

SENATE JOINT RESOLUTION No. 14

DIGEST OF INTRODUCED RESOLUTION

Citations Affected: Articles 2 and 7 of the Indiana Constitution.

Synopsis: Appellate court judges. Provides that the governor fills vacancies on the supreme court and the court of appeals, subject to the approval of the senate. Provides that a justice of the supreme court or judge of the court of appeals is retained in office only if the justice or judge receives one vote more than 60% of the total number of votes cast on the question of retention of the justice or judge. Provides that a law, judicial rule, decree, or order may not abridge the freedom of a judge, lawyer, candidate for judicial office, or any other person from: (1) speaking, writing, or otherwise expressing the person's views freely regarding a political issue, political party, or candidate for office, including a candidate for a judicial office; or (2) making a donation of money, services, or property to a political party or a candidate for office, including a candidate for a judicial office. Makes stylistic changes.

Effective: This proposed amendment must be agreed to by two consecutive general assemblies and ratified by a majority of the state's voters voting on the question to be effective.

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January 4, 2012, read first time and referred to Committee on Judiciary.

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PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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SENATE JOINT RESOLUTION No. 14

A JOINT RESOLUTION proposing an amendment to the Constitution of the State of Indiana concerning courts and court officers.

Be it resolved by the General Assembly of the State of Indiana:

- 1 SECTION 1. The following amendment to the Constitution of the
- 2 State of Indiana is proposed and agreed to by this, the One Hundred
- 3 Seventeenth General Assembly of the State of Indiana, and is referred
- 4 to the next General Assembly for reconsideration and agreement.
- 5 SECTION 2. ARTICLE 2, SECTION 14 OF THE CONSTITUTION
- 6 OF THE STATE OF INDIANA IS AMENDED TO READ AS
- 7 FOLLOWS: Section 14. (a) General elections shall be held on the first
- 8 Tuesday after the first Monday in November.
- 9 (b) The General Assembly may provide by law for the election of all
- 10 judges of courts of general and appellate jurisdiction. ~~by an election to~~
- 11 ~~be held for such officers only; at which time no other officer shall be~~
- 12 ~~voted for.~~



1 (c) The General Assembly shall provide for the registration of all
2 persons entitled to vote.

3 SECTION 3. ARTICLE 7, SECTION 3 OF THE CONSTITUTION
4 OF THE STATE OF INDIANA IS AMENDED TO READ AS
5 FOLLOWS: Section 3. ~~Chief Justice.~~ (a) The Chief Justice of the State
6 shall be selected by the ~~judicial nominating commission~~ **Governor**
7 from the members of the Supreme Court and ~~he~~ **the Chief Justice** shall
8 retain that office for a period of five (5) years, subject to reappointment
9 in the same manner, except that a member of the Court may resign the
10 office of Chief Justice without resigning from the Court. During a
11 vacancy in the office of Chief Justice caused by absence, illness,
12 incapacity, or resignation all powers and duties of that office shall
13 devolve upon the member of the Supreme Court who is senior in length
14 of service and, if equal in length of service, the determination shall be
15 by lot until such time as the cause of the vacancy is terminated or the
16 vacancy is filled.

17 (b) The Chief Justice of the State shall appoint such persons as the
18 General Assembly by law may provide for the administration of ~~his~~ **the**
19 **Chief Justice's** office. The Chief Justice shall have prepared and
20 submit to the General Assembly regular reports on the condition of the
21 courts and such other reports as may be requested.

22 SECTION 4. ARTICLE 7, SECTION 9 OF THE CONSTITUTION
23 OF THE STATE OF INDIANA IS AMENDED TO READ AS
24 FOLLOWS: Section 9. ~~Judicial Nominating Commission.~~ (a) There
25 shall be ~~one judicial nominating commission for the Supreme Court~~
26 ~~and Court of Appeals. This commission shall, in addition, be the a~~
27 ~~commission on judicial qualifications for the Supreme Court and Court~~
28 ~~of Appeals.~~

29 (b) The ~~judicial nominating commission shall consist~~ **consists of**
30 **the following** seven (7) members: a ~~majority of whom shall form a~~
31 ~~quorum; one of whom shall be~~

