

1 House Joint Resolution

2 A joint resolution proposing an amendment to Sections 1,
 3 2, 3, 4, 7, 8, 9 and 11 of Article V, creating Section 21
 4 of Article V, and amending Section 2 of Article II,
 5 Section 17 of Article III, and Section 1 of Article IV, of
 6 the State Constitution to create a supreme court of civil
 7 appeals and a supreme court of criminal appeals; providing
 8 for administration of the courts; providing for transition
 9 from the supreme court.

10

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

12

13 That the following amendments to Sections 1, 2, 3, 4, 7, 8,
 14 9, 11, 12 and 15 of Article V, and the creation of Section 21 of
 15 Article V, of the State Constitution are agreed to and shall be
 16 submitted to the electors of this state for approval or
 17 rejection at the next general election or at an earlier special
 18 election specifically authorized by law for that purpose:

19

ARTICLE V

20

Judiciary

21

22 SECTION 1. Courts.—The judicial power shall be vested in a
 23 supreme court of civil appeals, supreme court of criminal
 24 appeals, district courts of appeal, circuit courts and county
 25 courts. No other courts may be established by the state, any
 26 political subdivision or any municipality. The legislature
 27 shall, by general law, divide the state into appellate court
 28 districts and judicial circuits following county lines.
 Commissions established by law, or administrative officers or

29 bodies may be granted quasi-judicial power in matters connected
 30 with the functions of their offices. The legislature may
 31 establish by general law a civil traffic hearing officer system
 32 for the purpose of hearing civil traffic infractions. The
 33 legislature may, by general law, authorize a military court-
 34 martial to be conducted by military judges of the Florida
 35 National Guard, with direct appeal of a decision to the District
 36 Court of Appeal, First District.

37 SECTION 2. Administration; practice and procedure.—

38 (a) The supreme court of civil appeals shall adopt rules
 39 for the practice and procedure in all civil court proceedings
 40 and appeals. ~~courts~~ The supreme court of criminal appeals shall
 41 adopt rules for the practice and procedure in criminal court
 42 proceedings and appeals. Court rules may include rules regarding
 43 ~~including~~ the time for seeking appellate review, ~~the~~
 44 ~~administrative supervision of all courts,~~ the transfer to the
 45 court having jurisdiction of any proceeding when the
 46 jurisdiction of another court has been improvidently invoked,
 47 and a requirement that no cause shall be dismissed because an
 48 improper remedy has been sought. The supreme court of criminal
 49 appeals shall adopt rules to allow the supreme court of criminal
 50 appeals and the district courts of appeal to submit questions
 51 relating to military law to the federal Court of Appeals for the
 52 Armed Forces for an advisory opinion. Rules of court may be
 53 repealed by general law enacted by two-thirds vote of the
 54 membership of each house of the legislature.

55 (b) The chief justice of the supreme court of civil
 56 appeals shall be chosen by the governor with the advice and

57 consent of the senate ~~a majority of the members of the court;~~
 58 shall be the chief administrative officer of the supreme court
 59 of civil appeals ~~judicial system~~; and shall have the power to
 60 assign justices or judges, including consenting retired justices
 61 or judges, to temporary duty in any court for which the judge is
 62 qualified and to delegate to a chief judge of a judicial circuit
 63 the power to assign judges for duty in that circuit. The chief
 64 justice of the supreme court of criminal appeals shall be chosen
 65 by the governor with the advice and consent of the senate and
 66 shall be the chief administrative officer of the supreme court
 67 of criminal appeals.

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 of a district
 71 court shall be responsible for the administrative supervision of
 72 the district court.

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

78 (e) Administration of the court system shall be as provided
 79 in general law.

80 SECTION 3. Supreme court of civil appeals; supreme court
 81 of criminal appeals.-

82 (a) SUPREME COURT OF CIVIL APPEALS.-

83 (1)(a) Organization.-The supreme court of civil appeals
 84 shall consist of five ~~seven~~ justices. Of the five ~~seven~~

85 justices, each appellate district shall have at least one
 86 justice ~~elected or~~ appointed from the district to the supreme
 87 court of civil appeals who is a resident of the district at the
 88 time of the original appointment ~~or election~~. Four ~~Five~~ justices
 89 shall constitute a quorum. The concurrence of three ~~four~~
 90 justices shall be necessary to a decision. When recusals for
 91 cause would prohibit the court from convening because of the
 92 requirements of this section, judges assigned to temporary duty
 93 may be substituted for justices.

94 (2)(b) Jurisdiction.—The supreme court of civil appeals
 95 shall have jurisdiction over the civil law, as provided in
 96 general law.÷

97 ~~(1) Shall hear appeals from final judgments of trial~~
 98 ~~courts imposing the death penalty and from decisions of district~~
 99 ~~courts of appeal declaring invalid a state statute or a~~
 100 ~~provision of the state constitution.~~

101 ~~(2) When provided by general law, shall hear appeals from~~
 102 ~~final judgments entered in proceedings for the validation of~~
 103 ~~bonds or certificates of indebtedness and shall review action of~~
 104 ~~statewide agencies relating to rates or service of utilities~~
 105 ~~providing electric, gas, or telephone service.~~

106 ~~(3) May review any decision of a district court of appeal~~
 107 ~~that expressly declares valid a state statute, or that expressly~~
 108 ~~construes a provision of the state or federal constitution, or~~
 109 ~~that expressly affects a class of constitutional or state~~
 110 ~~officers, or that expressly and directly conflicts with a~~
 111 ~~decision of another district court of appeal or of the supreme~~
 112 ~~court on the same question of law.~~

113 ~~(4) May review any decision of a district court of appeal~~
 114 ~~that passes upon a question certified by it to be of great~~
 115 ~~public importance, or that is certified by it to be in direct~~
 116 ~~conflict with a decision of another district court of appeal.~~

