

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4 By: Senator Everett

As Engrossed: S3/10/97

S.J.R. 6

SENATE JOINT RESOLUTION

PROPOSING AN AMENDMENT TO THE ARKANSAS CONSTITUTION TO
REVISE THE JUDICIAL ARTICLE.

Subtitle

PROPOSING AN AMENDMENT TO THE ARKANSAS
CONSTITUTION TO REVISE THE JUDICIAL
ARTICLE.

BE IT RESOLVED BY THE SENATE OF THE EIGHTY-FIRST GENERAL ASSEMBLY OF THE STATE
OF ARKANSAS AND BY THE HOUSE OF REPRESENTATIVES, A MAJORITY OF ALL MEMBERS
ELECTED TO EACH HOUSE AGREEING THERETO:

That the following is hereby proposed as an amendment to the
Constitution of the State of Arkansas, and upon being submitted to the
electors of the State for approval or rejection at the next general election
for Representatives and Senators, if a majority of the electors voting thereon
at such election adopt such amendment, the same shall become a part of the
Constitution of the State of Arkansas, to wit:

"SECTION 1. Article 7 of the Constitution of the State of Arkansas of
1874 is amended to read as follows:

ARTICLE 7

JUDICIAL BRANCH

Section 1. Judicial Power.

The judicial power is vested in the Judicial Branch of state government,
consisting of a Supreme Court and other courts established by this
Constitution. The General Assembly also may establish, and vest such
jurisdiction as may be declared necessary in, other trial or inferior courts.

Section 2. The Supreme Court.

1 (a) The Supreme Court shall be composed of seven justices, one of whom
2 shall be Chief Justice. The justices of the Supreme Court shall be elected
3 from the State at large.

4 (b) The Chief Justice shall be elected for that position in the same
5 manner as the other justices are elected.

6 (c) The concurrence of at least four justices shall be required for a
7 decision in every case.

8 (d) The Supreme Court shall have statewide appellate jurisdiction.

9 (e) The Supreme Court shall have original jurisdiction only in the
10 following:

11 (i) to issue writs of quo warranto to judges and to officers of
12 local governments when the question involved is the legal existence of such
13 local governments;

14 (ii) to determine sufficiency of State initiative and referendum
15 petitions and proposed constitutional amendments;

16 (iii) to answer questions of State law certified by a court of
17 the United States, which may be exercised pursuant to Supreme Court rule; and

18 (iv) to exercise other original jurisdiction as provided by this
19 Constitution.

20 (f) The Supreme Court shall have power to issue and determine any and
21 all writs necessary in aid of its jurisdiction and superintending control, and
22 to delegate to its several justices the power to issue such writs.

23 (g) The Supreme Court shall appoint its clerk and reporter, who shall
24 hold their offices for six years subject to removal for good cause.

25 (h) Sessions of the Supreme Court shall be held at such times and
26 places as fixed by Supreme Court rule.

27 Section 3. Rules of Pleading, Practice, and Procedure.

28 The Supreme Court shall prescribe the rules of pleading, practice, and
29 procedure for all courts, however these rules shall not abridge, enlarge, or
30 modify any substantive right and shall preserve the right of trial by jury as
31 declared in this Constitution. Any rule determined to be substantive by a
32 vote of three-fifths of the members of each house of the General Assembly may
33 be modified or repealed by such vote of the General Assembly, provided such
34 action shall not be subject to an emergency clause.

35 Section 4. Superintending Control.

1 The Supreme Court shall exercise general superintending control over all
2 courts in the state and may temporarily assign judges, with their consent, to
3 courts or divisions other than those for which they were elected or appointed.
4 These functions shall be administered by the Chief Justice. The Supreme Court
5 by rule may delegate its superintending control as it deems appropriate.

6 Section 5. Court of Appeals.

7 There shall be a Court of Appeals, which may have divisions thereof as
8 established by law and shall have such appellate jurisdiction as the Supreme
9 Court by rule shall determine. The General Assembly shall establish the
10 number of judges of the Court of Appeals and may establish districts from
11 which the judges are elected.

12 Section 6. Circuit Courts.

13 (a) Circuit courts are established as the trial courts of original
14 jurisdiction of all justiciable matters not otherwise assigned by this
15 Constitution.

