

SECOND REGULAR SESSION

SENATE JOINT RESOLUTION NO. 51

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MAY.

Pre-filed December 1, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

3125S.011

JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment repealing sections 15, 16, 25(a), 25(b), 25(c)(1), 25(c)(2), and 25(d) of article V of the Constitution of Missouri, and adopting six new sections in lieu thereof relating to the election of circuit and associate circuit judges.

Be it resolved by the Senate, the House of Representatives concurring therein:

That at the next general election to be held in the state of Missouri, on
2 Tuesday next following the first Monday in November, 2020, or at a special
3 election to be called by the governor for that purpose, there is hereby submitted
4 to the qualified voters of this state, for adoption or rejection, the following
5 amendment to article V of the Constitution of the state of Missouri:

Section A. Sections 15, 16, 25(a), 25(b), 25(c)(1), 25(c)(2), and 25(d), article
2 V, Constitution of Missouri, are repealed and six new sections adopted in lieu
3 thereof, to be known as sections 15, 16, 25(a), 25(c)(1), 25(c)(2), and 25(d), to read
4 as follows:

Section 15. 1. The state shall be divided into convenient circuits of
2 contiguous counties. In each circuit there shall be at least one circuit judge. The
3 circuits may be changed or abolished by law as public convenience and the
4 administration of justice may require, but no judge shall be removed from office
5 during his term by reason of alteration of the geographical boundaries of a
6 circuit. Any circuit or associate circuit judge may temporarily sit in any other
7 circuit at the request of a judge thereof. In circuits having more than one judge,
8 the court may sit in general term or in divisions. The circuit judges of the circuit
9 may make rules for the circuit not inconsistent with the rules of the supreme
10 court.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

11 2. Each circuit shall have such number of circuit judges as provided by
12 law.

13 3. The circuit and associate circuit judges in each circuit shall select by
14 secret ballot a circuit judge from their number to serve as presiding judge. The
15 presiding judge shall have general administrative authority over the court and
16 its divisions.

17 4. Personnel to aid in the business of the circuit court shall be selected as
18 provided by law or in accordance with a governmental charter of a political
19 subdivision of this state. Where there is a separate probate division of the circuit
20 court, the judge of the probate division shall, until otherwise provided by law,
21 appoint a clerk and other nonjudicial personnel for the probate division.

22 **5. Any person serving as a circuit or associate circuit judge**
23 **subject to the provisions of sections 25(a)-(g) of this article on the**
24 **effective date of this amendment may continue to serve until the**
25 **expiration of his or her term. At the general election immediately prior**
26 **to the expiration of the term, a successor judge shall be elected in**
27 **accordance with the provisions of this article and the general laws or**
28 **this state governing elections.**

Section 16. Each county shall have such number of associate circuit judges
2 as provided by law. There shall be at least one resident associate circuit judge
3 in each county. [Associate circuit judges shall be selected or elected in each
4 county. In those circuits where the circuit judge is selected under section 25 of
5 article 5 of the constitution the associate circuit judge shall be selected in the
6 same manner. All other] Associate circuit judges shall be elected in the county
7 in which they are to serve.

Section 25(a). Whenever a vacancy shall occur in the office of judge of any
2 of the following courts of this state, to wit: The supreme court[,] or the court of
3 appeals, [or in the office of circuit or associate circuit judge within the city of St.
4 Louis and Jackson county,] the governor shall fill such vacancy by appointing one
5 of three persons possessing the qualifications for such office, who shall be
6 nominated and whose names shall be submitted to the governor by a nonpartisan
7 judicial commission established and organized as hereinafter provided. If the
8 governor fails to appoint any of the nominees within sixty days after the list of
9 nominees is submitted, the nonpartisan judicial commission making the
10 nomination shall appoint one of the nominees to fill the vacancy.