117 ~~(5) May review any order or judgment of a trial court~~
 118 ~~certified by the district court of appeal in which an appeal is~~
 119 ~~pending to be of great public importance, or to have a great~~
 120 ~~effect on the proper administration of justice throughout the~~
 121 ~~state, and certified to require immediate resolution by the~~
 122 ~~supreme court.~~

123 ~~(6) May review a question of law certified by the Supreme~~
 124 ~~Court of the United States or a United States Court of Appeals~~
 125 ~~which is determinative of the cause and for which there is no~~
 126 ~~controlling precedent of the supreme court of Florida.~~

127 ~~(7) May issue writs of prohibition to courts and all writs~~
 128 ~~necessary to the complete exercise of its jurisdiction.~~

129 ~~(8) May issue writs of mandamus and quo warranto to state~~
 130 ~~officers and state agencies.~~

131 ~~(9) May, or any justice may, issue writs of habeas corpus~~
 132 ~~returnable before the supreme court or any justice, a district~~
 133 ~~court of appeal or any judge thereof, or any circuit judge.~~

134 ~~(10) Shall, when requested by the attorney general~~
 135 ~~pursuant to the provisions of Section 10 of Article IV render an~~
 136 ~~advisory opinion of the justices, addressing issues as provided~~
 137 ~~by general law.~~

138 (b) SUPREME COURT OF CRIMINAL APPEALS.—

139 (1) Organization.—The supreme court of criminal appeals
 140 shall consist of five justices. Of the five justices, each

141 appellate district shall have at least one justice appointed
 142 from the district to the supreme court of criminal appeals who
 143 is a resident of the district at the time of the original
 144 appointment. Four justices shall constitute a quorum. The
 145 concurrence of three justices shall be necessary to a decision.
 146 When recusals for cause would prohibit the court from convening
 147 because of the requirements of this section, judges assigned to
 148 temporary duty may be substituted for justices.

149 (2) Jurisdiction.—The supreme court of criminal appeals
 150 shall have jurisdiction over the criminal law, as provided in
 151 general law.

152 (c) RELATIONSHIP BETWEEN COURTS.—The supreme court of civil
 153 appeals and the supreme court of criminal appeals are to be
 154 separate courts of last resort. All justices shall receive the
 155 same compensation. If both courts assert jurisdiction over a
 156 particular case, the chief justice of the court of civil appeals
 157 shall decide where jurisdiction is appropriate. ~~CLERK AND~~
 158 ~~MARSHAL.—The supreme court shall appoint a clerk and a marshal~~
 159 ~~who shall hold office during the pleasure of the court and~~
 160 ~~perform such duties as the court directs. Their compensation~~
 161 ~~shall be fixed by general law. The marshal shall have the power~~
 162 ~~to execute the process of the court throughout the state, and in~~
 163 ~~any county may deputize the sheriff or a deputy sheriff for such~~
 164 ~~purpose.~~

165 SECTION 4. District courts of appeal.—

166 (a) ORGANIZATION.—There shall be a district court of
 167 appeal serving each appellate district. Each district court of
 168 appeal shall consist of at least three judges. Three judges

169 shall consider each case and the concurrence of two shall be
 170 necessary to a decision.

171 (b) JURISDICTION.—

172 (1) District courts of appeal shall have jurisdiction to
 173 hear appeals, that may be taken as a matter of right, from final
 174 judgments or orders of trial courts, including those entered on
 175 review of administrative action, not directly appealable to the
 176 supreme court of civil appeals, the supreme court of criminal
 177 appeals, or a circuit court. They may review interlocutory
 178 orders in such cases to the extent provided by court rule ~~rules~~
 179 ~~adopted by the supreme court.~~

180 (2) District courts of appeal shall have the power of
 181 direct review of administrative action, as prescribed by general
 182 law.

183 (3) A district court of appeal or any judge thereof may
 184 issue writs of habeas corpus returnable before the court or any
 185 judge thereof or before any circuit judge within the territorial
 186 jurisdiction of the court. A district court of appeal may issue
 187 writs of mandamus, certiorari, prohibition, quo warranto, and
 188 other writs necessary to the complete exercise of its
 189 jurisdiction. To the extent necessary to dispose of all issues
 190 in a cause properly before it, a district court of appeal may
 191 exercise any of the appellate jurisdiction of the circuit
 192 courts.

193 ~~(c) CLERKS AND MARSHALS. Each district court of appeal~~
 194 ~~shall appoint a clerk and a marshal who shall hold office during~~
 195 ~~the pleasure of the court and perform such duties as the court~~
 196 ~~directs. Their compensation shall be fixed by general law. The~~

197 ~~marshal shall have the power to execute the process of the court~~
 198 ~~throughout the territorial jurisdiction of the court, and in any~~
 199 ~~county may deputize the sheriff or a deputy sheriff for such~~
 200 ~~purpose.~~

201 SECTION 7. Specialized divisions.—All courts except the
 202 supreme court of civil appeals or the supreme court of criminal
 203 appeals may sit in divisions as may be established by general
 204 law. A circuit or county court may hold civil and criminal
 205 trials and hearings in any place within the territorial
 206 jurisdiction of the court as designated by the chief judge of
 207 the circuit.

208 SECTION 8. Eligibility.—No person shall be eligible for
 209 office of justice or judge of any court unless the person is an
 210 elector of the state and resides in the territorial jurisdiction
 211 of the court. No justice or judge shall serve after attaining
 212 the age of seventy years except upon temporary assignment or to
 213 complete a term, one-half of which has been served. No person is
 214 eligible for the office of justice of the supreme court of civil
 215 appeals, justice of the supreme court of criminal appeals, or
 216 judge of a district court of appeal unless the person is, and
 217 has been for the preceding ten years, a member of the bar of
 218 Florida. No person is eligible for the office of circuit judge
 219 unless the person is, and has been for the preceding five years,
 220 a member of the bar of Florida. Unless otherwise provided by
 221 general law, no person is eligible for the office of county
 222 court judge unless the person is, and has been for the preceding
 223 five years, a member of the bar of Florida. Unless otherwise
 224 provided by general law, a person shall be eligible for election

225 or appointment to the office of county court judge in a county
 226 having a population of 40,000 or less if the person is a member
 227 in good standing of the bar of Florida.