16 (b) The Supreme Court may divide a circuit court into subject-matter
17 divisions and any circuit judge within a circuit may sit in any division.

18 (c) Circuit judges may temporarily exchange circuits by joint order.
19 Any circuit judge who consents may be assigned to another circuit for
20 temporary service under rules adopted by the Supreme Court.

21 (d) The circuit courts shall hold sessions at such times and places as
22 are or may be prescribed by law.

23 (e) There shall be a right of appeal to an appellate court from the
24 circuit courts and other rights of appeal as may be prescribed by Supreme
25 Court rule or by law.

26 Section 7. District Courts.

27 (a) District courts are established as the trial courts of limited
28 jurisdiction, subject to right of appeal to circuit courts for a trial de
29 novo. The Supreme Court may by rule provide for appeals on the record from
30 district courts which have been designated courts of record by the General
31 Assembly.

32 (b) The subject matter and jurisdictional amount of civil cases that
33 may be heard in the district courts shall be established by Supreme Court
34 rule. District courts shall have original criminal jurisdiction as provided
35 by Supreme Court rule.

1 (c) There shall be at least one district court in each county. The
2 General Assembly shall establish territorial jurisdiction of district courts,
3 and if there is only one district court in a county, it shall have county-wide
4 jurisdiction. A district judge may serve in two or more counties.

5 (d) The General Assembly may establish the method of distributing fines
6 and penalties received by the district court and establish the number and the
7 salaries of employees of the district court.

8 (e) The Supreme Court shall have authority to establish subject matter
9 divisions of district courts within a county.

10 Section 8. Modification or Repeal of Rules.

11 Any rules promulgated by the Supreme Court pursuant to Sections 5, 6(b),
12 7(b), 7(e), 9 or 17(a) of this Article may be modified or repealed in whole or
13 in part by a three-fifths vote of the membership of each house of the General
14 Assembly.

15 Section 9. Referees, Masters, and Magistrates.

16 (a) The Supreme Court and Court of Appeals may appoint referees and
17 masters to perform such duties as may be prescribed by Supreme Court rule.

18 (b) A circuit court judge may appoint a referee or master or district
19 court judges as magistrates to perform such duties of the circuit court as may
20 be prescribed by Supreme Court rule in accordance with Section 3 of this
21 Article.

22 (c) With the concurrence of a majority of the circuit court judges of
23 the circuit, a district court judge may appoint a referee or master who shall
24 be subject to the superintending control of the district court and who shall
25 perform such duties of the district court as may be prescribed by Supreme
26 Court rule in accordance with Section 3 of this Article.

27 Section 10. Venue, Circuits, Districts, and Number of Judges.

28 The General Assembly shall establish venue of all actions; circuit court
29 judicial circuits and district court districts; and the number of judges for
30 circuit courts and district courts, provided such circuits or districts are
31 comprised of contiguous territories.

32 Section 11. Temporary Disqualification of Justices or Judges.

33 No justice or judge shall preside or participate in any case in which
34 the justice or judge might have a vested interest in the outcome, or in which
35 any party is related to the justice or judge by consanguinity or affinity

1 within such degree as prescribed by law, or in which the justice or judge may
2 have been of counsel or have presided in any other court.

3 Section 12. Assignment of Special and Retired Justices and Judges.

4 (a) If a Supreme Court Justice recuses or is disqualified from
5 participating in a case, the Court or the Justice shall certify the recusal or
6 disqualification to the Governor, who within fifteen days thereafter shall
7 promptly appoint a special justice to participate in the determination of the
8 case. If a Supreme Court Justice is temporarily unable to serve, the Court or
9 the Justice shall certify the inability to serve to the Governor who shall
10 promptly appoint a special justice to temporarily serve until the incumbent
11 justice returns to duty.

12 (b) If a judge of the Court of Appeals recuses or is disqualified from
13 participating in a case, the Court of Appeals or the judge shall certify the
14 recusal or disqualification to the Chief Justice of the Supreme Court who
15 shall commission a special judge to participate in the determination of the
16 case. If a judge of the Court of Appeals is temporarily unable to serve, the
17 Court of Appeals or the judge shall certify the inability to serve to the
18 Chief Justice of the Supreme Court who shall commission a special judge to
19 serve temporarily until the incumbent judge returns to duty.

