

# SENATE JOINT RESOLUTION R

November 19, 2002, Introduced by Senator Van REGENMORTER and referred to the Committee 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 provide for the reorganization of the judicial branch.

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

## ARTICLE VI

Sec. 1. The judicial power of the state is vested exclusively in one court of justice which shall be divided into one supreme court, one court of appeals, one trial court of 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**  
4 **probate judge shall continue to exist until abolished as provided**  
5 **by law in accordance with section 31.**

6       Sec. 11. The state shall be divided into judicial circuits  
7 along county lines in each of which there shall be elected one or  
8 more circuit judges as provided by law. ~~Sessions of the circuit~~  
9 ~~court shall be held at least four times in each year in every~~  
10 ~~county organized for judicial purposes. Each circuit judge shall~~  
11 ~~hold court in the county or counties within the circuit in which~~  
12 ~~he is elected, and in other circuits as may be provided by rules~~  
13 ~~of the supreme court. A judicial circuit that comprises more~~  
14 **than one county may be divided into election divisions along**  
15 **county lines as provided by law. A circuit judge elected from an**  
16 **election division shall have authority to preside within the**  
17 **entire judicial circuit.** The number of judges may be changed and  
18 circuits may be created, altered and discontinued **as provided** by  
19 ~~law. and the number of judges shall be changed and circuits~~  
20 ~~shall be created, altered and discontinued on recommendation of~~  
21 ~~the supreme court~~ **Every odd numbered year, the supreme court**  
22 **shall make recommendations to the legislature as to whether the**  
23 **number of judges should be changed and circuits should be**  
24 **created, altered, or discontinued,** to reflect changes in judicial  
25 activity. No change in the number of judges or alteration or  
26 discontinuance of a circuit **or election division** shall have the  
27 effect of removing a judge from office during ~~his~~ **a term of**

1 that judge.

2       Sec. 12. Circuit judges shall be nominated and elected at  
3 non-partisan elections in the circuit **or election division** in  
4 which they reside **as provided by law**, and shall hold office for a  
5 term of six years and until their successors are elected and  
6 qualified. In circuits **or election divisions** having more than  
7 one circuit judge their terms of office ~~shall~~ **may** be arranged  
8 by law to provide that not all terms will expire at the same  
9 time.

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

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~~  
27 ~~have original jurisdiction in all cases of juvenile delinquents~~

1 ~~and dependents, except as otherwise provided by law.~~

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

9       Sec. 18. Salaries ~~of justices of the supreme court,~~ of the  
 10 judges of the court of appeals ~~—~~ **shall be uniform and salaries**  
 11 of the circuit judges ~~within a circuit, and of the probate~~  
 12 ~~judges within a county or district,~~ shall be uniform. ~~—, and~~  
 13 **The total salary of a judge** may be increased but shall not be  
 14 decreased during a term of office except and only to the extent  
 15 of a general salary reduction in all other branches of  
 16 government.

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

25       Sec. 19. (1) The supreme court, the court of appeals, the  
 26 circuit court, ~~the probate court~~ and other courts designated as  
 27 such by the legislature shall be courts of record and each shall

1 have a common seal. Justices and judges of courts of record must  
2 be persons who are licensed to practice law in this state.

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

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

11 Sec. 22. ~~Any~~ **A** judge ~~of the court of appeals, circuit~~  
12 ~~court or probate court~~ may become a candidate in the primary  
13 election for the office of which he **or she** is the incumbent by  
14 filing an affidavit of candidacy in the form and manner  
15 prescribed by law.

16 Sec. 23. **(1)** A vacancy shall occur in the office of **justice**  
17 **or** judge of any court of record ~~or in the district court~~ by  
18 death, removal, resignation, or vacating of the office, and such  
19 vacancy shall be filled by appointment by the governor. The  
20 person appointed by the governor shall hold office until 12 noon  
21 of the first day of January next succeeding the first general  
22 election held after the vacancy occurs, at which election a  
23 successor shall be elected for the remainder of the unexpired  
24 term. Whenever a new office of judge in a court of record ~~, or~~  
25 ~~the district court,~~ is created by law, it shall be filled by  
26 election as provided by law. **The dividing of a court or the**  
27 **merger or consolidation of two or more courts that does not**

1 result in a change in the total number of judgeships in the court  
 2 or courts does not create a new office of judge or a vacancy for  
 3 purposes of this section.