Section 25(c)(1). Each judge appointed pursuant to the provisions of

2 sections 25(a)-(g) shall hold office for a term ending December thirty-first
 3 following the next general election after the expiration of twelve months in the
 4 office. [Any judge holding office, or elected thereto, at the time of the election by
 5 which the provisions of sections 25(a)-(g) become applicable to his office, shall,
 6 unless removed for cause, remain in office for the term to which he would have
 7 been entitled had the provisions of sections 25(a)-(g) not become applicable to his
 8 office.] Not less than sixty days prior to the holding of the general election next
 9 preceding the expiration of his term of office, any judge whose office is subject to
 10 the provisions of sections 25(a)-(g) may file in the office of the secretary of state
 11 a declaration of candidacy for election to succeed himself. If a declaration is not
 12 so filed by any judge, the vacancy resulting from the expiration of his term of
 13 office shall be filled by appointment as herein provided. If such declaration is
 14 filed, his name shall be submitted at said next general election to the voters
 15 eligible to vote within the state if his office is that of judge of the supreme court,
 16 or within the geographic jurisdiction limit of the district where he serves if his
 17 office is that of a judge of the court of appeals, [or within the circuit if his office
 18 is that of circuit judge, or within the county if his office is that of associate circuit
 19 judge on a separate judicial ballot,] without party designation, reading:

20 "Shall Judge
 21 (Here the name of the judge shall be inserted)
 22 of the
 23 (Here the title of the court shall be inserted)
 24 be retained in office? Yes No
 25 (Mark an "X" in the box you prefer.)"

26 If a majority of those voting on the question vote against retaining him in office,
 27 upon the expiration of his term of office, a vacancy shall exist which shall be
 28 filled by appointment as provided in section 25(a); otherwise, said judge shall,
 29 unless removed for cause, remain in office for the number of years after December
 30 thirty-first following such election as is provided for the full term of such office,
 31 and at the expiration of each such term shall be eligible for retention in office by
 32 election in the manner here prescribed.

Section 25(c)(2). Whenever a declaration of candidacy for election to
 2 succeed himself is filed by any judge [or associate circuit judge] under the
 3 provisions of this section, the secretary of state shall not less than thirty days
 4 before the election certify the name of said judge [or associate circuit judge] and
 5 the official title of his office to the clerks of the county courts, and to the boards

6 of election commissioners in counties or cities having such boards, or to such
7 other officials as may hereafter be provided by law, of all counties and cities
8 wherein the question of retention of such judge in office is to be submitted to the
9 voters, and, until legislation shall be expressly provided otherwise therefor, the
10 judicial ballots required by this section shall be prepared, printed, published and
11 distributed, and the election upon the question of retention of such judge in office
12 shall be conducted and the votes counted, canvassed, returned, certified and
13 proclaimed by such public officials in such manner as is now provided by the
14 statutory law governing voting upon measures proposed by the initiative.

Section 25(d). Nonpartisan judicial commissions whose duty it shall be to
2 nominate and submit to the governor names of persons for appointment as
3 provided by sections 25(a)-(g) are hereby established and shall be organized on
4 the following basis: For vacancies in the office of judge of the supreme court or
5 of the court of appeals, there shall be one such commission, to be known as "The
6 Appellate Judicial Commission"; [for vacancies in the office of circuit judge or
7 associate circuit judge of any circuit court subject to the provisions of sections
8 25(a)-(g) there shall be one such commission, to be known as "The _____ Circuit
9 Judicial Commission", for each judicial circuit which shall be subject to the
10 provisions of sections 25(a)-(g);] the appellate judicial commission shall consist
11 of a judge of the supreme court selected by the members of the supreme court,
12 and the remaining members shall be chosen in the following manner: The
13 members of the bar of this state residing in each court of appeals district shall
14 elect one of their number to serve as a member of said commission, and the
15 governor shall appoint one citizen, not a member of the bar, from among the
16 residents of each court of appeals district, to serve as a member of said
17 commission, and the members of the commission shall select one of their number
18 to serve as chairman. [Each circuit judicial commission shall consist of five
19 members, one of whom shall be the chief judge of the district of the court of
20 appeals within which the judicial circuit of such commission, or the major portion
21 of the population of said circuit is situated and the remaining four members shall
22 be chosen in the following manner: The members of the bar of this state residing
23 in the judicial circuit of such commission shall elect two of their number to serve
24 as members of said commission, and the governor shall appoint two citizens, not
25 members of the bar, from among the residents of said judicial circuit to serve as
26 members of said commission, the members of the commission shall select one of
27 their number to serve as chairman; and the terms of office of the members of such

