

1 State of Arkansas *As Engrossed: H3/5/15 H3/9/15*

2 90th General Assembly

3 Regular Session, 2015

HJR 1016

4

5 By: Representative *Dotson*

6

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**HOUSE JOINT RESOLUTION**

8

*AN AMENDMENT TO THE ARKANSAS CONSTITUTION CONCERNING*

9

*THE JUDICIAL BRANCH OF STATE GOVERNMENT; TO PROVIDE*

10

*THAT THE GENERAL ASSEMBLY MAY DETERMINE BY LAW*

11

*WHETHER COURT OF APPEALS JUDGES, CIRCUIT COURT*

12

*JUDGES, DISTRICT COURT JUDGES, AND PROSECUTING*

13

*ATTORNEYS ARE SELECTED ON A PARTISAN OR NONPARTISAN*

14

*BASIS; AND AMENDING THE PROCESS FOR SELECTING A*

15

*JUSTICE OF THE SUPREME COURT.*

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**Subtitle**

19

AN AMENDMENT TO THE ARKANSAS CONSTITUTION

20

CONCERNING THE JUDICIAL BRANCH OF STATE

21

GOVERNMENT.

22

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24

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE NINETIETH GENERAL

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ASSEMBLY OF THE STATE OF ARKANSAS AND BY THE SENATE, A MAJORITY OF ALL

26

MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:

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That the following is proposed as an amendment to the Constitution of

29

the State of Arkansas, and upon being submitted to the electors of the state

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for approval or rejection at the next general election for Representatives

31

and Senators, if a majority of the electors voting thereon at the election

32

adopt the amendment, the amendment shall become a part of the Constitution of

33

the State of Arkansas, to wit:

34

35

*SECTION 1. Subsection (A) of Section 2 of Amendment 80 to the Arkansas*

36

*Constitution is amended to read as follows:*



1 (A) The Supreme Court shall be composed of seven Justices,  
2 one of whom shall serve as Chief Justice. The Justices of the Supreme Court  
3 shall be selected ~~from the State at large~~ as provided in this amendment.  
4

5 SECTION 2. Section 17 of Amendment 80 to the Arkansas Constitution is  
6 amended to read as follows:

7 § 17. Election of circuit and district judges.

8 (A) Circuit Judges and District Judges shall be elected ~~on~~  
9 ~~a nonpartisan basis~~ by a majority of qualified electors voting for such  
10 office within the circuit or district which they serve.

11 (B) Vacancies in these offices shall be filled as provided  
12 by this Constitution.  
13

14 SECTION 3. Section 18 of Amendment 80 to the Arkansas Constitution is  
15 amended to read as follows:

16 § 18. Election of ~~Supreme Court Justices and~~ Court of Appeals Judges.

17 (A) ~~Supreme Court Justices and~~ Court of Appeals Judges  
18 shall be elected ~~on a nonpartisan basis~~ by a majority of qualified electors  
19 voting for such office. ~~Provided, however~~ However, the General Assembly may  
20 refer the issue of merit selection of members of the ~~Supreme Court and the~~  
21 Court of Appeals to a vote of the people at any general election. If the  
22 voters approve a merit selection system, the General Assembly shall enact  
23 laws to create a judicial nominating commission for the purpose of nominating  
24 candidates for merit selection to the ~~Supreme Court and~~ Court of Appeals.

25 (B) Vacancies ~~in these offices~~ on the Court of Appeals  
26 shall be filled by appointment of the Governor, unless the voters provide  
27 otherwise in a system of merit selection.  
28

29 SECTION 4. Section 21 of Amendment 80 to the Arkansas Constitution is  
30 amended to read as follows:

31 § 21. Effective date.

32 (a) ~~This~~ Except as provided in subsection (b) of this section, this  
33 ~~Amendment~~ amendment shall become effective on July 1, 2001.

34 (b) Sections 23 through 27 of this amendment shall become effective on  
35 January 1, 2017.  
36

1           SECTION 5. Amendment 80 to the Arkansas Constitution is amended to add  
2 additional sections to read as follows:

3           § 23. Retention in office of a Justice of the Supreme Court.

4           (a) At the general election next before his or her term expires, a  
5 Justice of the Supreme Court may seek retention in office by filing with the  
6 Secretary of State not less than one hundred twenty (120) days before the  
7 date of the general election a declaration of candidacy to succeed himself or  
8 herself as a Justice of the Supreme Court.