228 SECTION 9. Determination of number of judges.—The supreme
 229 courts ~~court~~ shall establish ~~by rule~~ uniform criteria for the
 230 determination of the need for additional judges except supreme
 231 court justices, the necessity for decreasing the number of
 232 judges and for increasing, decreasing or redefining appellate
 233 districts and judicial circuits. If the supreme courts jointly
 234 find ~~court finds~~ that a need exists for increasing or decreasing
 235 the number of judges or increasing, decreasing or redefining
 236 appellate districts and judicial circuits, they ~~it~~ shall, prior
 237 to the next regular session of the legislature, certify to the
 238 legislature their ~~its~~ findings and recommendations concerning
 239 such need. Upon receipt of such certificate, the legislature, at
 240 the next regular session, shall consider the findings and
 241 recommendations and may reject the recommendations or by law
 242 implement the recommendations in whole or in part; provided the
 243 legislature may create more judicial offices than are
 244 recommended ~~by the supreme court~~ or may decrease the number of
 245 judicial offices by a greater number than recommended ~~by the~~
 246 ~~court~~ only upon a finding of two-thirds of the membership of
 247 both houses of the legislature, that such a need exists. A
 248 decrease in the number of judges shall be effective only after
 249 the expiration of a term. If the supreme courts fail ~~court fails~~
 250 to make findings as provided above when need exists, the
 251 legislature may by concurrent resolution request the courts
 252 ~~court~~ to jointly certify their ~~its~~ findings and recommendations

253 and upon the failure of the courts ~~court~~ to certify their ~~its~~
 254 findings for nine consecutive months, the legislature may, upon
 255 a finding of two-thirds of the membership of both houses of the
 256 legislature that a need exists, increase or decrease the number
 257 of judges or increase, decrease or redefine appellate districts
 258 and judicial circuits.

259 SECTION 11. Vacancies.—

260 (a) Whenever a vacancy occurs in a judicial office to
 261 which election for retention applies, the governor shall fill
 262 the vacancy by appointing for a term ending on the first Tuesday
 263 after the first Monday in January of the year following the next
 264 general election occurring at least one year after the date of
 265 appointment, one of not fewer than three persons nor more than
 266 six persons nominated by the appropriate judicial nominating
 267 commission.

268 (b) The governor shall fill each vacancy on a circuit
 269 court or on a county court, wherein the judges are elected by a
 270 majority vote of the electors, by appointing for a term ending
 271 on the first Tuesday after the first Monday in January of the
 272 year following the next primary and general election occurring
 273 at least one year after the date of appointment, one of not
 274 fewer than three persons nor more than six persons nominated by
 275 the appropriate judicial nominating commission. An election
 276 shall be held to fill that judicial office for the term of the
 277 office beginning at the end of the appointed term.

278 (c) The nominations shall be made within thirty days from
 279 the occurrence of a vacancy unless the period is extended by the
 280 governor for a time not to exceed thirty days. The governor

281 shall make the appointment within sixty days after the
 282 nominations have been certified to the governor.

283 (d) There shall be a separate judicial nominating
 284 commission as provided by general law, one for the supreme
 285 courts ~~court~~, one for each district court of appeal, and one for
 286 each judicial circuit for all trial courts within the circuit.
 287 Uniform rules of procedure shall be established by the judicial
 288 nominating commissions at each level of the court system. Such
 289 rules, or any part thereof, may be repealed by general law
 290 enacted by a majority vote of the membership of each house of
 291 the legislature, or by a majority vote of justices of the
 292 supreme courts ~~court~~, ~~five justices concurring~~. Except for
 293 deliberations of the judicial nominating commissions, the
 294 proceedings of the commissions and their records shall be open
 295 to the public.

296 SECTION 12. Discipline; removal and retirement.—

297 (a) JUDICIAL QUALIFICATIONS COMMISSION.—A judicial
 298 qualifications commission is created.

299 (1) There shall be a judicial qualifications commission
 300 vested with jurisdiction to investigate and recommend to the
 301 supreme court of criminal appeals ~~Supreme Court of Florida~~ the
 302 removal from office of any justice or judge whose conduct,
 303 during term of office or otherwise ~~occurring on or after~~
 304 ~~November 1, 1966, (without regard to the effective date of this~~
 305 ~~section)~~ demonstrates a present unfitness to hold office, and to
 306 investigate and recommend the discipline of a justice or judge
 307 whose conduct, during term of office or otherwise ~~occurring on~~
 308 ~~or after November 1, 1966 (without regard to the effective date~~

309 ~~of this section),~~ warrants such discipline. For purposes of this
 310 section, discipline is defined as any or all of the following:
 311 reprimand, fine, suspension with or without pay, or lawyer
 312 discipline. The commission shall have jurisdiction over justices
 313 and judges regarding allegations that misconduct occurred before
 314 or during service as a justice or judge if a complaint is made
 315 no later than one year following service as a justice or judge.
 316 The commission shall have jurisdiction regarding allegations of
 317 incapacity during service as a justice or judge. The commission
 318 shall be composed of:

319 a. Two judges of district courts of appeal selected by the
 320 judges of those courts, two circuit judges selected by the
 321 judges of the circuit courts and two judges of county courts
 322 selected by the judges of those courts;

323 b. Four electors who reside in the state, who are members
 324 of the bar of Florida, and who shall be chosen by the governing
 325 body of the bar of Florida; and

326 c. Five electors who reside in the state, who have never
 327 held judicial office or been members of the bar of Florida, and
 328 who shall be appointed by the governor.

