

SENATE JOINT RESOLUTION R

May 12, 1998, Introduced by Senators VAN REGENMORTER, MC MANUS, DINGELL, GAST, POSTHUMUS, CHERRY, DE GROW and PETERS 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, 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 allow the merger of the probate court and the circuit court and to make related amendments regarding 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 allow the merger of the probate court and the circuit court and to make related amendments regarding the judicial branch, is proposed, agreed to, and submitted to the people of the state:

ARTICLE VI

1

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 gen-
5 eral jurisdiction known as the circuit court, ~~one probate~~
6 ~~court,~~ and courts of limited jurisdiction that the legislature
7 may establish by a two-thirds vote of the members elected to and
8 serving in each house. THE PROBATE COURT AND EACH OFFICE OF PRO-
9 BATE JUDGE SHALL CONTINUE TO EXIST UNTIL ABOLISHED OR TRANSFERRED
10 TO THE CIRCUIT COURT AS PROVIDED IN SECTION 31.

11 (2) THE LEGISLATURE SHALL ENACT LEGISLATION TO PROVIDE THAT
12 AT LEAST ONE JUDGE WHOSE JURISDICTION INCLUDES FAMILY MATTERS AS
13 PROVIDED BY LAW SHALL BE ELECTED EXCLUSIVELY IN EACH COUNTY. FOR
14 PURPOSES OF THIS SUBSECTION, THE LEGISLATURE MAY CONSIDER THE
15 COUNTIES OF HOUGHTON AND KEWEENAW AS ONE COUNTY.

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

1 circuits may be created, altered and discontinued AS PROVIDED by
2 law and the number of judges ~~shall~~ MAY be changed and circuits
3 ~~shall~~ MAY be created, altered and discontinued on recommenda-
4 tion of the supreme court to reflect changes in judicial
5 activity. EVERY ODD NUMBERED YEAR THE SUPREME COURT SHALL MAKE
6 RECOMMENDATIONS TO THE LEGISLATURE AS TO WHETHER THE NUMBER OF
7 JUDGES SHOULD BE CHANGED AND CIRCUITS SHOULD BE CREATED, ALTERED
8 OR DISCONTINUED. No change in the number of judges or alteration
9 or discontinuance of a circuit OR ELECTION DIVISION shall have
10 the effect of removing a judge from office during ~~his~~ A term OF
11 THAT JUDGE.

12 Sec. 12. Circuit judges shall be nominated and elected at
13 non-partisan elections in the circuit OR ELECTION DIVISION in
14 which they reside AS PROVIDED BY LAW, and shall hold office for a
15 term of six years and until their successors are elected and
16 qualified. In circuits OR ELECTION DIVISIONS having more than
17 one circuit judge their terms of office shall be arranged by law
18 to provide that not all terms will expire at the same time. THE
19 LENGTH OF THE INITIAL TERM OF A JUDGE, INCLUDING THE INITIAL FULL
20 TERM AS A CIRCUIT JUDGE OF A PROBATE JUDGE WHO BECOMES A CIRCUIT
21 JUDGE BY OPERATION OF SECTION 31, MAY BE VARIED BY LAW TO ALLOW
22 FOR THE STAGGERING OF THE EXPIRATION OF JUDGES' TERMS WITHIN A
23 JUDICIAL CIRCUIT OR AN ELECTION DIVISION.

24 Sec. 13. The circuit court shall have original jurisdiction
25 in all matters not prohibited by law; appellate jurisdiction from
26 all inferior courts and tribunals except as otherwise provided by
27 law; power to issue, hear and determine prerogative and remedial

1 writs; AND supervisory and general control over inferior courts
2 and tribunals within their respective jurisdictions in accordance
3 with rules of the supreme court. ~~; and jurisdiction of other~~
4 ~~cases and matters as provided by rules of the supreme court.~~

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

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

23 ~~Sec. 18. Salaries of justices of the supreme court, of~~
24 ~~the judges of the court of appeals SHALL BE UNIFORM, SALARIES of~~
25 ~~the circuit judges within a circuit, and of the probate judges~~
26 ~~within a county or district, shall be uniform, and SALARIES OF~~
27 ~~DISTRICT JUDGES SHALL BE UNIFORM. THE SALARIES OF ALL JUDGES~~