20 (c) If a circuit judge or district judge recuses or is disqualified
21 from participating in the determination of a case, and no other circuit judge
22 or district judge is available in the circuit or district to take the case by
23 transfer in the manner provided by law, another judge may be assigned to the
24 case by the Chief Justice of the Supreme Court or a special judge may be
25 elected by the Bar of that Court as prescribed by Supreme Court rule. If a
26 circuit judge or district judge is temporarily unable to serve, such
27 circumstance shall be certified in the manner prescribed by Supreme Court rule
28 to the Chief Justice, who shall assign a judge or commission a special judge
29 to serve temporarily until the incumbent judge returns to duty.

30 (d) Retired and former justices and judges with their consent may be
31 selected and assigned for temporary judicial service under rules prescribed by
32 the Supreme Court.

33 (e) Special, retired, and former judges shall be compensated as
34 provided by law.

35 Section 13. Prohibition of Practice of Law.

1 Justices and judges, except district judges, shall not practice law
2 during their respective terms of office. The General Assembly may prohibit,
3 by classification, some or all district judges from practicing law.

4 Section 14. Prohibition on Candidacy for Non-Judicial Office.

5 If a judge or justice files as a candidate for non-judicial governmental
6 office, that candidate's judicial office shall immediately become vacant.

7 Section 15. Qualifications and Terms of Justices and Judges.

8 (a) Justices of the Supreme Court and judges of the Court of Appeals
9 shall have been licensed attorneys for at least eight years immediately
10 preceding the date of assuming office and shall have been a resident of this
11 state for at least two years. They shall serve for eight-year terms.

12 (b) Circuit judges shall have been licensed attorneys for at least six
13 years immediately preceding the date of assuming office and shall have been a
14 resident of this state for at least two years. They shall serve for six-year
15 terms.

16 (c) District judges shall have been licensed attorneys for at least
17 four years immediately preceding the date of assuming office and shall have
18 been a resident of this state for at least two years. They shall serve for
19 four-year terms.

20 (d) All justices and judges shall be of good moral character. All
21 justices and judges shall be registered voters of the State of Arkansas, and
22 all judges shall reside in the geographical area from which they are elected.
23 ¶Geographical area¶ may include any county contiguous to the county to be
24 served when there are no qualified candidates available in the county to be
25 served.

26 (e) A special justice or judge shall possess the qualifications
27 required by this Article for the regular justice or judge in the position
28 being filled.

29 (f) The General Assembly shall determine by law the compensation and
30 method of payment of justices and judges. Such salaries and expenses may be
31 increased but not diminished during the terms for which such justices or
32 judges are appointed or elected. Salaries of circuit judges shall be uniform
33 throughout the state. Salaries of district judges may be classified.

34 (g) Circuit, district, and appellate court judges and justices shall
35 not be allowed any fees or perquisites of office except as authorized by law,

1 or hold any other civil office or employment.

2 Section 16. Clerk of Court.

3 (a) The Circuit Clerks, designated in Article VI, Section 5(a), and the
4 District Clerks provided by law shall maintain for the circuit courts and
5 district courts, respectively, all files and documents by a uniform system as
6 provided by rule of the Supreme Court. They shall be the filing officers for
7 all pleadings in the respective courts served. District Clerks shall be
8 selected, serve terms, and be compensated as provided by law.

9 (b) Circuit Courts shall be courts of record. District Courts may be
10 made courts of record by the General Assembly.

11 Section 17. Regulation of Attorneys.

12 The Supreme Court shall make rules regulating the practice of law and
13 the professional conduct of attorneys at law.

14 Section 18. Instruction of Juries.

15 Judges shall not charge juries with regard to matters of fact, but shall
16 declare the law, and in jury trials shall reduce their charge or instructions
17 in writing on the request of either party.