329 (2) The members of the judicial qualifications commission
 330 shall serve staggered terms, not to exceed six years, as
 331 prescribed by general law. No member of the commission except a
 332 judge shall be eligible for state judicial office while acting
 333 as a member of the commission and for a period of two years
 334 thereafter. No member of the commission shall hold office in a
 335 political party or participate in any campaign for judicial
 336 office or hold public office; provided that a judge may campaign

337 for judicial office and hold that office. The commission shall
 338 elect one of its members as its chairperson.

339 (3) Members of the judicial qualifications commission not
 340 subject to impeachment shall be subject to removal from the
 341 commission pursuant to the provisions of Article IV, Section 7,
 342 Florida Constitution.

343 (4) The commission shall adopt rules regulating its
 344 proceedings, the filling of vacancies by the appointing
 345 authorities, the disqualification of members, the rotation of
 346 members between the panels, and the temporary replacement of
 347 disqualified or incapacitated members. The commission's rules,
 348 or any part thereof, may be repealed by general law enacted by a
 349 majority vote of the membership of each house of the
 350 legislature, or by the supreme court of criminal appeals, ~~five~~
 351 ~~justices concurring~~. The commission shall have power to issue
 352 subpoenas. Until formal charges against a justice or judge are
 353 filed by the investigative panel with the clerk of the supreme
 354 court of Florida all proceedings by or before the commission
 355 shall be confidential; provided, however, upon a finding of
 356 probable cause and the filing by the investigative panel with
 357 said clerk of such formal charges against a justice or judge
 358 such charges and all further proceedings before the commission
 359 shall be public.

360 (5) The commission shall have access to all information
 361 from all executive, legislative and judicial agencies, including
 362 grand juries, subject to the rules of the commission. At any
 363 time, on request of the speaker of the house of representatives
 364 ~~or the governor~~, the commission shall make available all

365 information in the possession of the commission for use in
 366 consideration of impeachment ~~or suspension, respectively.~~

367 (b) PANELS.—The commission shall be divided into an
 368 investigative panel and a hearing panel as established by rule
 369 of the commission. The investigative panel is vested with the
 370 jurisdiction to receive or initiate complaints, conduct
 371 investigations, dismiss complaints, and upon a vote of a simple
 372 majority of the panel submit formal charges to the hearing
 373 panel. The hearing panel is vested with the authority to receive
 374 and hear formal charges from the investigative panel and upon a
 375 two-thirds vote of the panel recommend to the supreme court of
 376 criminal appeals the removal of a justice or judge or the
 377 involuntary retirement of a justice or judge for any permanent
 378 disability that seriously interferes with the performance of
 379 judicial duties. Upon a simple majority vote of the membership
 380 of the hearing panel, the panel may recommend to the supreme
 381 court of criminal appeals that the justice or judge be subject
 382 to appropriate discipline.

383 (c) SUPREME COURT OF CRIMINAL APPEALS.—The supreme court
 384 of criminal appeals shall receive recommendations from the
 385 judicial qualifications commission's hearing panel.

386 (1) The supreme court of criminal appeals may accept,
 387 reject, or modify in whole or in part the findings, conclusions,
 388 and recommendations of the commission and it may order that the
 389 justice or judge be subjected to appropriate discipline, or be
 390 removed from office with termination of compensation for willful
 391 or persistent failure to perform judicial duties or for other
 392 conduct unbecoming a member of the judiciary demonstrating a

393 present unfitness to hold office, or be involuntarily retired
 394 for any permanent disability that seriously interferes with the
 395 performance of judicial duties. Malafides, scienter or moral
 396 turpitude on the part of a justice or judge shall not be
 397 required for removal from office of a justice or judge whose
 398 conduct demonstrates a present unfitness to hold office. After
 399 the filing of a formal proceeding and upon request of the
 400 investigative panel, the supreme court of criminal appeals may
 401 suspend the justice or judge from office, with or without
 402 compensation, pending final determination of the inquiry.

403 (2) The supreme court of criminal appeals may award costs
 404 to the prevailing party.

405 (d) The power of removal conferred by this section shall
 406 be both alternative and cumulative to the power of impeachment.

407 (e) Notwithstanding any of the foregoing provisions of
 408 this section, if the person who is the subject of proceedings by
 409 the judicial qualifications commission is a justice of the
 410 supreme court of criminal appeals, ~~Florida all justices of such~~
 411 ~~court automatically shall be disqualified to sit as justices of~~
 412 ~~such court with respect to all proceedings therein concerning~~
 413 ~~such person and the supreme court of civil appeals shall hear~~
 414 ~~the case for such purposes shall be composed of a panel~~
 415 ~~consisting of the seven chief judges of the judicial circuits of~~
 416 ~~the state of Florida most senior in tenure of judicial office as~~
 417 ~~circuit judge. For purposes of determining seniority of such~~
 418 ~~circuit judges in the event there be judges of equal tenure in~~
 419 ~~judicial office as circuit judge the judge or judges from the~~
 420 ~~lower numbered circuit or circuits shall be deemed senior. In~~

421 ~~the event any such chief circuit judge is under investigation by~~
 422 ~~the judicial qualifications commission or is otherwise~~
 423 ~~disqualified or unable to serve on the panel, the next most~~
 424 ~~senior chief circuit judge or judges shall serve in place of~~
 425 ~~such disqualified or disabled chief circuit judge.~~

426 (f) SCHEDULE TO SECTION 12.-

427 (1) Except to the extent inconsistent with the provisions
 428 of this section, all provisions of law and rules of court in
 429 force on the effective date of this article shall continue in
 430 effect until superseded in the manner authorized by the
 431 constitution.

432 (2) After this section becomes effective and until adopted
 433 by rule of the commission consistent with it:

434 a. The commission shall be divided, as determined by the
 435 chairperson, into one investigative panel and one hearing panel
 436 to meet the responsibilities set forth in this section.