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

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

11 (2) Whenever a judicial office is altered or abolished by  
 12 operation of law or constitutional amendment, the legislature may  
 13 provide that an incumbent judge in that office who becomes a  
 14 candidate for another judicial office of a trial court within the  
 15 county or counties comprising all or part of the judicial office  
 16 being altered or abolished, may have printed upon the ballot  
 17 under his or her name the designation of the judicial office  
 18 being altered or abolished, unless the law altering or abolishing  
 19 the office provides for another designation.

20 Sec. 27. The supreme court, the court of appeals, ~~the~~  
 21 ~~circuit court,~~ or any justices or judges thereof, shall not  
 22 exercise any power of appointment to public office except as  
 23 provided in this constitution. **Judges of courts of record may**  
 24 **exercise powers of appointment as provided by law.**

25 Sec. 30. (1) A judicial tenure commission is established  
 26 consisting of nine persons selected for three-year terms as  
 27 follows: ~~Four~~ **Three** members shall be judges elected by the

1 judges of the courts in which they serve; one shall be a court of  
2 appeals judge, one a circuit judge, ~~one a probate judge~~ and one  
3 a judge of a court of limited jurisdiction. Three shall be  
4 members of the state bar who shall be elected by the members of  
5 the state bar, of whom one shall be a judge and two shall not be  
6 judges. Two shall be appointed by the governor; the members  
7 appointed by the governor shall not be judges, retired judges or  
8 members of the state bar. **One member shall be appointed by the**  
9 **supreme court and shall not be a judge, retired judge, or a**  
10 **member of the state bar.** Terms shall be staggered as provided by  
11 rule of the supreme court. Vacancies shall be filled by the  
12 appointing power.

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

22 **Sec. 31. (1) Except as provided in subsection (2), (3), or**  
23 **(4), on or after January 1, 2004, and in a manner provided by**  
24 **law, the jurisdiction of the probate court in every county may be**  
25 **transferred to the circuit court for that county and each probate**  
26 **judge for that county or probate court district shall become a**  
27 **circuit judge of the judicial circuit for the county in which the**

1 judge resides, for the balance of the term of office to which he  
2 or she had been elected or appointed as a probate judge.

3 (2) The probate court and office of probate judge in the  
4 counties of Arenac and Crawford shall continue to exist until  
5 altered or abolished by law on or after January 1, 2004. For  
6 each of those counties, if the probate court and office of  
7 probate judge are altered or abolished, the legislature may  
8 provide that the probate judge shall become a judge of a court of  
9 limited jurisdiction or a circuit judge of the judicial circuit  
10 for the county in which the judge resides, for the balance of the  
11 term of office to which he or she had been elected or appointed  
12 as a probate judge.

13 (3) The legislature may abolish the probate court and office  
14 of probate judge in Keweenaw county on or after the earlier of  
15 the following dates:

16 (a) The date on which a vacancy occurs in the office of  
17 probate judge of Keweenaw county.

18 (b) January 1, 2007.

19 (4) The legislature may abolish the probate court and office  
20 of probate judge in the counties of Alcona, Baraga, Benzie, Iron,  
21 Kalkaska, Lake, Missaukee, Montmorency, Oscoda, Ontonagon, and  
22 Presque Isle on or after the earlier of the following dates:

23 (a) The date on which a vacancy occurs in the office of  
24 probate judge in that county.

25 (b) The beginning date of the term for which the incumbent  
26 probate judge in that county no longer seeks election or  
27 reelection to that office.



1       Resolved further, That the foregoing amendment shall be  
2 submitted to the people of the state at the November 2002 general  
3 election, in the manner provided by law.