28 commission shall be fixed by law, but no law shall increase or diminish the term
29 of any member then in office.] No member of any such commission other than a
30 judge shall hold any public office, and no member shall hold any official position
31 in a political party. Every such commission may act only by the concurrence of
32 a majority of its members. The members of such commission shall receive no
33 salary or other compensation for their services but they shall receive their
34 necessary traveling and other expenses incurred while actually engaged in the
35 discharge of their official duties. All such commissions shall be administered,
36 and all elections provided for under this section shall be held and regulated,
37 under such rules as the supreme court shall promulgate.

[Section 25(b). At any general election the qualified voters
2 of any judicial circuit outside of the city of St. Louis and Jackson
3 county, may by a majority of those voting on the question elect to
4 have the circuit and associate circuit judges appointed by the
5 governor in the manner provided for the appointment of judges to
6 the courts designated in section 25(a), or, outside the city of St.
7 Louis and Jackson county, to discontinue any such plan. The
8 question of whether the circuit and associate circuit judges of any
9 such circuit shall be so appointed shall be submitted to the voters
10 of each county in any circuit at the next general election whenever
11 petitions therefor signed by ten percent of the legal voters of each
12 county in the circuit voting for the office of governor at the last
13 election thereof are filed in the office of secretary of state at least
14 90 days before such election. The question shall be presented as
15 follows: "Shall the circuit and associate circuit judges of the _____
16 judicial circuit be selected as provided in Section 25 of Article V of
17 the Missouri Constitution? Yes ?? No ?? (Mark One)". The
18 provisions of law with respect to initiative petitions shall apply
19 insofar as applicable relative to the certification of the petitions to
20 local officials by the secretary of state, the preparation, printing,
21 publishing and distribution of the judicial ballots required by this
22 section, the holding and conduct of the election, and the counting,
23 canvassing, return, certification, and proclamation of the votes. If
24 a majority of the votes upon the question are cast in favor of the
25 adoption in each county comprising the circuit, the nonpartisan
26 selection of the circuit and associate judges shall be adopted in the

27 circuit. The question of selection of circuit and associate circuit
 28 judges in the manner provided in section 25(a) shall not be
 29 submitted more often than once every four years. If any judicial
 30 circuit adopts the nonpartisan selection of the circuit and associate
 31 circuit judges under the provisions of this section, the question of
 32 its discontinuance shall not be submitted more often than once
 33 every four years and may be submitted at any general election and
 34 shall be proceeded upon insofar as may be applicable in like
 35 manner as prescribed in this section for the original adoption of the
 36 plan.

37 The petition shall be in substantially the following form:

38 To the Honorable Officials in general charge of elections for
 39 the county of _____ for the state of Missouri:

40 We, the undersigned, legal voters of the state of Missouri,
 41 and of the county of _____, respectfully demand that the question
 42 of the discontinuance of the nonpartisan selection of the circuit and
 43 associate circuit judges be submitted to the legal voters of the
 44 _____ judicial circuit, for their approval or rejection, at the general
 45 election to be held on the _____ day of _____, A.D. 19____.

46 The ballot shall provide as follows:

47 "Shall the nonpartisan appointment by the governor of the
 48 circuit and associate circuit judges be discontinued in the _____
 49 judicial circuit?

50 Yes

51 No

52 (Place an "X" in one square.)"

53 If a majority of the votes upon the question are cast in favor
 54 of such discontinuance in each county comprising the circuit, the
 55 nonpartisan selection of the circuit and associate circuit judges
 56 shall be discontinued in such judicial circuit.

57 If the nonpartisan selection of the judges be discontinued in
 58 any such judicial circuit, other than the city of St. Louis and
 59 Jackson county, the selection of such judges therein shall be made
 60 as otherwise prescribed by law. This section shall be
 61 self-enforcing.]

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