437 b. The investigative panel shall be composed of:

- 438 1. Four judges,
- 439 2. Two members of the bar of Florida, and
- 440 3. Three non-lawyers.

441 c. The hearing panel shall be composed of:

- 442 1. Two judges,
- 443 2. Two members of the bar of Florida, and
- 444 3. Two non-lawyers.

445 d. Membership on the panels may rotate in a manner
 446 determined by the rules of the commission provided that no
 447 member shall vote as a member of the investigative and hearing
 448 panel on the same proceeding.

449 e. The commission shall hire separate staff for each
450 panel.

451 f. The members of the commission shall serve for staggered
452 terms of six years.

453 g. deleted. ~~The terms of office of the present members of~~
454 ~~the judicial qualifications commission shall expire upon the~~
455 ~~effective date of the amendments to this section approved by the~~
456 ~~legislature during the regular session of the legislature in~~
457 ~~1996 and new members shall be appointed to serve the following~~
458 ~~staggered terms:~~

459 1. ~~Group I. The terms of five members, composed of two~~
460 ~~electors as set forth in s. 12(a)(1)c. of Article V, one member~~
461 ~~of the bar of Florida as set forth in s. 12(a)(1)b. of Article~~
462 ~~V, one judge from the district courts of appeal and one circuit~~
463 ~~judge as set forth in s. 12(a)(1)a. of Article V, shall expire~~
464 ~~on December 31, 1998.~~

465 2. ~~Group II. The terms of five members, composed of one~~
466 ~~elector as set forth in s. 12(a)(1)c. of Article V, two members~~
467 ~~of the bar of Florida as set forth in s. 12(a)(1)b. of Article~~
468 ~~V, one circuit judge and one county judge as set forth in s.~~
469 ~~12(a)(1)a. of Article V shall expire on December 31, 2000.~~

470 3. ~~Group III. The terms of five members, composed of two~~
471 ~~electors as set forth in s. 12(a)(1)c. of Article V, one member~~
472 ~~of the bar of Florida as set forth in s. 12(a)(1)b., one judge~~
473 ~~from the district courts of appeal and one county judge as set~~
474 ~~forth in s. 12(a)(1)a. of Article V, shall expire on December~~
475 ~~31, 2002.~~

476 h. An appointment to fill a vacancy of the commission
477 shall be for the remainder of the term.

478 i. Selection of members by district courts of appeal
479 judges, circuit judges, and county court judges, shall be by no
480 less than a majority of the members voting at the respective
481 courts' conferences. Selection of members by the board of
482 governors of the bar of Florida shall be by no less than a
483 majority of the board.

484 j. The commission shall be entitled to recover the costs
485 of investigation and prosecution, in addition to any penalty
486 levied by the supreme court hearing the case.

487 k. The compensation of members and referees shall be the
488 travel expenses or transportation and per diem allowance as
489 provided by general law.

490 SECTION 15. Attorneys; admission and discipline.—The
491 supreme court of civil appeals shall have exclusive jurisdiction
492 to regulate the admission of persons to the practice of law and
493 the discipline of persons admitted.

494 SECTION 21. Schedule to Article V amendment creating a
495 supreme court of civil appeals and a supreme court of criminal
496 appeals.—

497 (a) Except to the extent inconsistent with the provisions
498 of this article, all provisions of law and rules of court in
499 force on the effective date of this article shall continue in
500 effect until superseded in the manner authorized by the
501 constitution.

502 (b) The effective date of the amendment creating the
 503 supreme court of criminal appeals and supreme court of civil
 504 appeals shall be upon passage by the electorate.

505 (1) On the first day after the election approving the
 506 amendment, the supreme court shall rank all of the justices then
 507 in office by seniority in service on the supreme court. The
 508 three who have the most seniority shall be the initial justices
 509 of the supreme court of criminal appeals, and the remaining
 510 justices shall be the initial justices of the supreme court of
 511 civil appeals. Initial appointments of existing justices to
 512 either of the new supreme courts shall not be limited by the
 513 district court that the justice was appointed from. A justice
 514 transferred to a new supreme court shall remain in the same term
 515 of office that he or she had when he or she was a member of the
 516 supreme court and shall sit for future retention elections on
 517 the same cycle. The supreme court shall immediately transmit to
 518 the Governor the names of those justices and the districts they
 519 were appointed from. The Governor shall direct the supreme court
 520 nominating commission to make its recommendations for the open
 521 seats of justices for the supreme court of civil appeals and for
 522 the supreme court of criminal appeals, which recommendations
 523 must be delivered to the governor no later than the 45th day
 524 after the election. The governor shall make the appointments by
 525 the 60th day after the election. At the time of making the
 526 initial appointments the governor shall also designate the chief
 527 justices of each court, which appointment in this instance shall
 528 not be subject in the advice and consent of the senate.

529 (2) The supreme court shall undertake to inventory all
 530 cases and case files in its possession and determine as to each
 531 case whether it is to be transferred to the supreme court of
 532 criminal appeals or the supreme court of civil appeals. Newly
 533 filed cases will be designated between the two new supreme
 534 courts. The supreme court shall retain full jurisdiction and
 535 power over cases in the inventory until actually transferred,
 536 including the power to issue final process which would have the
 537 effect of removing the case from the inventory of cases to be
 538 transferred.

539 (c) The supreme court of civil appeals and the supreme
 540 court of criminal appeals shall begin formal operations on the
 541 120th day after the election. On that day:

542 (1) Newly appointed justices shall take office.

543 (2) The jurisdiction of the two supreme courts shall be
 544 divided.

545 (3) The supreme court shall transfer all criminal cases to
 546 the supreme court of criminal appeals and shall transfer all
 547 civil cases to the supreme court of civil appeals.

548 (4) The term of the supreme court shall be deemed to have
 549 ended. All mandates issued by the supreme court prior to the
 550 end of the term shall be final and not subject to recall. No
 551 motion for reconsideration shall be considered.