32 (1) The Chief Justice of the State or a Justice of the Supreme
33 Court ~~whom he may designate; designated by the Chief Justice,~~
34 ~~who shall act as chairman. Those~~ **the commission's chair.**

35 (2) **Three (3) individuals** admitted to the practice of law ~~shall~~
36 ~~elect three of their number to serve as members of said~~
37 ~~commission. All elections shall be in such manner as the General~~
38 ~~Assembly may provide. in Indiana elected by those admitted to~~
39 **the practice of law in Indiana.**

40 (3) **Three (3) individuals who are residents of Indiana**
41 ~~appointed by the Governor. shall appoint to the commission three~~
42 ~~citizens; An individual appointed by the Governor may not be~~

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1 admitted to the practice of law. The terms of office and
 2 compensation for members of a judicial nominating commission
 3 shall be fixed by the General Assembly. No

4 (c) A member of a judicial nominating the Commission
 5 commission other than the Chief Justice or his the Chief Justice's
 6 designee shall may not hold any other salaried public office. No A
 7 commission member shall may not hold an office in a political party
 8 or organization. No A commission member of the judicial nominating
 9 commission shall be is not eligible for appointment to a judicial office
 10 so long as he while the individual is a commission member of the
 11 commission and for a period of three (3) years thereafter. after the
 12 individual leaves the commission.

13 (d) The General Assembly shall provide by law for the
 14 following:

15 (1) The term of office of commission members.

16 (2) The compensation of commission members.

17 (3) The manner of election of the elected commission
 18 members.

19 (e) Four (4) commission members constitute a quorum of the
 20 commission.

21 SECTION 5. ARTICLE 7, SECTION 10 OF THE CONSTITUTION
 22 OF THE STATE OF INDIANA IS AMENDED TO READ AS
 23 FOLLOWS: Section 10. Selection of Justices of the Supreme Court and
 24 Judges of the Court of Appeals: (a) The Governor shall fill a vacancy
 25 in a judicial office in the Supreme Court or Court of Appeals. shall be
 26 filled by the Governor, without regard to political affiliation, from a list
 27 of three nominees presented to him by the judicial nominating
 28 commission: If the Governor shall fail to make an appointment from
 29 the list within sixty days from the day it is presented to him, the
 30 appointment shall be made by the Chief Justice or the acting Chief
 31 Justice from the same list.

32 (b) To be eligible for nomination as a justice of the Supreme Court
 33 or judge of the Court of Appeals, a person an individual must satisfy
 34 all of the following:

35 (1) The individual must be domiciled within the geographic
 36 district.

37 (2) The individual must be a citizen of the United States.

38 (3) Either of the following:

39 (A) The individual must be admitted to the practice of law in
 40 the courts of the State Indiana for a period of not less than ten
 41 (10) years. or

42 (B) The individual must have served as a judge of a circuit,

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1 superior, or criminal court of the State of Indiana for a period
2 of not less than five (5) years.

3 **(c) Before an individual appointed as a justice or a judge under**
4 **this section may take office, the individual's appointment must be**
5 **confirmed by the Senate by the affirmative vote of a majority of**
6 **the members elected to the Senate under rules adopted by the**
7 **Senate. The Governor may call the Senate into a special session to**
8 **confirm an appointment to a judicial office under this section.**

9 SECTION 6. ARTICLE 7, SECTION 11 OF THE CONSTITUTION
10 OF THE STATE OF INDIANA IS AMENDED TO READ AS
11 FOLLOWS: Section 11. ~~Tenure of Justices of Supreme Court and~~
12 ~~Judges of the Court of Appeals.~~ **(a) A justice of the Supreme Court or**
13 **judge of the Court of Appeals shall serve until the next general election**
14 **following the expiration of two (2) years from the date of appointment,**
15 **and subject to approval or rejection by the electorate, shall continue to**
16 **serve for terms of ten (10) years, so long as he the justice or judge**
17 **retains his the office. In the case of a justice of the Supreme Court, the**
18 **electorate of the entire state shall vote on the question of approval or**
19 **rejection. In the case of judges a judge of the Court of Appeals, the**
20 **electorate of the geographic district in which he the judge serves shall**
21 **vote on the question of approval or rejection.**

22 **(b) A justice or judge is retained in office only if the number of**
23 **votes to retain the justice or judge is at least one (1) vote more than**
24 **sixty percent (60%) of the total number of votes cast on the**
25 **question of retention of the justice or judge.**