18 Section 19. Judicial Discipline and Disability Commission.

19 (a) Commission. Under the judicial power of the State, a Judicial
20 Discipline and Disability Commission is established and shall be comprised of
21 nine persons: three justices or judges appointed by the Supreme Court; three
22 licensed attorneys in good standing who are not justices or judges, one
23 appointed by the Attorney General, one by the President of the Senate, and one
24 by the Speaker of the House; and three members appointed by the Governor. The
25 members appointed by the Governor shall not be justices or judges, retired
26 justices or judges, or attorneys. Alternate members shall be selected and
27 vacancies filled in the same manner.

28 (b) Discipline, Suspension, Leave, and Removal. The Commission may
29 initiate, and shall receive and investigate, complaints concerning misconduct
30 of all justices and judges, and requests and suggestions for leave or
31 involuntary disability retirement. Any judge or justice may voluntarily
32 request that the Commission recommend suspension because of pending
33 disciplinary action or grant leave because of a mental or physical disability.
34 Grounds for sanctions imposed by the Commission, or recommendations made by
35 the Commission, shall be for violation of professional and ethical standards

1 governing judicial officers, conviction of a felony, or physical or mental
2 disability that prevents the proper performance of judicial duties. Grounds
3 for suspension, leave, or removal from office shall be determined by
4 legislative enactment.

5 (c) Discipline. If, after notice and hearing, the Commission by
6 majority vote of the membership determines that grounds exist for the
7 discipline of a judge or justice, it may reprimand or censure the judge or
8 justice, who may appeal to the Supreme Court. After notice and hearing, the
9 Commission by majority vote of the membership, may, if it determines that
10 grounds exist, recommend to the Supreme Court that a judge or justice be
11 suspended, with or without pay, or be removed, and the Supreme Court, en banc,
12 may take action. In any hearing involving a Supreme Court justice, all
13 Supreme Court justices shall be disqualified from participation.

14 (d) Leave and Retirement. If, after notice and hearing, the Commission
15 by majority vote of the membership determines that a judge or justice is
16 unable because of physical or mental disability to perform the duties of
17 office, the Commission may recommend to the Supreme Court that the judge or
18 justice be granted leave with pay or be retired, and the Supreme Court, en
19 banc, may take action. A judge or justice retired by the Supreme Court shall
20 be considered to have retired voluntarily as provided by law.

21 (e) Vacancies. Vacancies created by suspension, the granting of leave,
22 or the removal of a judge or justice, or vacancies created by disqualification
23 of justices, shall be filled as provided by law.

24 (f) Rules. The Supreme Court shall make procedural rules implementing
25 this Article and setting the length of terms on the Commission.

26 (g) Cumulative Nature. This Article is alternative to, and cumulative
27 with, impeachment and address authorized by this Constitution.

28 SCHEDULE

29 It is the intent of this Schedule to provide a means for

30 (a) implementing this amendment and establishing an orderly transition
31 of law, and

32 (b) omitting from the Constitution matters which may be characterized
33 as other than permanent constitutional law, and should more properly be
34 included as statutes.

35 The Schedule is divided into two parts:

1 Schedule 1 provisions are temporary and may be changed only by their own
2 terms; it provides for the transition from the 1874 Constitution to this
3 amendment.

4 Schedule 2 provisions are in the nature of initiated acts and may not be
5 declared violative of this amendment and may be changed only by a vote of
6 two-thirds of the members of each house of the General Assembly. All
7 provisions of Schedule 2 of a general and permanent nature are amendatory to
8 the Arkansas code of 1987 Annotated and the Arkansas Code Revision Commission
9 shall incorporate the same in the Code.

10 SCHEDULE 1

11 1.1. Continuance in Office.

12 (a) All officers of state and local governments and prosecuting
13 attorneys shall continue to exercise their powers and duties until their
14 successors have been selected and qualified in accordance with this amendment
15 or the laws or ordinances enacted pursuant thereto. No provision of this
16 amendment nor any law shall shorten the term of office of any person elected
17 at or prior to the election at which this amendment was adopted. The offices
18 of constable and surveyor shall be abolished December 31, 1998, unless
19 continued by ordinance adopted by the county board of commissioners specifying
20 the duties and responsibilities of, and compensation for, the offices. The
21 office of coroner shall continue until changed by the county board of
22 commissioners. Until changed by law, the county clerk shall continue to
23 perform the duties of the clerk of the probate court and maintain the records
24 of said court, and the circuit clerk shall continue to perform the duties of
25 recorder and maintain the records of the recorder.