1 SHALL BE DETERMINED AS PROVIDED BY LAW. THE TOTAL SALARY OF A
2 JUSTICE OR JUDGE may be increased but shall not be decreased
3 during a term of office except and only to the extent of a gen-
4 eral salary reduction in all other branches of government. A
5 JUDGE SHALL NOT ENGAGE IN THE PRACTICE OF LAW DURING HIS OR HER
6 TERM AS A JUDGE, EXCEPT THAT ANY JUDGE WHO IS ENGAGED IN THE
7 PRACTICE OF LAW ON THE DATE ON WHICH THE 1998 AMENDMENTS TO THIS
8 SECTION BECOME A PART OF THE CONSTITUTION MAY CONTINUE TO PRAC-
9 TICE LAW UNTIL THE END OF THE TERM OF OFFICE WHICH HE OR SHE IS
10 THEN SERVING.

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

19 Sec. 19. (1) The supreme court, the court of appeals, the
20 circuit court, the ~~probate~~ DISTRICT court and other courts des-
21 ignated as such by the legislature shall be courts of record and
22 each shall have a common seal. Justices and judges of courts of
23 record must be persons who are licensed to practice law in this
24 state.

25 (2) To be qualified to serve as a judge of a trial court, a
26 judge of the court of appeals, or a justice of the supreme court,
27 a person shall have been admitted to the practice of law for at

1 least 5 years. This subsection shall not apply to any judge or
2 justice appointed or elected to judicial office prior to ~~the~~
3 ~~date on which this subsection becomes part of the constitution~~
4 DECEMBER 21, 1996.

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

7 Sec. 22. ~~Any~~ A judge of ~~the~~ A court of ~~appeals, cir-~~
8 ~~cuit court or probate court~~ RECORD may become a candidate in the
9 primary election for the office of which he is the incumbent by
10 filing an affidavit of candidacy in the form and manner pre-
11 scribed by law.

12 Sec. 23. A vacancy shall occur in the office of JUSTICE OR
13 judge of any court of record ~~or in the district court~~ by death,
14 removal, resignation, or vacating of the office, and such vacancy
15 shall be filled by appointment by the governor. The person
16 appointed by the governor shall hold office until 12 noon of the
17 first day of January next succeeding the first general election
18 held after the vacancy occurs, at which election a successor
19 shall be elected for the remainder of the unexpired term.

20 Whenever a new office of judge in a court of record ~~, or the~~
21 ~~district court,~~ is created by law, it shall be filled by elec-
22 tion as provided by law. THE DIVISION OF A COURT OR THE MERGER
23 OR CONSOLIDATION OF TWO OR MORE COURTS WHICH DOES NOT RESULT IN A
24 CHANGE IN THE TOTAL NUMBER OF JUDGESHIPS IN THE COURT OR COURTS
25 DOES NOT CREATE A NEW OFFICE OF JUDGE FOR PURPOSES OF THIS
26 SECTION.

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

4 Sec. 24. (1) There shall be printed upon the ballot under
5 the name of each incumbent justice or judge who is a candidate
6 for nomination or election to the same office the designation of
7 that office, INCLUDING ALL CIRCUIT JUDGES DESCRIBED IN
8 SECTION 31(3) OF THIS ARTICLE.

9 (2) WHENEVER AN OFFICE OF PROBATE JUDGE IS ABOLISHED PURSU-
10 ANT TO SECTION 31(2) OF THIS ARTICLE, AN INCUMBENT PROBATE JUDGE
11 OF THE OFFICE BEING ABOLISHED WHO BECOMES A CANDIDATE FOR ANOTHER
12 JUDICIAL OFFICE OF A TRIAL COURT THAT INCLUDES THAT COUNTY SHALL
13 HAVE PRINTED UPON THE BALLOT UNDER HIS OR HER NAME THE NAME OF
14 THE PROBATE COURT BEING ABOLISHED. THIS SUBSECTION ONLY APPLIES
15 TO THE BIENNIAL PRIMARY AND GENERAL ELECTION IN THE YEAR 2000.