26 **(c) Every such justice and judge shall retire at the age specified by**
27 **statute in effect at the commencement of his the justice's or judge's**
28 **current term.**

29 **Every such (d) A justice or judge is disqualified from acting as a**
30 **judicial officer, without loss of salary, while there is pending:**

- 31 (1) an indictment or information charging **him the justice or**
32 **judge** in any court in the United States with a crime punishable
33 as a felony under the laws of Indiana or the United States; or
34 (2) a recommendation to the Supreme Court by the commission
35 on judicial qualifications for **his the justice's or judge's** removal
36 or retirement.

37 **(e) On recommendation of the commission on judicial qualifications**
38 **or on its own motion, the Supreme Court may suspend such a justice**
39 **or judge from office without salary when in any court in the United**
40 **States he the justice or judge pleads guilty or no contest or is found**
41 **guilty of a crime punishable as a felony under the laws of Indiana or the**
42 **United States, or of any other crime that involves moral turpitude under**



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1 that law. If ~~his the justice's or judge's~~ conviction is reversed, the
 2 suspension terminates and ~~he the justice or judge~~ shall be paid ~~his the~~
 3 ~~justice's or judge's~~ salary for the period of suspension. If ~~he the~~
 4 ~~justice or judge~~ is suspended and ~~his the justice's or judge's~~
 5 conviction becomes final, the Supreme Court shall remove ~~him the~~
 6 ~~justice or judge~~ from office.

7 (f) On recommendation of the commission on judicial qualifications
 8 the Supreme Court may:

9 (1) retire ~~such a~~ justice or judge for disability that seriously
 10 interferes with the performance of ~~his judicial~~ duties and is or is
 11 likely to become permanent; and

12 (2) censure or remove ~~such a~~ justice or judge, for action occurring
 13 not more than six (6) years prior to the commencement of ~~his the~~
 14 ~~justice's or judge's~~ current term, when such action constitutes:

15 (A) willful misconduct in office;

16 (B) willful and persistent failure to perform ~~his judicial~~ duties;

17 (C) habitual intemperance; or

18 (D) conduct prejudicial to the administration of justice that
 19 brings the judicial office into disrepute.

20 (g) A justice or judge ~~so~~ retired by the Supreme Court **under**
 21 **subsection (f)** shall be considered to have retired voluntarily. A justice
 22 or judge ~~so~~ removed by the Supreme Court is ineligible for judicial
 23 office and pending further order of the **Supreme Court**, ~~he~~ is
 24 suspended from practicing law in ~~this State: Indiana.~~

25 (h) Upon receipt by the Supreme Court of any such
 26 recommendation, the **Supreme Court** shall hold a hearing, at which
 27 ~~such the~~ justice or judge is entitled to be present, and make such
 28 determinations as shall be required. ~~No~~ A justice ~~shall may not~~
 29 participate in the determination of ~~such a~~ hearing when it concerns
 30 ~~himself: that justice.~~

31 (i) The Supreme Court shall make rules implementing this section
 32 and provide for convening of hearings. Hearings and proceedings shall
 33 be public upon request of the justice or judge whom it concerns.

34 ~~No such~~ (j) A justice or judge ~~shall, may not,~~ during ~~his the~~
 35 ~~justice's or judge's~~ term of office, engage in the practice of law **or** run
 36 for elective office other than a judicial office. ~~directly or indirectly~~
 37 ~~make any contribution to, or hold any office in, a political party or~~
 38 ~~organization or take part in any political campaign.~~

39 SECTION 7. ARTICLE 7 OF THE CONSTITUTION OF THE
 40 STATE OF INDIANA IS AMENDED BY ADDING A NEW
 41 SECTION TO READ AS FOLLOWS: **Section 22. A law, judicial**
 42 **rule, decree, or order may not abridge the freedom of a judge,**



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1 lawyer, candidate for judicial office, or any other person from
2 doing any of the following:
3 (1) Speaking, writing, or otherwise expressing the person's
4 views freely regarding a political issue, political party, or
5 candidate for office, including a candidate for a judicial office.
6 (2) Making a donation of money, services, or property to a
7 political party or a candidate for office, including a candidate
8 for a judicial office.

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