552 (d) Until the jurisdiction of the supreme court of civil
 553 appeals is provided in general law, the supreme court of civil
 554 appeals:

555 (1) Shall hear appeals from decisions of district courts
 556 of appeal declaring invalid a state statute or a provision of

557 the state constitution, unless such appeal is within the
 558 jurisdiction of the supreme court of criminal appeals.

559 (2) When provided by general law, shall hear appeals from
 560 final judgments entered in proceedings for the validation of
 561 bonds or certificates of indebtedness and shall review action of
 562 statewide agencies relating to rates or service of utilities
 563 providing electric, gas, or telephone service.

564 (3) May review any decision of a district court of appeal
 565 that expressly declares valid a state statute, or that expressly
 566 construes a provision of the state or federal constitution, or
 567 that expressly affects a class of constitutional or state
 568 officers, or that expressly and directly conflicts with a
 569 decision of another district court of appeal, of the former
 570 supreme court, or of the supreme court of civil appeals on the
 571 same question of law, unless such appeal is within the
 572 jurisdiction of the supreme court of criminal appeals.

573 (4) May review any decision of a district court of appeal
 574 that passes upon a question certified by it to be of great
 575 public importance, or that is certified by it to be in direct
 576 conflict with a decision of another district court of appeal,
 577 unless such appeal is within the jurisdiction of the supreme
 578 court of criminal appeals.

579 (5) May review any order or judgment of a trial court
 580 certified by the district court of appeal in which an appeal is
 581 pending to be of great public importance, or to have a great
 582 effect on the proper administration of justice throughout the
 583 state, and certified to require immediate resolution by the

584 supreme court of civil appeals, unless such appeal is within the
 585 jurisdiction of the supreme court of criminal appeals.

586 (6) May review a question of law certified by the Supreme
 587 Court of the United States or a United States Court of Appeals
 588 which is determinative of the cause and for which there is no
 589 controlling precedent of the former supreme court of Florida or
 590 of the supreme court of civil appeals, unless such question is
 591 within the jurisdiction of the supreme court of criminal
 592 appeals.

593 (7) May issue writs of prohibition to courts and all writs
 594 necessary to the complete exercise of its jurisdiction, unless
 595 the writ is within the jurisdiction of the supreme court of
 596 criminal appeals.

597 (8) May issue writs of mandamus and quo warranto to state
 598 officers and state agencies, unless the writ is within the
 599 jurisdiction of the supreme court of criminal appeals.

600 (9) May, or any justice may, issue writs of habeas corpus
 601 returnable before the supreme court of civil appeals or any
 602 justice thereof, a district court of appeal or any judge
 603 thereof, or any circuit judge. Neither the supreme court of
 604 civil appeals nor any justice of the supreme court of civil
 605 appeals shall issue a writ of habeas corpus regarding any person
 606 under a sentence of death, any person imprisoned for commission
 607 of a crime, or any person jailed facing criminal charges.

608 (10) Shall, when requested by the attorney general
 609 pursuant to the provisions of Section 10 of Article IV, and if
 610 related to a civil matter, render an advisory opinion of the
 611 justices, addressing issues as provided by general law.

612 (11) Shall have no jurisdiction or authority, whether
 613 express or implied, to issue a stay of execution or to hear any
 614 challenge of any law or procedure regarding the death penalty.

615 (e) Until the jurisdiction of the supreme court of criminal
 616 appeals is provided by general law, the supreme court of
 617 criminal appeals:

618 (1) Shall hear appeals from final judgments of trial
 619 courts imposing the death penalty.

620 (2) Shall hear appeals from decisions of district courts
 621 of appeal declaring invalid a state statute or a provision of
 622 the state constitution, in a criminal case.

623 (3) May review any decision of a district court of appeal
 624 that expressly declares valid a state statute, or that expressly
 625 construes a provision of the state or federal constitution, or
 626 that expressly affects a class of constitutional or state
 627 officers, or that expressly and directly conflicts with a
 628 decision of another district court of appeal or of the supreme
 629 court on the same question of law, in a criminal case.

630 (4) May review any decision of a district court of appeal
 631 that passes upon a question certified by it to be of great
 632 public importance, or that is certified by it to be in direct
 633 conflict with a decision of another district court of appeal, in
 634 a criminal case.

635 (5) May review any order or judgment of a trial court
 636 certified by the district court of appeal in which an appeal is
 637 pending to be of great public importance, or to have a great
 638 effect on the proper administration of justice throughout the

639 state, and certified to require immediate resolution by the
 640 supreme court of criminal appeals, in a criminal case.

641 (6) May review a question of law certified by the Supreme
 642 Court of the United States or a United States Court of Appeals
 643 which is determinative of the cause and for which there is no
 644 controlling precedent of the former supreme court or the supreme
 645 court of criminal appeals, in a criminal case.

646 (7) May issue writs of prohibition to courts and all writs
 647 necessary to the complete exercise of its jurisdiction, related
 648 to a criminal case.

649 (8) May issue writs of mandamus and quo warranto to state
 650 officers and state agencies, related to a criminal case.

651 (9) May, or any justice may, issue writs of habeas corpus
 652 returnable before the supreme court of criminal appeals or any
 653 justice thereof, a district court of appeal or any judge
 654 thereof, or any circuit judge. The power to issue a writ of
 655 habeas corpus under this sub-paragraph applies to any person
 656 under a sentence of death, any person imprisoned for commission
 657 of a crime, any person jailed facing criminal charges, or any
 658 person who cannot seek the writ from the supreme court of civil
 659 appeals because the supreme court of civil appeals lacks
 660 jurisdiction. Neither the supreme court of criminal appeals nor
 661 any justice of the supreme court of criminal appeals shall issue
 662 a writ of habeas corpus regarding any person held in civil
 663 confinement.

664 (10) Shall, when requested by the attorney general
 665 pursuant to the provisions of Section 10 of Article IV, and if

666 related to a criminal case, render an advisory opinion of the
 667 justices, addressing issues as provided by general law.