16 (3) WHENEVER A JUDICIAL OFFICE NOT DESCRIBED IN SUBSECTION
17 (2) IS ALTERED OR ABOLISHED BY OPERATION OF LAW, THE LEGISLATURE
18 MAY PROVIDE THAT AN INCUMBENT JUDGE IN THAT OFFICE WHO BECOMES A
19 CANDIDATE FOR ANOTHER JUDICIAL OFFICE WITHIN THE COUNTY OR COUN-
20 TIES COMPRISING ALL OR PART OF THE JUDICIAL OFFICE BEING ALTERED
21 OR ABOLISHED, MAY HAVE PRINTED UPON THE BALLOT UNDER HIS OR HER
22 NAME THE NAME OF THE JUDICIAL OFFICE BEING ALTERED OR ABOLISHED,
23 UNLESS THE LAW ALTERING OR ABOLISHING THE OFFICE PROVIDES FOR
24 ANOTHER DESIGNATION.

25 Sec. 27. The supreme court, the court of appeals, ~~the cir-~~
26 ~~cuit court,~~ or any justices or judges thereof, shall not
27 exercise any power of appointment to public office except as

1 provided in this constitution. CIRCUIT COURT JUDGES MAY EXERCISE
2 POWERS OF APPOINTMENT AS PROVIDED BY LAW.

3 Sec. 30. (1) A judicial tenure commission is established
4 consisting of nine persons selected for three-year terms as
5 follows: ~~Four~~ THREE members shall be judges ~~elected by the~~
6 ~~judges of the courts in which they serve~~ APPOINTED BY THE
7 SUPREME COURT; one shall be a court of appeals judge, AND AT
8 LEAST one a circuit judge. ~~, one a probate judge and one a judge~~
9 ~~of a court of limited jurisdiction.~~ Three shall be members of
10 the state bar who shall be elected by the members of the state
11 bar, of whom one shall be a judge and two shall not be judges.
12 ~~Two~~ THREE shall be appointed by the governor, ~~; the members~~
13 ~~appointed by the governor~~ OF WHOM ONE SHALL BE A JUDGE OR A
14 RETIRED JUDGE AND THE REMAINING TWO shall not be judges, retired
15 judges or members of the state bar. Terms shall be staggered as
16 provided by rule of the supreme court. Vacancies shall be filled
17 by the appointing power.

18 (2) On recommendation of the judicial tenure commission, the
19 supreme court may censure, suspend with or without salary, retire
20 or remove a judge for conviction of a felony, physical or mental
21 disability which prevents the performance of judicial duties,
22 misconduct in office, persistent failure to perform his OR HER
23 duties, habitual intemperance or conduct that is clearly preju-
24 dicial to the administration of justice. The supreme court shall
25 make rules implementing this section and providing for confiden-
26 tiality and privilege of proceedings.

1 SEC. 31. (1) EXCEPT AS PROVIDED IN SUBSECTIONS (2) AND (3),
2 COURTS IN EXISTENCE ON THE DATE ON WHICH THIS SECTION BECOMES A
3 PART OF THE CONSTITUTION SHALL RETAIN THEIR POWERS AND JURISDIC-
4 TION, EXCEPT AS PROVIDED BY LAW, UNTIL THEY ARE ABOLISHED BY
5 LAW.

6 (2) THE OFFICE OF PROBATE JUDGE IN EACH COUNTY, WHICH HAS A
7 POPULATION OF LESS THAN 15,000 ACCORDING TO THE 1990 FEDERAL
8 DECENNIAL CENSUS AND WHICH IS NOT PART OF A PROBATE COURT DIS-
9 TRICT, SHALL CONTINUE TO EXIST UNTIL THAT OFFICE BECOMES VACANT
10 OR UNTIL TWELVE O'CLOCK NOON ON JANUARY 1, 2001, WHICHEVER OCCURS
11 FIRST, AT WHICH TIME THAT OFFICE SHALL BE ABOLISHED AND THE
12 JURISDICTION OF THE PROBATE COURT TRANSFERRED TO THE CIRCUIT
13 COURT FOR THAT COUNTY.

14 (3) ON OR BEFORE JANUARY 1, 2000, THE JURISDICTION OF THE
15 PROBATE COURT IN ANY COUNTY NOT DESCRIBED IN SUBSECTION (2) SHALL
16 BE TRANSFERRED BY LAW TO THE CIRCUIT COURT FOR THAT COUNTY AND
17 EACH PROBATE JUDGE FOR THAT COUNTY SHALL BECOME A CIRCUIT JUDGE
18 OF THE JUDICIAL CIRCUIT ENCOMPASSING THE COUNTY IN WHICH HE OR
19 SHE RESIDES FOR THE BALANCE OF THE TERM OF OFFICE TO WHICH HE OR
20 SHE HAS BEEN ELECTED OR APPOINTED.

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