9           (b) If a Justice of the Supreme Court files a declaration of  
10 candidacy, there shall be submitted to the qualified electors of the state at  
11 the general election this question:

12  
13 “Shall (Insert name of Justice of the Supreme Court) be retained in office?  
14     YES    NO”

15  
16           (c) The question shall be decided by a majority of those voting in the  
17 general election.

18           (d) If the decision is “yes”, the Justice of the Supreme Court shall  
19 be retained in office for an eight-year term.

20           (e)(1) If the decision is “no” or if no declaration of candidacy is  
21 filed, the office shall be vacant upon expiration of the term then being  
22 served.

23           (2) The former Justice of the Supreme Court shall not be  
24 eligible for appointment to succeed himself or herself.

25           (f) Retention in office may be sought for successive terms without  
26 limit as to number, except for retirement as may be provided by the General  
27 Assembly for a maximum retirement age.

28  
29           § 24. Judicial Nominating Commission.

30           (a) There is established the Judicial Nominating Commission of fifteen  
31 (15) members, to consist of:

32           (1)(A) Five (5) members appointed by the Governor, among whom  
33 shall include at least one (1) member from each congressional district of the  
34 state.

35           (B) A member appointed by the Governor shall not:

36           (i) Be admitted to practice law in the State of

1 Arkansas; or

2 (ii) Have an immediate family member who has been  
3 admitted to the practice of law in the State of Arkansas or any other state;

4 (2) Six (6) members, including at least one (1) member from each  
5 congressional district of the state, who are members of the Arkansas Bar  
6 Association and have been elected by the other active members of the  
7 association under procedures adopted by the Board of Governors of the  
8 Arkansas Bar Association;

9 (3) One (1) member selected by the chair of the House Committee  
10 on Judiciary;

11 (4) One (1) member selected by the chair of the Senate Committee  
12 on Judiciary;

13 (5) One (1) member selected by the Speaker of the House of  
14 Representatives; and

15 (6) One (1) member selected by the President Pro Tempore of the  
16 Senate.

17 (b) The commission shall elect one (1) of its members to serve as  
18 chair for a term of one (1) year.

19 (c)(1)(A) The five (5) members of the commission appointed by the  
20 Governor shall be appointed within ninety (90) days of the effective date of  
21 this amendment.

22 (B)(i) One (1) member shall be appointed for a term of two  
23 (2) years.

24 (ii) Two (2) members shall be appointed for a term  
25 of four (4) years.

26 (iii) Two (2) members shall be appointed for a term  
27 of six (6) years.

28 (2)(A) The Arkansas Bar Association shall hold its election and  
29 certify to the Secretary of State the members elected to the commission  
30 within ninety (90) days from the effective date of this amendment.

31 (B) The initial members of the commission elected by the  
32 Arkansas Bar Association shall draw lots for terms as follows:

33 (i) Two (2) members shall serve a term of two (2)  
34 years;

35 (ii) Two (2) members shall serve a term of four (4)  
36 years; and

1 (iii) Two (2) members shall serve a term of six (6)  
2 years.

3 (C) Subsequent members of the commission elected by the  
4 members of the Arkansas Bar Association shall serve a term of six (6) years.

5 (3) The members appointed by the chair of the House Committee on  
6 Judiciary, the chair of the Senate Committee on Judiciary, the Speaker of the  
7 House of Representatives, and the President Pro Tempore of the Senate shall  
8 serve for a term of two (2) years.

9 (d)(1) A vacancy in a position appointed by the Governor shall be  
10 filled by appointment of the Governor for the remainder of the term.

11 (2) A vacancy in a position elected by the Arkansas Bar  
12 Association shall be filled by the Board of Governors of the Arkansas Bar  
13 Association for the remainder of the term.

14 (3) A vacancy in a position appointed by the chair of the House  
15 Committee on Judiciary, the chair of the Senate Committee on Judiciary, the  
16 Speaker of the House of Representatives, or the President Pro Tempore of the  
17 Senate shall be filled in the same manner as the original selection for the  
18 remainder of the term.

19 (e) A majority of the members of the commission constitutes a quorum.

20 (f) The commission shall determine:

21 (1) That qualifications of nominees to hold judicial office have  
22 been met; and

23 (2) The existence of vacancies on the commission.