668 (11) May hear any challenge to the constitutionality of the
 669 death penalty, any challenge to the method of carrying out the
 670 death penalty, or any request for a stay of a death penalty.

671 (f) For purposes of interpreting the jurisdiction of the
 672 supreme court of civil appeals and the supreme court of the
 673 criminal appeals, unless changed by general law:

674 (1) The term "criminal case" shall be defined to mean any
 675 case or controversy primarily involving the commission of a
 676 felony or misdemeanor. It shall also mean any case or
 677 controversy involving criminal law, criminal penalties, criminal
 678 procedure, or any related action regarding the interpretation of
 679 or resolution of matters directly affecting the criminal law.
 680 Criminal cases are within the jurisdiction of the supreme court
 681 of criminal appeals.

682 (2) A tort or contract case or controversy alleging civil
 683 damages resulting from criminal activity is not a criminal case.

684 (3) Confinement for the purpose of evaluation and treatment
 685 of a mentally ill person is not a criminal case unless the
 686 confinement is related to the commission of a criminal offense
 687 by an adult.

688 (4) Confinement related to contempt of court is a civil
 689 case even if the contempt occurred during a criminal case.

690 (5) Jurisdiction over juvenile delinquency shall be with
 691 the supreme court of civil appeals.

692 (6) Equitable relief related to the criminal law, including
 693 where a party seeks to enjoin application of a criminal penalty,

694 shall be within the jurisdiction of the court of criminal
 695 appeals.

696 (g) The Florida Rules of Criminal Procedure, as adopted and
 697 amended as of the date that the supreme court of criminal
 698 appeals begins operation, shall be in full force and effect as
 699 if adopted by the supreme court of criminal appeals, subject to
 700 amendment or repeal. The Florida Rules of Appellate Procedure,
 701 as amended and adopted as of the date that the supreme court of
 702 criminal appeals begins operation, shall apply in criminal
 703 appeals, subject to adoption by the court of criminal appeals of
 704 appellate rules applicable to criminal appeals. All other court
 705 rules shall be in full force and effect as if adopted by the
 706 supreme court of civil appeals, subject to amendment or repeal.

707 (h) The legislature may by general law otherwise provide
 708 for the administrative transfer of employees, property, duties
 709 and functions from the former supreme court to the supreme court
 710 of civil appeals and the supreme court of criminal appeals.

711 (i) The legislature shall have power, by concurrent
 712 resolution, to delete from this article any subsection of this
 713 section 21 including this subsection, when all events to which
 714 the subsection to be deleted is or could become applicable have
 715 occurred.

716
 717 And that the following amendment to Section 2 of Article II
 718 of the State Constitution is agreed to and shall be submitted to
 719 the electors of this state for approval or rejection at the next
 720 general election or at an earlier special election specifically
 721 authorized by law for that purpose:

ARTICLE II

GENERAL PROVISIONS

SECTION 2. Seat of government.—The seat of government shall be the City of Tallahassee, in Leon County, where the offices of the governor, lieutenant governor, cabinet members, supreme court of civil appeals, and the supreme court of criminal appeals shall be maintained and the sessions of the legislature shall be held; provided that, in time of invasion or grave emergency, the governor by proclamation may for the period of the emergency transfer the seat of government to another place.

And that the following amendment to Section 17 of Article III 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 III

LEGISLATURE

SECTION 17. Impeachment.—

(a) The governor, lieutenant governor, members of the cabinet, justices of a ~~the~~ supreme court, judges of district courts of appeal, judges of circuit courts, and judges of county courts shall be liable to impeachment for misdemeanor in office. The house of representatives by two-thirds vote shall have the power to impeach an officer. The speaker of the house of representatives shall have power at any time to appoint a

749 | committee to investigate charges against any officer subject to
 750 | impeachment.

751 | (b) An officer impeached by the house of representatives
 752 | shall be disqualified from performing any official duties until
 753 | acquitted by the senate, and, unless impeached, the governor may
 754 | by appointment fill the office until completion of the trial.

755 | (c) All impeachments by the house of representatives shall
 756 | be tried by the senate. The chief justice of the supreme court
 757 | of criminal appeals, or another justice of either supreme court
 758 | designated by the chief justice of the supreme court of criminal
 759 | appeals, shall preside at the trial, except in a trial of the
 760 | chief justice of either supreme court, in which case the
 761 | governor shall preside. The senate shall determine the time for
 762 | the trial of any impeachment and may sit for the trial whether
 763 | the house of representatives be in session or not. The time
 764 | fixed for trial shall not be more than six months after the
 765 | impeachment. During an impeachment trial senators shall be upon
 766 | their oath or affirmation. No officer shall be convicted without
 767 | the concurrence of two-thirds of the members of the senate
 768 | present. Judgment of conviction in cases of impeachment shall
 769 | remove the offender from office and, in the discretion of the
 770 | senate, may include disqualification to hold any office of
 771 | honor, trust or profit. Conviction or acquittal shall not affect
 772 | the civil or criminal responsibility of the officer.

773 |
 774 | And that the following amendment to Sections 1 and 4 of
 775 | Article IV of the State Constitution is agreed to and shall be
 776 | submitted to the electors of this state for approval or

777 rejection at the next general election or at an earlier special
 778 election specifically authorized by law for that purpose:

779 ARTICLE IV

780 EXECUTIVE

781 SECTION 1. Governor.—

782 (a) The supreme executive power shall be vested in a
 783 governor, who shall be commander-in-chief of all military forces
 784 of the state not in active service of the United States. The
 785 governor shall take care that the laws be faithfully executed,
 786 commission all officers of the state and counties, and transact
 787 all necessary business with the officers of government. The
 788 governor may require information in writing from all executive
 789 or administrative state, county or municipal officers upon any
 790 subject relating to the duties of their respective offices. The
 791 governor shall be the chief administrative officer of the state
 792 responsible for the planning and budgeting for the state.