26 (b) Justices of the Supreme Court and judges of the Court of Appeals in
27 office on the effective date of this amendment shall continue in office until
28 the end of the terms for which they were elected or appointed.

29 (c) All circuit, chancery, and circuit-chancery judges in office on the
30 effective date of this amendment (including judges hearing juvenile cases)
31 shall continue as circuit judges until the end of the terms for which they
32 were elected or appointed, and the respective jurisdictional responsibilities
33 for matters legal, equitable, or juvenile in nature as presently exercised by
34 such Judges shall continue until changed by law.

35 (d) Municipal court judges in office on the effective date of this

1 amendment shall continue in office through December 31, 2000, and all
2 jurisdiction vested in municipal courts, city (formerly mayor's) courts,
3 police courts, and justice of the peace courts and courts of common pleas on
4 the effective date of this amendment shall be vested in the district court on
5 January 1, 2001. Should a vacancy occur in an office of a Municipal Judge,
6 that vacancy shall be filled for a term which shall end December 31, 2000.

7 (e) The clerk and reporter of the Supreme Court and Court of Appeals
8 serving at the time this amendment becomes effective shall continue in office
9 for the remainder of their current terms.

10 1.2. Jurisdiction of Courts.

11 (a) The jurisdiction conferred on circuit courts established by this
12 amendment includes all matters previously cognizable by circuit, chancery, and
13 probate courts, including juvenile matters. The geographic circuits and
14 subject-matter divisions of these courts existing at the time this amendment
15 takes effect shall become circuits and divisions of the circuit court as
16 herein established until changed pursuant to this amendment. Circuit courts
17 shall assume the jurisdiction of circuit, chancery, and probate courts,
18 existing on the effective date of this amendment.

19 (b) District courts shall have the jurisdiction vested in municipal
20 courts, police courts, city (formerly mayor's) courts, county courts, justice
21 of the peace courts, and courts of common pleas, and district courts shall
22 assume the jurisdiction of these courts, and other jurisdiction conferred in
23 this Amendment on January 1, 2001.

24 1.3. Continuation of Courts.

25 (a) The Supreme Court provided for in this amendment shall be a
26 continuation of the Supreme Court existing on the effective date of this
27 amendment. The Court of Appeals shall be a continuation of the Court of
28 Appeals existing on the effective date of this Amendment. All laws and parts
29 of laws relating to the Supreme Court and to the Court of Appeals which are
30 not in conflict or inconsistent with this Amendment shall remain in full force
31 and effect and shall apply to the Supreme Court and Court of Appeals,
32 respectively, established by this Amendment.

33 (b) The circuit courts shall be a continuation of the circuit,
34 chancery, and probate courts existing on the effective date of this Amendment.
35 The district courts shall be a continuation of the municipal courts, police

1 courts, city (formerly mayor's) courts, county courts, courts of common pleas
2 and justice of peace courts existing on the effective date of this Amendment.

3 All papers and records pertaining to these courts shall be transferred
4 accordingly, and no suit or prosecution of any kind or nature shall abate
5 because of the adoption of this Amendment.

6 (c) All writs, actions, suits, proceedings, civil or criminal
7 liabilities, prosecutions, judgments, decrees, orders, sentences, rules,
8 claims, demands, causes of action, and appeals existing on the effective date
9 of this Amendment shall continue unaffected, except as modified in accordance
10 with this Amendment.

11 (d) All terms of court are abolished on the effective date
12 of this Amendment.

13 SCHEDULE 2

14 Style of Process and of Indictments.

15 All writs and other judicial processes shall run in the name of the
16 State of Arkansas and be signed and sealed by the clerks of the respective
17 courts from which they issue. Indictments shall conclude once at the end
18 thereof: "Against the peace and dignity of the State of Arkansas."
19

20 SECTION 2. This amendment shall become effective on January 1, 1999.

21 SECTION 3. All provisions and parts of provisions of the Constitution
22 of the State of Arkansas of 1874 in conflict herewith are repealed."

23 /s/Everett
24
25
26
27
28
29
30
31
32
33
34
35

1
2
3
4
5
6
7
8
9