24 (g)(1) While a member of the commission, a commissioner shall not  
25 hold:

26 (A) A public office by election or appointment; or

27 (B) An official position in a political party.

28 (2) A member of the commission shall not be eligible for  
29 nomination as a Justice of the Supreme Court while a member of the commission  
30 and for five (5) years thereafter.

31 (h) A commissioner shall serve without compensation but may receive  
32 reimbursement for necessary travel and lodging expenses while performing his  
33 or her duties as commissioner.

34 (i) A commissioner shall not succeed himself or herself on the  
35 commission.

36 (j) As used in this section, "Arkansas Bar Association" includes any

1 successor of the Arkansas Bar Association and any future form of the  
2 organized bar of this state.

3 (k) The Governor shall call the initial meeting of the commission  
4 within one hundred twenty (120) days of the effective date of this amendment.

5  
6 § 25. Vacancy in Supreme Court position.

7 (a) When a vacancy in the position of Justice of the Supreme Court  
8 occurs or is certain to occur, the Judicial Nominating Commission shall  
9 choose and submit to the Governor and the Chief Justice of the Supreme Court  
10 three (3) nominees, each of whom has previously notified the commission in  
11 writing that he or she will serve as a Justice of the Supreme Court if  
12 appointed.

13 (b)(1) The Governor shall appoint one (1) of the nominees to fill the  
14 vacancy.

15 (2) If the Governor fails to appoint a nominee within sixty (60)  
16 days of receiving the nominees from the commission, the Chief Justice of the  
17 Supreme Court shall appoint one (1) of the nominees.

18 (c) The Secretary of State shall certify an appointment under this  
19 section.

20  
21 § 26. Transition provisions for Justice of the Supreme Court – Terms  
22 due to vacancy.

23 (a)(1) A Justice of the Supreme Court elected before the adoption of  
24 this amendment shall serve the term for which he or she was elected unless  
25 removed for cause.

26 (2) A Justice of the Supreme Court serving at the date of the  
27 adoption of this amendment may file a declaration of candidacy to succeed  
28 himself or herself as provided in this amendment.

29 (3) If retained in office, the term of the Justice of the  
30 Supreme Court shall be eight (8) years, beginning the second Monday in  
31 January following the election.

32 (b) The term and election of each Justice of the Supreme Court  
33 appointed to fill a vacancy after the adoption of this amendment shall be as  
34 follows:

35 (1) If an appointed Justice of the Supreme Court has served or  
36 will have served twelve (12) months on or before the next general election

1 following appointment, the Justice may file for election for an eight-year  
2 term as provided under this amendment; or

3 (2) If an appointed Justice of the Supreme Court has not served  
4 or will not have served twelve (12) months on or before the next general  
5 election following appointment, the Justice shall continue in office until  
6 the second general election following appointment and may file for election  
7 for an eight-year term as provided under this amendment.

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9 SECTION 6. (a) Except as provided in subsection (b) of this section,  
10 the General Assembly may provide by law whether judges of the Court of  
11 Appeals, circuit court judges, district court judges, and prosecuting  
12 attorneys are selected on a partisan or nonpartisan basis.

13 (b) As of the effective date of this amendment, judges of the Court of  
14 Appeals, circuit court judges, district court judges, and prosecuting  
15 attorneys shall be selected on a partisan basis unless the General Assembly  
16 provides by law that the offices shall be selected on a nonpartisan basis.

17  
18 SECTION 7. Judges of the Court of Appeals, circuit court judges,  
19 district court judges, and prosecuting attorneys in office at the time this  
20 amendment takes effect shall continue in office until the end of the terms  
21 for which they were elected or appointed.

22  
23 SECTION 8. EFFECTIVE DATE. This amendment is effective on and after  
24 January 1, 2017.

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26 SECTION 9. BALLOT TITLE AND POPULAR NAME. When this proposed  
27 amendment is submitted to the electors of this state on the general election  
28 ballot:

29 (1) The title of this joint resolution shall be the ballot  
30 title; and

31 (2) The popular name shall be "An Amendment to the Arkansas  
32 Constitution Concerning the Judicial Branch of State Government, Providing  
33 that the General Assembly may Determine by Law Whether Court of Appeals  
34 Judges, Circuit Court Judges, District Court Judges, and Prosecuting  
35 Attorneys are Selected on a Partisan or Nonpartisan Basis, and Amending the  
36 Process for Selecting a Justice of the Supreme Court".

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*/s/Dotson*