793 (b) The governor may initiate judicial proceedings in the
 794 name of the state against any executive or administrative state,
 795 county or municipal officer to enforce compliance with any duty
 796 or restrain any unauthorized act.

797 (c) The governor may request in writing the opinion of the
 798 justices of the appropriate ~~the~~ supreme court as to the
 799 interpretation of any portion of this constitution upon any
 800 question affecting the governor's executive powers and duties.
 801 The justices shall, subject to their rules of procedure, permit
 802 interested persons to be heard on the questions presented and
 803 shall render their written opinion not earlier than ten days

804 from the filing and docketing of the request, unless in their
 805 judgment the delay would cause public injury.

806 (d) The governor shall have power to call out the militia
 807 to preserve the public peace, execute the laws of the state,
 808 suppress insurrection, or repel invasion.

809 (e) The governor shall by message at least once in each
 810 regular session inform the legislature concerning the condition
 811 of the state, propose such reorganization of the executive
 812 department as will promote efficiency and economy, and recommend
 813 measures in the public interest.

814 (f) When not otherwise provided for in this constitution,
 815 the governor shall fill by appointment any vacancy in state or
 816 county office for the remainder of the term of an appointive
 817 office, and for the remainder of the term of an elective office
 818 if less than twenty-eight months, otherwise until the first
 819 Tuesday after the first Monday following the next general
 820 election.

821 SECTION 4. Cabinet.—

822 (a) There shall be a cabinet composed of an attorney
 823 general, a chief financial officer, and a commissioner of
 824 agriculture. In addition to the powers and duties specified
 825 herein, they shall exercise such powers and perform such duties
 826 as may be prescribed by law. In the event of a tie vote of the
 827 governor and cabinet, the side on which the governor voted shall
 828 be deemed to prevail.

829 (b) The attorney general shall be the chief state legal
 830 officer. There is created in the office of the attorney general
 831 the position of statewide prosecutor. The statewide prosecutor

832 shall have concurrent jurisdiction with the state attorneys to
 833 prosecute violations of criminal laws occurring or having
 834 occurred, in two or more judicial circuits as part of a related
 835 transaction, or when any such offense is affecting or has
 836 affected two or more judicial circuits as provided by general
 837 law. The statewide prosecutor shall be appointed by the attorney
 838 general from not less than three persons nominated by the
 839 judicial nominating commission for the supreme courts ~~court~~, or
 840 as otherwise provided by general law.

841 (c) The chief financial officer shall serve as the chief
 842 fiscal officer of the state, and shall settle and approve
 843 accounts against the state, and shall keep all state funds and
 844 securities.

845 (d) The commissioner of agriculture shall have supervision
 846 of matters pertaining to agriculture except as otherwise
 847 provided by law.

848 (e) The governor as chair, the chief financial officer,
 849 and the attorney general shall constitute the state board of
 850 administration, which shall succeed to all the power, control,
 851 and authority of the state board of administration established
 852 pursuant to Article IX, Section 16 of the Constitution of 1885,
 853 and which shall continue as a body at least for the life of
 854 Article XII, Section 9(c).

855 (f) The governor as chair, the chief financial officer,
 856 the attorney general, and the commissioner of agriculture shall
 857 constitute the trustees of the internal improvement trust fund
 858 and the land acquisition trust fund as provided by law.

859 (g) The governor as chair, the chief financial officer,
 860 the attorney general, and the commissioner of agriculture shall
 861 constitute the agency head of the Department of Law Enforcement.
 862

863 BE IT FURTHER RESOLVED that the following statement be
 864 placed on the ballot:

865 CONSTITUTIONAL AMENDMENT

866 ARTICLE II, SECTION 2

867 ARTICLE III, SECTION 17

868 ARTICLE IV, SECTION 1

869 ARTICLE V, SECTIONS 1, 2, 3, 4, 7, 8, 9, 11, 12, 15 AND 21

870 SUPREME COURT.—Proposing an amendment to the State
 871 Constitution to create a supreme court of civil appeals and a
 872 supreme court of criminal appeals. Under current law, the
 873 Florida Supreme Court, consisting of 7 appointed justices, is
 874 the highest court in Florida, hearing both civil and criminal
 875 cases. This resolution would abolish the current Supreme Court
 876 and create a new supreme court of civil appeals and a new
 877 supreme court of criminal appeals. Each of the new supreme
 878 courts would have 5 appointed justices. The 3 most senior
 879 justices of the Florida Supreme Court would be transferred to
 880 the new supreme court of criminal appeals, the remaining 4
 881 current justices of the Florida Supreme Court would be
 882 transferred to the new supreme court of civil appeals, and the
 883 Governor will have to appoint 3 new justices to fill in openings
 884 in the 2 courts. The existing constitution creates the
 885 jurisdiction of the Supreme Court, which jurisdiction can only
 886 be changed by constitutional amendment. This proposed amendment

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887 splits the jurisdiction between the two supreme courts to
888 provide that the supreme court of civil appeals will have
889 jurisdiction over civil matters, and the supreme court of
890 criminal appeals will have jurisdiction over criminal matters.
891 The amendment also provides that the jurisdictions of the
892 supreme courts will be set in general law in the future and thus
893 may be changed by general law in the future. The power of these
894 new courts to issue a writ of habeas corpus is limited by this
895 amendment. Currently, the Florida Supreme Court has jurisdiction
896 over judicial discipline and the regulation of attorneys; this
897 amendment places jurisdiction over judicial discipline with the
898 supreme court of criminal appeals and jurisdiction over attorney
899 regulation with the supreme court of civil appeals. The proposed
900 amendment also creates a position of chief justice in each of
901 the supreme courts, removes the positions of clerk and marshal
902 from the constitution, provides for transition, and makes
903 conforming changes in various sections of the constitution.