTAL NUMBER OF JUDGESHIPS IN THE COURT OR COURTS
19 DOES NOT CREATE A NEW OFFICE OF JUDGE OR A VACANCY FOR PURPOSES
20 OF THIS SECTION.

21 (2) The supreme court may authorize persons who have been
22 elected and served as judges to perform judicial duties for
23 limited periods or specific assignments.

24 Sec. 24. (1) There shall be printed upon the ballot under
25 the name of each incumbent justice or judge who is a candidate
26 for nomination or election to the same office the designation of
27 that office.

1 (2) WHENEVER A JUDICIAL OFFICE IS ALTERED OR ABOLISHED BY
2 OPERATION OF LAW OR CONSTITUTIONAL AMENDMENT, THE LEGISLATURE MAY
3 PROVIDE THAT AN INCUMBENT JUDGE IN THAT OFFICE WHO BECOMES A CAN-
4 DIDATE FOR ANOTHER JUDICIAL OFFICE OF A TRIAL COURT WITHIN THE
5 COUNTY OR COUNTIES COMPRISING ALL OR PART OF THE JUDICIAL OFFICE
6 BEING ALTERED OR ABOLISHED, MAY HAVE PRINTED UPON THE BALLOT
7 UNDER HIS OR HER NAME THE NAME OF THE JUDICIAL OFFICE BEING
8 ALTERED OR ABOLISHED, UNLESS THE LAW ALTERING OR ABOLISHING THE
9 OFFICE PROVIDES FOR ANOTHER DESIGNATION.

10 Sec. 27. The supreme court, the court of appeals, ~~the cir-~~
11 ~~cuit court,~~ or any justices or judges thereof, shall not exer-
12 cise any power of appointment to public office except as provided
13 in this constitution. JUDGES OF COURTS OF RECORD MAY EXERCISE
14 POWERS OF APPOINTMENT AS PROVIDED BY LAW.

15 Sec. 30. (1) A judicial tenure commission is established
16 consisting of nine persons selected for three-year terms as
17 follows: ~~Four~~ THREE members shall be judges ~~elected by the~~
18 ~~judges of the courts in which they serve; one shall be a court of~~
19 ~~appeals judge, one a circuit judge, one a probate judge and one a~~
20 ~~judge of a court of limited jurisdiction~~ DESIGNATED PURSUANT TO
21 ADMINISTRATIVE ORDER OF THE SUPREME COURT. Three shall be mem-
22 bers of the state bar who shall be elected by the members of the
23 state bar, of whom one shall be a judge and two shall not be
24 judges. ~~Two~~ THREE shall be appointed by the governor; the mem-
25 bers appointed by the governor shall not be judges, retired
26 judges or members of the state bar. Terms shall be staggered as

1 provided by rule of the supreme court. Vacancies shall be filled
2 by the appointing 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. (1) COURTS IN EXISTENCE ON THE DATE ON WHICH THIS
13 SECTION BECOMES A PART OF THE CONSTITUTION SHALL RETAIN THEIR
14 POWERS AND JURISDICTION, EXCEPT AS PROVIDED BY LAW, UNTIL THEY
15 ARE ABOLISHED BY LAW. THE PROBATE COURT MAY BE ABOLISHED OR
16 ALTERED ONLY AS PROVIDED IN SUBSECTIONS (2) AND (3).

17 (2) ON OR BEFORE JANUARY 1, 2002, THE JURISDICTION OF THE
18 PROBATE COURT IN EVERY COUNTY, OTHER THAN A COUNTY THAT HAS A
19 POPULATION OF LESS THAN 15,000 ACCORDING TO THE 1990 FEDERAL
20 DECENNIAL CENSUS AND THAT IS NOT PART OF A PROBATE COURT DIS-
21 TRICT, SHALL BE TRANSFERRED TO THE CIRCUIT COURT FOR THAT COUNTY
22 AND EACH PROBATE JUDGE FOR THAT COUNTY SHALL BECOME A CIRCUIT
23 JUDGE OF THE CIRCUIT FOR THE COUNTY IN WHICH THE JUDGE RESIDES,
24 FOR THE BALANCE OF THE TERM OF OFFICE TO WHICH HE OR SHE HAD BEEN
25 ELECTED OR APPOINTED AS A PROBATE JUDGE.

26 (3) THE OFFICE OF PROBATE JUDGE IN EACH COUNTY THAT HAS A
27 POPULATION OF LESS THAN 15,000 AND MORE THAN 5,000 ACCORDING TO

1 THE 1990 FEDERAL DECENNIAL CENSUS AND THAT IS NOT PART OF A
2 PROBATE COURT DISTRICT SHALL CONTINUE TO EXIST UNTIL A VACANCY
3 OCCURS IN ANY TRIAL COURT JUDICIAL OFFICE THAT INCLUDES THAT
4 COUNTY AND IS REPLACED BY LAW BY A JUDGESHIP IN A COURT OF RECORD
5 TO BE FILLED EXCLUSIVELY BY THE VOTERS OF THAT COUNTY.

6 (4) WHEN A VACANCY OCCURS IN A TRIAL COURT JUDICIAL OFFICE
7 IN A COURT OF RECORD IN A COUNTY THAT IS PART OF A PROBATE COURT
8 DISTRICT ON THE DATE ON WHICH THIS SECTION BECOMES PART OF THE
9 CONSTITUTION AND THE VOTERS OF THAT COUNTY DO NOT EXCLUSIVELY
10 ELECT A JUDGE, THE JUDICIAL OFFICE IN WHICH THE VACANCY OCCURS
11 SHALL BE REPLACED BY LAW BY A JUDGESHIP TO BE FILLED EXCLUSIVELY
12 BY THE VOTERS OF THAT COUNTY.

13 (5) EACH PROBATE JUDGE WHO BECOMES A CIRCUIT JUDGE PURSUANT
14 TO THIS SECTION AND WHO RUNS FOR ELECTION AS A CIRCUIT JUDGE IS
15 ENTITLED TO FILE AS AN INCUMBENT CIRCUIT JUDGE PURSUANT TO SEC-
16 TION 24 OF THIS ARTICLE AND BE DESIGNATED ON THE BALLOT AS A CIR-
17 CUIT JUDGE.

18 (6) FOR PURPOSES OF THIS SECTION, A VACANCY IN A JUDICIAL
19 OFFICE SHALL BE DEEMED TO HAVE OCCURRED WHEN A JUDGE DIES,
20 RESIGNS, RETIRES, OR IS REMOVED FROM OFFICE OR AS OTHERWISE PRO-
21 VIDED BY LAW.

22 Resolved further, That the foregoing amendment shall be sub-
23 mitted to the people of the state at the presidential primary
24 election held on March 21, 2000 in the manner provided by law.